

BOARD OF SELECTMEN'S MEETING
December 10, 2015 5:30 PM

Quorum noted

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

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

C. Pledge of Allegiance recited

D. Moment of Silence observed

E. Approval of Minutes of Previous Meeting(s)

5:31 PM Motion by Mr. Fernald, seconded by Mr. Murphy, to approve the minutes of September 10, 2015, as amended.

VOTE
4-0
Chair concurs

Motion by Mr. Fernald, seconded by Mr. Murphy, to approve the minutes of September 24, 2015, as amended.

VOTE
4-0
Chair concurs

Motion by Mr. Fernald, seconded by Mr. Murphy, to approve the minutes of November 18, 2015, as written.

VOTE
4-0
Chair concurs

F. Public Comment:

5:42 PM Ms. (Janet) Saurman, Park Street, gave copies of her letter to the BOS so that they could follow along. She read her letter into the record.

5:47 PM Mr. Beckert said that, as many of you know, Ms. Saurman was at the workshop; that the Board has their work cut out for them. He thanked Ms. Saurman for her letter and, as she said that night at the workshop, we do need to move forward and resolve the problem rather than living in the past.

Mr. Murphy said that if we start talking, we could for a long time without resolving it to take a vote.

Mr. (Charles) Bradstreet said that maybe he could help answer Ms. Saurman; that he thinks we did resolve the fact about when the pumps went in because we

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determined they were Fairbanks Morse from the S.E.A. documents he presented to the BOS and, now, they are Gorman Rupps; so, in 2005, that \$18,000 was appropriated, he believes, if you look on the cement pad, he's been told, and he's been down there, but the date of installation is in the cement down there; that they've been checked and he thinks they proved that last time around.

5:49 PM Mr. Murphy asked if the pumps were new pumps or used pumps.

Mr. Bradstreet said that they were used pumps.

Mr. Murphy clarified that they were used pumps to replace earlier new ones.

Mr. Bradstreet said yes.

Mr. (John) Reed, Governor Hill Road, said that, regarding what Ms. Saurman said, he was thinking about this before the referendum last time; that something that Mr. Bradstreet was passing around mentioned that people in the sewer district that were served by the sewer, property taxes were higher than other folks because they had sewer hook-ups and not septic systems. He added that he was thinking that one of the possibilities that might help alleviate some of the pain for the actual sewer users might be that, whatever that difference is in property tax, that could be used by the Town to pay for the reserve fund for equipment repair and replacement. He said that that was just a thought, something that might be of use to you folks trying to think your way through this; that it's a difficult thing, there's a lot of history to it, a lot of pieces to it, and the money has got to come from somewhere. He added that he thought that the burden should be shared by everybody in Town; that he doesn't know what the mix is but he thought this other piece through some delta, in property tax value and bills, that some of that bill could be used by the Town to actually pay for the reason that that extra money is being taken from those home-owners.

Mr. Bradstreet said that maybe he could help answer some of that. He said that he has a question he was just talking with Mr. Dupuis about; that as you know Mr. Beckert as you sat down with his father-in-law; that he was a master at jotting things down and we were looking for approximately \$40,000 of misplaced monies through that account. He added that one of his notes he had in 'here' was a sewer replacement in 1989, with a balance of \$77,527; that in 1989 there was a sewer replacement account so we may want to investigate that issue we'd set up; that he believes it was in a capital improvement account with an assessment being put into that for replacement. He said that somewhere down the line that money disappeared or was pulled out of the general fund or put into the general fund; just a thought.

5:51 PM Mr. Murphy asked for the amount to be repeated.

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Mr. Bradstreet said \$77,527; that they had a sewer fund balance that year of \$139,127; that there was a built-in shortfall because we took original loan resolution from FHA, went into the Maine Municipal Bond system, and was a built-in shortfall for \$606,248 that comes under the Audit; that you can pull those out of your records.

5:52 PM Mr. Beckert said that he remembers having that discussion on that shortfall with Mr. Trott.

Mr. Bradstreet said that it was built in because we did a 10-year payback on the betterment fees and then we bonded out for 30 years; that the monies that were due were at the end of the loan and we didn't have enough to cover it.

Mr. Beckert said that we tried to go back to the feds; that he met with Congressman Baldacci, at the time, Senator Collins, Senator Snow, and staff members from each one of those; that we tried to refinance so we could cut that shortfall number down, get better rates, and we couldn't do it as the way the loan was originally set up the feds would not honor anything other than what was already on the books.

Mr. Bradstreet said that this was set up, initially, with a replacement account, he believes; that he recalls it was like a capital improvement for the boundaries of the district; that that assessment is set aside to pay the bonds and any other revenues left over are raised and appropriated into a capital reserve account. He added that that comes under the M.R.S.A. standards; that our ordinance is under Chapter 161; that if you read those ordinances and our user ordinance, it dictates what we fall under and how we fall under it and what we pay for. He said that he knows we have an increase in fees and, according to our ordinance, we'd only have a capital reserve fee we were responsible for; that you guys just went through it, revamped it, and it's a fee-based for the actual operation costs – electric, preventative maintenance – if a pipe breaks, we fix it and if a pump breaks, we fix it, and that's all we're responsible for. He added that we also have a consumption charge, which is due by 100 cubic feet and X amount of dollars; that that's all we're responsible to pay for. He said that, if you can show me somewhere else where we're responsible as users through our ordinance, then we'd be more than happy to belly-up, like we have in the last 26 years for the reserve account.

5:54 PM Ms. (Donna) Murphy said that, in reference to what Mr. Reed stated that South Eliot is paying a higher tax rate, asking if he could clarify that. She added that the mil rate is the same for all in Town so she would just like to know what Mr. Reed was referring to when he stated a higher tax rate.

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Mr. Beckert said that, if everybody would indulge him, Mr. Murphy has done the research for us on this as far as the percentage of taxes that come from the sewer users, etc. He asked Mr. Murphy to give a brief summary.

5:55 PM

Mr. Murphy said that in his talking with Martine Painchaud on this subject of how households can be taxed more because they are on the sewer and she said that that wasn't the way it works. He added that the way houses are assessed for value is done by 'neighborhoods' and it's the market value; what people want to pay over a period of time and that shifts up and down for these various 'neighborhoods'; that this is the way it is done throughout the whole State of Maine. He said that, looking back, you say, what this neighborhood pays, these have greater valuation; you could say that 90% of them are on the Town sewer. He said that that would not be what Ms. Painchaud can say – because you're on the sewer and you're going to pay more; that it's the market valuation and the market studies that wind up with the regional assessed values for houses all scattered through Eliot; that he thinks we have 8 or 9 'neighborhoods' in Eliot; along the river we have a couple of 'neighborhoods'. He added that it's an interesting idea but he doesn't think it would be legal, yet, to actually specifically say that, if your house is on Town sewer, then your valuation goes up 2% to 2½ % or whatever it is; that's not the way it's done.

5:57 PM

Ms. (Donna) Murphy said that, again for clarification, Mr. Reed referred to using the difference with that higher tax rate of, perhaps, using that difference to pay but she guessed we're all paying the same mil rate and, if your taxes are higher, then that's because your house is valued more and you're probably going to get more when you sell it; that that wouldn't be any different that somebody down on Brixham Road who has six bedrooms and his neighbor has only two bedrooms, that house will also be valued more. She asked if Mr. Reed could clarify that difference.

Mr. Reed said that his intent was that we all try to think outside the box; that this was one of the things that kind of struck him about some of the things that people were saying. He added to forgive him if he said that people's tax rate had changed and that it was different; that what he intended to impart was that people's property valuation may have been different; that he didn't realize the details that it had to do with a 'neighborhood' or a region in Eliot versus being hooked up to the sewer, or not. He added that he just hopes that people will try to think together and come up with ideas and suggestions that can help the sewer base.

5:58 PM

Mr. Bradstreet said that, in his talking with Ms. Painchaud, it was his understanding that the assessed value went up \$17 million of the \$890 million assessment of this Town; an approximately 2% assessment because it was a mandated system from the Town; that our tax rates went up. He added that there is a difference prior to sewer and after sewer. He added that, if you set it up in that

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capital improvement, he thinks, the MRSA, that's what they determine paying the bond back; that the Town takes the bond, they assess the value of the improvement on that property, and the difference in that assessment pays the bond. He said that it doesn't come out of tax structure; that it's too late for South Eliot and, initially, he thinks that's what they were setting up. He added that we also tried to have a district in this Town and it was voted down; that the Town wanted to keep control of the sewer system; that that's why they opted out of that municipality of the capital improvement. He said that there are ways that this could have been set up, back in 1983 to 1989, when the construction was going on; that that would have alleviated a lot of this stuff. He added that his main concern was that, at one time, we did do that assessment before we changed our bonding system or our loans; that there was money established for this replacement; that where it got absorbed, you know, maybe that's where we need to say that should have been entered in there and maybe that is ours at 2% in the last 20 some-odd years, take it out of your general fund.

6:00 PM Mr. Reed asked what that date was again.

Mr. Bradstreet said it was 1989. He said that, evidently, his father wrote it down; that he went over the books religiously and kept track of just about everything. He added that he is pawing through to try to make sense of some of his notes; that Bruce Trott sat with his father a lot and went over it and over it, Dan Blanchette, they all know that these accounts existed somewhere.

Mr. Beckert agreed.

Mr. Murphy asked him if he had a _____ also.

Mr. Bradstreet said that he wished he did but he doesn't; that this is all he...that he just found this tonight; that he got the original long resolution from the FHA; that we ended up buying it through the Maine Municipal Bond. He added that whatever is on this piece of paper is totally useless; that, perhaps, the bonds are all paid off and it's all useless.

G1. Department Head/Committee Reports

6:01 PM 1) Shellfish Ordinance: Notice of State – Repeal

Mr. Lee said that there is a letter from Patrick Keller, Commissioner Department of Marine Resources that advises us that we have failed to meet statute law requirements in Title 112 with regard to Municipal Shellfish Conservation Programs. He added that this letter notifies Eliot that the Shellfish Conservation ordinance has been rescinded by the State. He said that the letter also discusses lack of conservation activities, no meetings held, and no patrol time since 2010;

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that that is true; that the flats are closed and we are unable to do any real testing. He said that we've asked the State to do testing and they don't have the resources to test in our area because it is not a commercially important area. He added that this doesn't come as any real shock to anybody here, from what he understands. He said that, when he got here, we received something that said we were overdue and needed to report our annual shellfish conservation activities and we did report that there was zero; that we reported in the subsequent year one meeting, which was to get together to see if we could start doing water testing in the clam flat area; that there was brief excitement and then kind of faded out. He added that he wanted to make the Board aware that we are not doing a whole lot with the shellfish conservation effort; that we can't access them, we can't test for them, and we've stopped trying to do much about it.

6:03 PM Mr. Murphy said that Eliot has sort of been a victim of upstream sewage, Dover and other points have polluted our waters; that it has not been easy to keep any of the clam flats available.

Mr. Lee said that this was simply that the State has the authority to rescind that ordinance if we don't, in their opinion, enforce it and, frankly, there's not much to enforce because we've been told we can't do anything; that it's kind of a catch-22.

Mr. Beckert agreed that it was the State that closes the flats and, if closed, you can't do a thing with them.

Mr. Pomerleau asked what the bottom line was here.

Mr. Lee said that the ordinance is repealed, without the benefit of the Townspeople repealing it; that the State can do it and have done it on our behalf; that he doesn't know if anything is lost because of it, frankly, because what closes our clam flats is beyond our control and, therefore, getting people excited and going down and doing water testing...that Lori Howell has a lab and offered to do some of that but we need volunteers to go test and we need three years, he thinks, of consistent water quality tests before we can even submit to see if it's something that could be re-opened and, then, we could start managing and conserving; that right now you can't do any activities, so, what is there to conserve or check upon. He said that unless the State frees up their view of things or cleans up the waters that are impacting us from upstream, there's not much that committee can do.

6:06 PM **2) Treasurer: Pre-foreclosure Notification**

Mr. Lee said that what he wanted to let the Board know is, as a process, what we tend to do and really should be done, he believes annually, is that before you foreclose on any property (coming up on January 22nd or 23rd)...the lien process is

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what they call a 'perfected security', which is an automatically-foreclosing lien, and the only way to stop it is to do so in the affirmative, which is to make a motion to not foreclose on a particular property that is otherwise subject to foreclosure. He added that, for our meeting on January 14th, if we were to actively avoid taking a liable property, then that is when we would have to say that we don't want to take their property for back taxes, there are too many other problems associated with it – it's an old tire dump with leachate all through it and a clean-up disaster; that that is why they are letting it go because they don't want to be responsible; that we don't want to be the next responsible party in line. He said that it's sort of his responsibility to send the CEO out and look at all these properties to find out if they're occupied, get the background information with the assessor, and find out if any of them jump out at us as being things we would like to advise the Board that they should not foreclose on particular properties. He added that he is not saying that on any of these properties but he has been in circumstances in other towns where we would not have wanted to foreclose on certain properties because you would never unload it and you would become in the Title of ownership of it and, because the Town has deep pockets, sometimes, you would be better off never to have it under you; that this is a process that MMA tends to recommend, as well. He said that what he is doing is he is trying to get this in front of the Board so that you can see that we are doing this; that we are checking them, we are going out, we are not going to pick up a pig-in-the-poke during the foreclosure process, hopefully, and that's the purpose of this. He added that, if the Board has anything on there that you see, on there, that you would like us to pay special attention to, this would be your time to do so; that this is our opportunity to exclude a property from foreclosure, which would become our problem down the road.

6:08 PM Mr. Beckert said that these are properties that are in arrears for at least three years.

Mr. Lee said right; that these are the 13/14 taxes that foreclose on January 22nd or 23rd of 2016. He encouraged the Board to review these properties and advise him if they had any concerns.

Mr. Reed asked if, among these property situations Mr. Lee has discussed, the towns had come up with successful recourse, like how to figure out how to deal with these people or these properties.

6:09 PM Mr. Lee said that very often what you are giving up is something that is of no value, anyway; that it's a property that has been so violated and so abused, and so forth, that it doesn't have a real remaining value, anyway; that it's actually a town liability and somebody is trying to palm it off on the town; generally speaking, the ones he has witnessed. He added that he did think, however, that as an alternative to the perfected lien security process, you could go after them in Small Claims

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Court; that that is what he has heard other managers have done with these small, kind of, small pieces of land that nobody really wants, is that you can still reclaim your taxes through a simple Small Claims Action; that you just want to collect a bill that's owed rather than we are taking his property to pay our bill.

6:10 PM Ms. (Donna) Murphy asked, if the Town acquires a property and discovers there is hazardous waste on it, are there any laws to protect the Town in that case that the former owner is responsible for that.

Mr. Lee said that there are; that that line of personal responsibility is pretty clear and towns have a high degree of immunity, anyway. He added that he is just suggesting that, to keep it really clean, never own it in the first place.

Mr. Beckert said that this was informational; that we will be dealing with this in January.

Ms. Davis asked if we were likely to see requests for abatements.

Mr. Lee said that that was a good point; that, in fact, under Other Business he was going to mention it; that the next meeting would be our last to see applications for poverty abatements or 'inability to pay' abatements.

6:11 PM Mr. Beckert said that there is the possibility that many of these will pay this year out.

Mr. Lee agreed; that we sent a courtesy note, too; not only the formal notice that has to be sent between 30 and 45 days in advance of foreclosure but, also, a courtesy note before that that let people know we were running out of time; that we really try to help these folks become aware of this outside of the formal letter.

G2. Public Works

6:12 PM 1) Sewer Pump Station Retrofit

Mr. Lee said that Keith Pratt, Underwood Engineering, and Mr. Moulton, DPW Director, were present to discuss this.

Mr. Pratt clarified that there were two to-do's, this one and the rates.

Mr. Lee agreed.

Mr. Pratt said that, as a result of the workshop session a couple of weeks ago, we rushed to try to get a memo out, which we just finished today; that he did leave and bring copies for everybody. He added that he would summarize. He added

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that the reason we were asked to look at this was because the pumping stations have been known to need repairs but we haven't been successful in getting the repairs done. He said that we were trying to establish a quick way to get emergency pumps, or a back-up system, for situations where the pumps fail, quickly; that we were asked to look at what we could do for some of those options and make that happen so we could avoid violations. He said that we looked at five options; that **one** was that, if there is a failure of the pumps and we can't get them up and running, the Town could contact the septic haulers and they could come out and just start pumping right out of the wet-well, bring it up to the top of the hill, and discharge it into the manhole under HWY 95; that it would still pass through the Kittery station, still be metered, and still see normal bills.

6:14 PM

Mr. Pratt said that **another option** would be rentals; that we would call a rental company that specializes in this type of work and they would set up pumps to pump right out of the wet-well and into the force main; that you'd see temporary pumps in the driveway. He said that the **third option** was to buy pumps, asking if there was value to Eliot in purchasing their own pumps and having them ready; that we looked at two, new pumps and used pumps. He added that the **last option** we looked at was mutual aide to see which one of our neighbors has pumps we could borrow. He said that, to make a decision, we created a matrix and drew the Board's attention to that matrix. He explained that, in that matrix, we looked at each of the options, how it works, whether there are modifications to the pump stations required, how quick we could get a temporary pump in place, what's the reliability of the option, and we looked at costs. He added that we compared, with each of these options, if we had a one-day downtime versus a one-week downtime how much it would cost. He said that we ruled out the purchase of the pumps, either new or used, because they tended to be more expensive and required a little more time from your staff; that they felt that, if there was an emergency in Town, DPW might have other things that they needed to be worried about. He added that, although we do feel mutual aid is an option, but we called a couple of communities; that Kittery didn't have one so they are not readily available.

6:17 PM

Mr. Lee noted that, even if we have a nearby town that had an extra one, if it's a regional type of issue versus just our system, that back-up may be necessary for them or some other mutual aid thing they've got going.

Mr. Pratt agreed that their town would come first. He said that that left the septic pumping and a pump rental. He added that if there is something that we believe is temporary or if we are going to have an imminent overflow, and we can't get the pumps up and running, we're going to call the septic trucks in there to get them going. He said that if we believe the outage/situation requires a part that has a 5-day lead time, or, if there is something more significant or catastrophic that's going to be longer than a day, then we need to get the pump rentals in there. He said that we found that, as long as we are renting equipment for less than 2 to 3 weeks, it was really the most cost-effective against purchasing. He said that, so,

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we say in our memo, short-term, less than a day, we just call the pumpers; longer than that, we're going to call the rental guys to bring them in; that that's what they do, that's what they specialize in, and that's actually the lower-cost option. He added that what they are actually finding through this, is that there is no way to connect that temporary pump to the force main, right now; so, we can pump with the septic trucks, immediately, but what we don't have is the ability to bring the rentals in and connect to the force mains; that there's no attachment point; so, what we are recommending in here is to put a valve structure, which would be outside of the building, in a manhole, deep down, put in a T and some valving, so that, when the temporary pumps come in, they are immediately available to connect; that we estimate that cost to be about \$25,000 +/- for each station.

Mr. Murphy asked if that was for pump station #1 or both stations.

Mr. Pratt said both stations, \$25,000; each station would get one, \$25,000 +/- for both stations so it would be about \$12,500 for each.

6:19 PM Mr. Lee said that they would be quick connects, at this point; that they would come in, they quick-connect right to that manhole, and we're up and running; that they man them, too.

Mr. Pratt agreed, saying that you can see the quotes in the back of the memo from the rental companies and what they provide. He said that the other thing that they do that he thinks was a tipping point to help us lean towards the rentals is that they don't just bring in one pump; that they bring in two alternating pumps and a redundant pump; that they give you the reliability and redundancy and back-up that we may not have if we bought a pump. He added that we think it's the lower cost option; that we cross our fingers that, maybe, we never need to rent them but we have this open quote from them that allows us to call them in; that they know what we need and, as long as that manhole is ready and installed...he thinks Mr. Moulton is prepared in updating the pricing to get that installed, if the Board was to concur, He said that that was the summary of the analysis we did.

6:20 PM Ms. Davis asked what the lead-time was for the rental.

Mr. Pratt said that they said they could be there in less than 24 hours.

Ms. Davis asked, where you're thinking about putting the manhole, would that be usable even when we replace the pump houses; that it's not useless work.

Mr. Moulton said that the contractor, if we move forward with the project, could utilize that for by-pass pumping during construction.

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Mr. Lee agreed, adding that it is usable for the future ones should something, 20 years after this new station, like a failure happen; that we'd still have a quick-connect right outside to by-pass it.

6:21 PM Ms. Davis said that this is something we should do anyway.

Mr. Lee said that it's like having a home generator, in a sense.

Mr. Pratt said that that was a good point, a good question. He added that we pointed that out in the memo, as well. He said that we will locate it in a place that would not be interfered with for the project when it's built. He said that you'll actually see in the memo that one of the other options we looked at was, instead of putting a manhole, to actually connect the piping inside the building, but, we also ruled that out because that would be work that would be blown out when we rebuilt the stations; that we felt it was better to do out in the street.

6:22 PM Mr. Fernald asked if there were other companies that do this, also; discussing his concern if this company should go out of business.

Mr. Pratt said that he believes so; that he can tell him from all the work we've done, we've almost exclusively seen these guys in the region. He said that he could look into that but these guys are good.

Mr. Fernald said that he wasn't saying they weren't good but things happen and people go out of business, and we need to be prepared.

Mr. Pratt said that we could look for another contact so, at least, you would have a Plan B.

Mr. Dupuis said that he did look into that and Sunbelt has a whole national division that that is all they do.

Mr. Lee commented about what we're presenting and why we're presenting it; that, first off, he thinks we had a very good workshop and he thinks there was unanimous consent among all of us, no matter how we view funding, that we could really be up the creek here, literally; that what we've got in front of us, he believes, is possibly your best option. He added that we have about \$118,000, right now, in that sewer capital reserve. He said that, for \$25,000, he's asked Mr. Moulton, and Mr. Dupuis has been helping, and Mr. Moulton is prepared to execute contracts, either tomorrow or Monday, if you would like to go ahead to get this work done to get these things in there because every day we know there is imminent likelihood of failure; that we do have \$118,000 and none of this \$25,000 would be wasted; that we would situate ourselves so that, in all likelihood, we won't have illicit discharges and we aren't wasting \$25,000 of our

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precious reserves. He added that he really liked it; that he hopes the Board really likes it; that he's asked Mr. Moulton to really get ready because we are at the staff level, and he's sure at your level as well, are terrified that something's going to happen and we're not going to be ready for it.

6:24 PM Mr. Moulton said that, as a side note, MMA was in Town today with an inspection at the Police Department; that they went over and looked at the retaining wall work at the Transfer Station; that the inspector actually talked with him about the sewer system – what we do for maintenance, what the program was – so he went through everything we've done and are doing – the O&M Manuals, the I&I, the camera work, the maintenance program we now have; that he also said that we were coming before the Board tonight for a retrofit for an emergency by-pass system should we have an imminent failure or potential for one. He said that, given claims we filed earlier this year, he thinks that raised part of the question; that the inspector was very supportive of this, should you approve this, because it reduces their liability, as well. He added that we've skated around this a few times; that their consensus would be that this is a good thing to move forward on and he thought the Board should know that.

6:25 PM Ms. Davis asked if the DPW wouldn't do the work but contract this out.

Mr. Moulton said that it would be Town personnel and a couple of sub-contractors because some of it is deep excavation that we can't do; that, basically, it's all lined up and ready to go with your approval.

Mr. Beckert said that he thinks that the fact that it is a fix that will be there regardless of what we do to the pump stations, now or in the future; it's a stop-gap to assure that discharges do not go where we do not want them.

6:26 PM Mr. Murphy said that he would like to take time to read this but he thinks that might just be a waste of time and a sop to his own ego; that he would be willing to move forward tonight.

Mr. Pomerleau said that his comments aren't too far from Mr. Murphy's; that he's really uncomfortable getting this now and saying let's do it; however, he's much more concerned about having an imminent spill or problem, which is probably not worth his taking time to read this, having to put all his faith in the expertise in the room if this is the best solution; that he would not hold it up if we want to move forward.

6:27 PM Mr. Lee said that, unfortunately, we had a limited timeframe; that he hates giving stuff out like this; that we were hustling and hustling and it's just the best that we could do in a two-week response to get a report of this size and magnitude on two pretty heavy topics.

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Mr. Murphy said to him this is the answer of part of what we've been thinking about for many months; that even our long-term system was going to have some sort of back-up like this; that if we get the back-up before we get the system, fine, we are that much ahead.

Mr. Reed said that he was curious to know how much the pumps would cost to rent.

6:28 PM Mr. Pratt said that it is in the memo; that it's about an \$8,000/week charge, +/-; that one station is a little bit less than \$8,000.

Mr. (Bill) Selsberg said that he would just like someone to tell him, again, how much does a brand new pump cost; that that's where we are going eventually.

Mr. Beckert said yes, in the pump stations; that this is a by-pass.

Mr. Selsberg said that he got that; that we're by-passing it because we're concerned the pumps will fail; so, how much is the pump.

Mr. Pratt said that the skids that we are proposing to put as a replacement; that, of course, there's a lot more to this renovation than just the pumps and motors; that the skids from Gorman Rupp, to replace them in-kind, are in the \$70,000 to \$80,000 range.

Mr. Selsberg said that where he's going is, if we did replace the pump, then we'd have a pump that's working; that by investing money in a brand new pump that we're going to get to eventually...

Mr. Pratt said, just to clarify, that you won't have a spare; that these by-pass pumps are not being put in the ground and the pumps you have are 8 feet deep on King's Highway; that the pumps that you need to pump from the street – these are temporary pumps being brought in – are actually a higher horsepower than what you have because you are actually overcoming a greater suction lift because you're 8 feet above on the street level. He added that that's what makes this a little bit more complicated; it's not just saying the same pump will work, it won't, because you are actually operating it under different conditions; that that's why some of the newer pumps we looked at...and Mr. Moulton had a good lead on a used pump, a very inexpensive used pump, but we were just trying to make it work, jury-rigging it a little bit and decided, time-out, it's not reliable enough; let's hire the guys that can bring the right pump in that day. He reiterated that you really don't have a spare pump if you take it out.

6:29 PM Mr. Selsberg asked if it had any value.

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Mr. Pratt said that it might; that the one Dover is trying to get rid of they're looking to get \$2,000 for it.

Mr. Lee said that they were 20 years old and they require \$10,000 to \$15,000 of retrofitting.

6:30 PM Mr. Selsberg said that he hears \$25,000 and, then, he hears another \$8,000 and so, now, we are at \$33,000; that it's a by-pass and, then, we still have to spend \$80,000 to get a brand new pump.

Mr. Lee said that when we get a pump service to come in on a temporary, short-term basis, that's what we're paying them.

Mr. Selsberg said that that's like a guarantee; that that's going to happen.

Mr. Lee said that it was very, very short-term; a matter of a couple of days; that we just have somebody come in and by-pass pump for us. He asked Mr. Pratt how much it would be to have them come in for a week.

6:31 PM Mr. Pratt said that, if you call in septic haulers, it could be anywhere from \$5,000 to \$10,000 a day to have these guys standing there and pumping 1,500 gallons a tank truck to the top of the hill. He added that we're saying that on a short-term basis, a few hours, that's when you want to use this; that if you're not prepared to quickly put in a by-pass pump then that's going to rack up costs real quick; that that's why we're recommending to put the manhole in. He said that all our worst fears of this thing failing and needing a by-pass, knock on wood, we may not need to do it but by positioning yourself to be ready to do that, we felt this was the most cost-effective way in the event you did have a down station.

6:32 PM Mr. Selsberg said that if we spent the money and just put a brand new pump in then you would only retrofit one pump station, asking if that was correct, or would you recommend retrofitting both.

Mr. Pratt said that we are retrofitting both.

Mr. Selsberg said that that's what he's suggesting now but, if we bought a brand new pump for one station...

Mr. Lee said that that doesn't do it; that it's the size, the other code conditions, the electrical, the panels, the whole shooting match; that it's like the whole body is dying and all we're replacing is the part.

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Mr. Bradstreet said that he whole-heartedly agreed with this emergency connection; that the only thing is he's heard mention of a capital reserve account, asking which one.

Mr. Lee said the sewer capital reserve.

Mr. Bradstreet asked if this came under expansion of the sewer system that exists; that this isn't maintenance and not repair but to alleviate a situation that the Town is liable for; that, according to our ordinance, we're not required to do this. He added that, if you're going to expend sewer monies out of a capital reserve account, and he understands it's to get it done, he believes that we're stepping on toes that he doesn't believe should even be existing in the way of sewer users paying for it, according to our ordinance. He said that if you look at our fees and our ordinance, it doesn't say anything about a capital reserve account; that he believes those are to be raised and appropriated at Town Meeting. He said that that's just his opinion; that you can utilize the money but replace it through Town Meeting.

6:33 PM Mr. Reed said that when we do replace those pumps we're going to need this by-pass function as part of keeping the system intact suggesting that it seems to him like maybe this is an opportunity for a 50/50 thing because this is not a good thing for the Town that the sewer system fails and we're liable for all that kind of stuff. He asked if this was going to be needed, ultimately.

Mr. Pratt said yes.

Mr. Beckert said that he thinks he's hearing that we are all in agreement that this work needs to be done; that it's going to be in existence regardless of what upgrades or expansions, or whatever you want to call it, to the two pump stations; that that's work that will come but this will be here regardless for the system, itself, period. He asked for the pleasure of the Board.

6:35 PM Mr. Murphy moved, second by Mr. Fernald, that the Board of Selectmen proceed with this plan and approve the purpose of these two by-pass pumping alternatives and to use the money from the Sewer Reserve Account.

Ms. Davis clarified that we are wanting to get in and do this so we don't have time for bidding, at all.

Mr. Moulton said that, basically, it's Town labor and support staff that we have that helps us with maintenance, like Sturgeon Creek and such; that we are basically doing it with in-house and the only anomaly is deep excavation that we can't do ourselves.

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Mr. Lee said that we normally use Shapleigh on deep excavation work, a local vendor; that he's done many jobs for us in the past.

Mr. Pomerleau said that he thought it was clearly the only way to go; that the alternative would be to not do it and then we could take \$9,000 a day from the sewer reserve account if it breaks down; that that would not be too bright.

DISCUSSION ENDED

VOTE

4-0

Chair concurs

6:36 PM Mr. Lee suggested, while Mr. Pratt is here, that Item #9 might be taken out of order as we need Mr. Pratt to have that discussion, as well as in the interest of not spending our resources any more than we have to.

9) Sewer Rate Increase

Mr. Pratt said that, at the same workshop, we were asked to revisit the budget and what we did is go back and look at some of the historical rate work we've been providing for the Town. He added that back in 2014 was the last time we did a rate increase recommendation, which the Board concurred with and the rates were increased. He said that that was to support a budget of \$387,000 and that budget is summarized on the front page of this memo; that the rates stand at \$79/quarter and \$4.71 /100 cubic feet for consumption. He explained that there were a couple of things that were different; that were driving the rate adjustments, there, that weren't done previously; that \$30,000 was now being put into the sewer budget from the Public Works Director's salary; so, the Public Works Director's salary is now being, in part, funded out of the sewer account for the time spent there and that's just a reminder because that was done only last year. He added that the other one was that we increased the capital reserve contributions by \$50,000; that the rate increase was due to some shift in policy approach, here. He said that there was also the Kittery debt service that was added for the project that they did and that was for \$28,000; that rate increase, there, were really driven by those three primary things. He said that, most recently in October, we provided a technical memorandum suggesting that the rates should be increased by 25%; that, really, it was more based on increasing the budget by about \$83,000 to support the project as it was being put on the warrant article in November. He added that we further said that because of cost and expenses that have been happening in terms of some of these emergency repairs, and have been significant recently, that that rate increase probably should be enacted anyway. He said that we are reiterating that suggestion that the sewer budget should be increased by about \$83,000, which helps cover some of the expenditures that we're now seeing due to these repairs; that in 2015, to-date, we've already spent \$68,000 on interim emergency repairs

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due to failures; that he thinks some of the expenditures we just authorized might be another good reason. He said that we are recommending, in this memo to you, that the rates should be adjusted by 25%.

6:40 PM Ms. Davis said that, as we discussed last time, if this money is not needed for emergency repairs, it will be converted over into making the debt service payments.

Mr. Pratt said yes; that as these emergency repairs kind of stop the intent was that that would cover the debt service. He added that we are suggesting, in the memo, that you need to look at the rates every couple of years for adjustments, whether revenues are going up or going down, because this also assumes the revenues that we anticipated are the same; that we think they're pretty close but those could change, too.

6:41 PM Mr. Bradstreet said that, again, he's going to ask the question – from our ordinance, where do we come up with a capital reserve fund. He added that we live by ordinance and that's why he understands put your personalities aside and live by the ordinance; that he doesn't understand and let him know where it is and what mandates it. He added that we are under Chapter 161 under the M.R.S.A. that dictates, or mandates, who is responsible for repair, maintenance, and operation of, but, in our ordinance it says a tiered system for an actual cost, and it also has a volume – 100 cubic feet; that there's nothing in there about a capital reserve account; so, where is it in this Town that says we have to contribute, as users, for a capital reserve account. He reiterated that he thinks it goes to raise and appropriate for a reserve like you were buying a truck or a police car or turning into the school, whatever needs to be done as a capital reserve; that if you'd like the definition from M.R.S.A. what a capital reserve is, he happens to have that, as well.

6:42 PM Mr. Lee said that he was not prepared to speak to Chapter 161 about the ordinance.

Mr. Bradstreet said that he gave Mr. Lee a memo the last time you said it was just for drains, stormwater; that it's in our ordinance and what we live by under our sewers; that it's an MS4 (municipal stormwater) and that's right in our ordinance; that that's the only thing we predicate and this is what our ordinance runs on. He added that you guys just revised it and we have a couple of people that sit on the committee up there; that he thought, perhaps, that they would know how we run the sewer. He said that he doesn't mean to be scolding but he would just like an answer to where it says we are responsible, as users, for this capital reserve account, as a quarterly fee.

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6:43 PM Mr. Lee said that, with all due respect to all parties here, that is a very good question Mr. Bradstreet; that he doesn't know exactly what you're reading from; that the one thing you handed him looked like it had to do with storm drains, which are different.

Mr. Bradstreet asked if Mr. Lee would like a copy of what he has.

Mr. Lee said that it would have been good to have that in advance of the discussion but that's alright.

Mr. Bradstreet said that he didn't know we were going to go this deep into it.

Mr. Lee requested to finish his thought. He said that his suggestion would be to have our ordinance reviewed, legally, and see what exactly the answer is to this question. He added that he knows Mr. Pratt can probably tell us that in a lot of the sewer districts where he works, or a lot of the places where he works on sewers, capital reserves for sewers probably are part-and-parcel of the bill that sewer users pay.

6:44 PM Mr. Pratt agreed that was common.

Mr. Lee said that, generally, he doesn't agree with what Mr. Bradstreet's interpretation is but he's not a lawyer, either. He added that he would suggest that, if we can't fix the rates going forward this evening; that we try to get an opinion for the 14th of January, that we resolve it, and we go by whatever legal advice we get. He said he is happy to go wherever you would like him to go for legal advice; to any qualified attorney who has worked with utilities and ordinances, and so forth, to get a lasting answer on this, but, he does think that, if we don't get a lasting answer on this, this will be forever an issue in this Town, never resolved, and always a point of some consternation and debate, whether we did it right, or not. He added that we don't need other issues in Eliot like that, he doesn't think, that lasts for decades.

6:45 PM Mr. Murphy asked if it would be possible to review the history of the three pockets that we have in sewer funds at that present time to see whether one of them might have included a use as a capital reserve pocket, in addition to whatever else it was doing.

Mr. Lee said that we do have them broken out like that; that we do have sewer financial reports, now, that show the balance of the capital reserve account, and so forth.

Mr. Murphy said that he meant one to pay the bond, one to pay the operating expenses, and one to pay maintenance.

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Mr. Lee asked if either of them would like to speak to that, the way our rates are structured and how they break out when a bill comes in what Ms. Bergeron does in terms of separating out the four categories.

6:46 PM

Mr. Moulton said that there is a consumption charge, which we use to help pay for the bill to Kittery; that there's a fixed rate charge that goes into the reserve account that helps pay for capital repairs...

Mr. Murphy said that, additionally, there's a betterment fund that goes into bond payment; that that one has been kind of empty because it takes new users coming in to pay a betterment fee and the Town makes up the lack of that in order to pay off the bond, which he thinks is all done, now, because it was paid off. He added that he thinks we can still collect those betterment fees.

Mr. Pratt said that we still do.

Mr. Murphy said that he believes they can be used to repay the Town but that is something he would not stake his life on.

6:47 PM

Mr. Lee said that the long and the short of it is that he believes that the Board would be well-suited to have a strong legal opinion of that ordinance and it's intent, and what it does say and what it doesn't say; that none of us sitting in this room are attorneys, really, that our opinions aren't any greater than another person's opinion, he thinks. He added that, if we're not going to act on this this evening, he thinks everyone might feel a little better if we had some sort of an unbiased attorney look at this; that he didn't care which way it comes out, he doesn't care if it benefits the way Mr. Bradstreet says, or not; that he wants clarity.

Mr. Bradstreet said that that's what he's been asking right along; that he doesn't care what Arundel or York or anybody else does; that we have an ordinance, now, so let's live by our ordinance; that we just voted it in.

Mr. Lee said that if we didn't do that correctly, or we missed something, we need to know about it, we need to honor what he's saying, but he does think we probably ought to spend a few bucks to have an attorney go through our ordinance and tell us Mr. Bradstreet does have a valid complaint, and why, or he doesn't, and why.

6:48 PM

Mr. Pomerleau said that he has read that ordinance over and over and he thinks this is a total waste of time; that that's a very selective interpretation; that it almost defies common sense that, when you're setting up an account for operation and maintenance fees that it isn't going to accumulate somewhere; that you don't wait until you have a disaster and then you start charging; that it has to be

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accumulated in a reserve account. He added that his question is the timing of this on the next quarterly charges, asking when did they have to have an answer to get this moving; that this is the problem we've heard for 20 years – mismanaged, didn't raise the rates – but it's time to raise the rates, again asking for the timing of this and do we need an answer, tonight, or can it wait.

6:49 PM Mr. Lee asked Mr. Moulton when the next quarterly billing was.

Mr. Moulton said January.

Mr. Lee said that, if we don't do it here, we're waiting until April.

Mr. Beckert said not necessarily; that it can be made retroactive to a date certain.

Mr. Moulton said that we might hold the bill late.

Ms. Saurman said that, as a sewer user, she would like the ordinance to be reviewed before you ask us to pay more, again. She added that, if you've read it over and over again, then you must see the same thing that she sees, which says, "*all users of the public sewer shall be subject to the following sewer user charges: 1) tiered flat fee, 2) consumption charge.*" She said that if there was supposed to a #3 there, then why isn't there and hasn't been doing the job to make sure that #3 gets put there, or, was it supposed to go in one of these blank appendices pages that haven't been done, either. She said that her point was that, when these types of questions come up, she's hoping you can see why we're confused. She added that, if part 3 right there said 'and whatever this fund you're talking about is', she wouldn't have said a word tonight but this is what it says; that she doesn't understand how we can change the rules and, whether one Selectman or several Selectmen think it's common sense that it implies, then she wants a lawyer to say, "Here's the implication." She said that you've got your emergency pumps, we're going to get that taken care of, and you've still got \$95,000 in our fund; so, why do you have to put our rates up, again, tonight before you have somebody finally say here's the legal interpretation of this. She added that, frankly, she will live by what the lawyer says; that she promises you won't hear from her again with regard to what the lawyer says.

6:51 PM Mr. Bradstreet asked them not to try to tie the tiered program in because, on our billing, it is a reserve charge; that some people have made the suggestion that it's in our tiered program that we pay this capital reserve; that it's not; it's on the bill and a separate entity that goes in there; so, again, let's just live by the ordinance, asking what's common sense and saying that Mr. Pomerleau may be right. He added that he's seen it dedicated for other properties in Town; asking, again, that they put their personalities aside and live by the ordinance; that's all we ask for.

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6:52 PM Mr. Beckert said that it was up to the Board but he would recommend we take two weeks and get a legal opinion on the ordinance.

It was the **consensus of the BOS** to take two weeks to get a legal opinion on the ordinance.

Mr. Lee said that, in the interest to make sure he poses the question correctly because, no matter how he poses this question, several will say he didn't pose the question correctly, he would like to offer one, or more, Mr. Bradstreet or Ms. Saurman or someone who has the alternate opinion, to feed him specifics of what you have for questions; if you have very specific sections that doesn't say 'this' and doesn't say 'that'; that he would invite anyone here who has something within that ordinance that you think is specifically omitted or doesn't say or may hint at it, please let him know because he would like to write a very thorough question. He added that he is a neutral guy, here; that he doesn't really care how this plays out; that he wants it to be the right decision for the Town. He added that it has to follow the ordinance and, if we muffed the ordinance, then we start over and we fix it. He said that he's glad you're doing this; that he thinks it will be very helpful going forward on all of our deliberations. He added that he just doesn't want to, in two weeks, say "Well, look at the way you asked it."; that he is really trying to ask this in such a manner that he leads with their views and lead with our views and say which of these leading views is really the correct leading view; so, please, help him write the correct questions for this lawyer.

6:53 PM Mr. Bradstreet reiterated that his only concern with this is if are we living by our ordinance, as it is written.

Mr. Beckert said that this is just his personal suggestion; we give the lawyer the ordinance, give the lawyer the sewer bill, this is what we charge the sewer users, this is the breakdown, can we charge them these categories per this ordinance, period; that if he comes back and says that everything we've got on that bill that we're charging them is legal, per the ordinance, then we're golden. He added that it's not rocket science.

Mr. Pratt said that that's if you get a yes/no answer.

Mr. Beckert said yes; that most questions need to be posed yes or no.

6:54 PM Mr. Lee added that he is going to ask for real clarity, not the normal gray.

Mr. Beckert said that we had that ordinance reviewed before it went to the Town for a vote.

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Mr. Lee agreed but said that, maybe, it was reviewed for different types of things; the form of the policy, not the intention of the policy.

6:55 PM

Mr. Pomerleau said that that was something he sent Mr. Lee, very recently; that he doesn't have the quote, he wasn't expecting this, but there's a specific section in the ordinance that the intent with this is that all sewer users will be responsible for operation and maintenance costs, etc.; that it's as clear as the nose on your face what the purpose of the ordinance is for.

Mr. Lee said that that just tends to make all of us riled up, when we throw out hard opinions; so, he just thinks we get a neutral attorney in here.....

Mr. Selsberg asked if there is a feel for what law firm that would be used, where they would be located.

Mr. Beckert asked who we've used on the sewer.

Mr. Lee said Bernstein Shur.

Mr. Selsberg said that that sounds good.

Mr. Lee added that he thinks they're familiar with this ordinance; but, he thinks the question on this ordinance is different than if it's in the proper form or is it printed correctly; that the intent to the ordinance was to have this happen and does it do that and, if not, just let us know.

6:56 PM

Ms. Saurman suggested that, as long as we are paying them, the wording.

Mr. Lee said for what should be put in if that is your intent; that he agrees with that.

Ms. Davis said that she thinks we're skipping a meeting this month because of the holiday. She asked if we want a motion tonight, contingent upon legal opinion.

Mr. Beckert said no; that he thought we could live with it; that Mr. Lee should ask the question about retroactive, as well.

6:27 PM

2) 2016 Paving Pricing

Mr. Lee said that we were approached by the same paving company, Libby-Scott, that we've been using for a number of years; that they've always been the lowest bidder. He added that they've actually offered us a fixed lower price, \$2/ton less for asphalt paving than was the 15/16 bid; that North Berwick, South Berwick, Wells, and York, pending board approval, have all accepted that new lower fixed

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cost; that we were at \$72.40 and would be at \$70.40. He said that what we're looking for is a waiver of the purchasing policy so that we could take advantage of this extension of an existing bid for another year at an even lower rate.

6:28 PM Mr. Pomerleau said that he had a lot of problems with this; that it would really take some convincing, and he's open to it, but, again, he went back on DOT's website and the cost of liquid asphalt was \$610 in January and it's now \$397; that that's a 35% reduction in the base product, here. He added that getting a 3% discount, per ton, doesn't seem like we're getting passed on a lot of the cost savings. He said that he doesn't know how that directly relates to raw product. He added that taking \$2.00/ton off for six months and completely by-passing bidding, and we're in a period where the price of oil, which is the basis of the cost for all this, continues to plummet; that it doesn't make any sense to him to extend a fixed contract in a period when the price is declining; that he doesn't see the benefit of this, at all. He said that he certainly doesn't like by-passing the bidding process.

6:29 PM Ms. Davis said that the last time we went through the bidding process for paving several different companies were brought forward to request bids from; that whether we do it early, if doing it early is what we want, then she would like to see some very serious bids from Pike, Continental, Bourassa, Libby-Scott, and Advanced Excavating.

Mr. Murphy said that what sort of bothered him about this is that he doesn't remember seeing a similar offer in recent years on almost anything; that he immediately questioned why they were doing this; that it seemed very odd and he couldn't understand, asking if we have any explanations from North Berwick, South Berwick, Wells, and York as to why they jumped on it.

6:33 PM Mr. Lee said that he suspects they know that they will not get a better deal than this if they bid it out. He added that we can still bid it out; that we have those bids ready to go and we can put them back out, as we have year after year.

Mr. Moulton said that the bid we have now is good until June 30, 2016 because it goes with our fiscal year; that we'd put it back out in the spring. He added that one of the things that Mr. Pomerleau mentioned was the oil price and agreed that the oil price is declining but you also have to take in the fact that asphalt is made of more than just oil; that you have materials like sand and gravel and you are also talking about labor and laid-out costs replacing it; so, essentially, what they're doing is, and all the other towns are going along with it, because although the price of oil is lower but the cost for labor, etc. hasn't changed. He said that they are giving you the benefit of the \$2.00/ton for that purpose and that's why you got a reduction; that they haven't offered it up and it usually isn't offered up; that Libby-Scott has been the paving contractor in this Town, and won the bids for the Town for every year he's been here, and were here a year or two before he got

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here; that we're looking at seven or eight years that they've consistently been the low bidder for the Town. He added that it's an offer they put out for us to consider; that the big thing now with materials and making up asphalt is that everything has to be imported; that gravel pits, and things like that, don't sit at the same place as the asphalt plants; that everything has to be trucked, so, it's truck in, it's processed, it's made, and that's what you're getting; that you're getting the \$2.00/ton reduction because oil prices are down and they're fixing the cost for the Town. He added that you would essentially start on January 1st, if you could pave, and would be allowed to have this benefit of \$2.00 less a ton for the last six months of this paving year, so, we would actually save money in the existing budget for the end of the next year's paving season, and start with the implementation from June to the 1st of December, as long as we can go. He reiterated that it's an offer that's been put out, the other towns see it as a viable offer, every other town uses Libby-Scott; that he is a supporter of them because of his dealings with them and what they do for the Town; that they give you the best product they have, their materials come from Pike, the price is coming from Pike; that it's your lay-down costs that are staying consistent and your price for your oil is dropping. He added that, personally, he thinks this offer is a deal; that it's only good until December of next year and then you go back out to bid, again, because nobody knows what the oil prices are going to do. He said that it's up to the Board; it's something that's being offered and, if you say no, you say no and we go out to bid, again, in the spring and, then, we go from there. He added that we may not get these same prices, we don't know; that where other towns are jumping on it, he figured Eliot would take advantage of it just like the rest of the towns.

7:03 PM Mr. Murphy asked how much asphalt we would be requiring during this period and what would we actually be saving.

Mr. Lee clarified that in the remaining six months of what we have left for paving, of your total paving budget that you did not get done prior to cold weather, when you come out in the spring and finish up your paving...

Mr. Moulton said that the total tonnage still to be put down is between 1,500 tons and 3,000 tons.

Mr. Lee said that Mr. Moulton was looking at around \$6,000 in total savings for the remaining work.

Mr. Moulton said yes, probably; that that would be for the balance of this year and for the budget next year. He added that the bulk of the paving is done from July 1 to November; that for the latter half of the budget, we finish up the remainder of the budget to hit the roads that were not at the top of the priority list.

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7:04 PM Mr. Lee said that, if you want us to go out to bid, we will go out to bid; that it could very well come back at \$72.40 but he certainly hopes it doesn't, we would have looked a gift horse in the mouth. He added that we'll see what happens if you want to roll the dice.

7:05 PM Ms. Davis said that we only have \$50,000 left for paving money for the rest of this year. She asked if there was any reason why we couldn't bid this out, now, with these other companies and see if they are competitive on the same level that Libby-Scott is.

Mr. Moulton said that we have about \$86,000 because we have the DOT money. He reiterated that this is something that's being offered; that it's a yes or no answer, it doesn't need 100 hours of debate on it; that it's a carrot that's being offered, other towns are taking advantage of it; that it's offered to Eliot, your choice.

Mr. Beckert asked for the pleasure of the Board.

Mr. Pomerleau said that he was not in favor of this.

Ms. Davis said that she thought we should bid in January, if that's the case; that there's no reason to wait until spring.

7:06 PM Mr. Moulton said that the unknown right now would be, potentially, and he won't know until he goes out to bid, what kind of prices you'd get in the spring for paving.

Ms. Davis said that Libby-Scott is willing to tie it down so, maybe, these other companies would be, too.

Mr. Murphy asked how long this offer was good.

Mr. Moulton said that he needs to know sometime this month.

Mr. Fernald said that he has a problem with "have I got a deal for you" type of situation; that he would feel more comfortable going out to bid and, if Libby-Scott still wants to be the low bidder, then, so be it.

7:07 PM Mr. Lee said that it sounds like bidding.

Mr. Beckert said that that's what he's hearing.

At this time, the Board took Item H. I out of order.

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December 10, 2015 5:30 PM (continued)**

H. New Business:

7:08 PM 1) Performance Guarantee for Paul Swanick constructing a new road – Thompson Lane

Mr. Lee explained that what we do, in essence, is we ask the developer to escrow a certain amount of money that, should the developer walk away, we would be able to access; that it's in our name and held by a third-party financial institution; that we figure out the length of the roadway and the remaining expenses that would be necessary; that we do a calculation and we estimate the amount and, in this case, we estimated \$60,000 would be an appropriate amount to ask then to put into escrow for the road that will be known as Thompson Lane. He added that this is for Frost Hill Subdivision and Pinkham & Greer of Springvale, Maine are the engineers on the project; that Mr. Moulton set the price. He said that you have a short letter from the bank that's financing this – Newburyport Five Cents Savings Bank. He added that we need to have the form of the escrow approved by the Board and the amount of the escrow approved by the Board this evening, hopefully.

7:09 PM Ms. Davis asked how long the road is.

Mr. Moulton said that, off the top of his head, he did not know.

Mr. Murphy discussed the physical location and size of the property, saying that he thinks they're subdividing near Frost Hill Road, so, he should imagine that the road is probably less than a mile and a half.

7:10 PM Mr. Moulton said that it's not a mile; that if he had to guess, it's right around 1,000 feet.

Ms. Davis said that the reason she asked was that you determined that the value of this must have been by a standard square-foot or length...

Mr. Moulton said, yes, length and the design of the roadway by the engineer.

Mr. Lee agreed, saying that there are formulas that we all use when it comes to guessing the cost of a road, whether it's reclaim or resurface, there are certain formulas; that that's how we put together budget number for paving, generally, anyway.

7:12 PM Ms. Davis said best guess based on standards.

Mr. Lee agreed that it was best guess based on formulaic standards.

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Mr. Murphy asked if this \$60,000 have to stay in Newburyport Bank or does it become ours and we can put it in some other bank.

Mr. Lee said no; that the way these are done is that it is held by an independent, third-party financial institution in our name; that we have to claim it and demonstrate that they failed. He said that we would have to go in and say we demand the money because your client failed and we need the money to fix his mess.

Mr. Murphy said, so, we accept Peter Grace's letter about it as being truthful and we can't change the way it's being held or how they invest that \$60,000 to keep it available, or do we. He asked what is it that we have to decide other than to accept it.

7:13 PM

Mr. Lee said that you could say, theoretically, you don't want \$60,000 in cash held in escrow, you'd rather have a performance bond, for example, in the amount of \$60,000. He added that those are actually harder to pull and to get paid off; that the companies that issue performance bonds tend to fight you tooth-and-nail. He said that having cash sitting in escrow, in our name, at this bank is probably about the cleanest way you get it.

Mr. Beckert said that the Chair would entertain a motion to accept the amount of \$60,000 to be held in escrow at Newburyport Five Cents Savings Bank.

Mr. Murphy moved, second by Mr. Fernald, that the Board of Selectmen accept the amount of \$60,000 as sufficient escrow funds for the Paul Swanick subdivision on Thompson Lane, Eliot, Maine; monies to be continually held at Newburyport Five Cents Savings Bank in Portsmouth.

VOTE

4-0

Chair concurs

7:15 PM

3) Pamphlet Distribution at Transfer Station

Mr. Lee said that this is a short memo from the DPW Director relating to Saturday, October 31st; staff at the Transfer Station reported that members of the public who were given permission to distribute pamphlets and flyers did not comply with staying within the designated area established for distribution of those materials; that it's on the in-bound side with enough area for 2 or 3 vehicles to park and participate in discussions and we have them wear safety vests, and so forth. He added that on that day, a member, at least, of the assembled distributing information was seen running through the operational traffic of the Transfer Station trying to distribute information; that that was reported to Mr. Moulton as such; again, we remain concerned about safety, liability, and so forth; that he and

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Mr. Moulton discussed it and we don't have a lot of people that want to use the Transfer Station for distribution of pamphlets; that he thinks we have one group, essentially, and our concern is that, if they are unable to follow the instructions of where to stay and do their business, then we probably ought to terminate the offer to do so.

7:16 PM Mr. Pomerleau said that he sent Mr. Lee a newspaper article on a recent court case up in Portland; that he thinks you take the 1st Amendment of the Constitution much too callously; that it's an important right that people have to demonstrate, to offer political opinions, to gather on public land; that all you have to do is look at the streets of Chicago where they're down the middle of the road tying up the shopping district. He added that he thinks the factor, here, of the safety is so grossly over-exaggerated. He said that you look at the circumstances of the Transfer Station set-up – three lanes for parking your car to dump your garbage and, then, there's a travel lane to exit; that you can't get out of your car without stepping into a travel lane and, then, walking down through and amongst and crossing in front of cars and, then, reverse the whole thing coming back. He added that that goes on hundreds of times all day long and somehow you want to pick one little instance, here, of someone with a pamphlet that may, or may not, have occurred is somehow creating this big safety and danger thing. He said that this 1st Amendment constitutional right for people to be able to go down there and conduct political activity, to picket, to hold discussions; that he thinks this is a totally bogus effort you are making here and you end up finding us with a civil rights suit.

7:18 PM Mr. Beckert said to try to keep this civil because he has sat in this same room when an attorney has told us we can control who goes where on Town property, and what the hours are, and everything else.

Mr. Pomerleau said that, if this is legitimate, he agrees.

Mr. Beckert said that his concern was, and he doesn't care who it was, what the group was, if they can't follow the rules, then they don't need to be there. He clarified that he was not going to take a lot of discussion from the public because this is a Board decision; that he was not going to get 'into it'; that this Board was going to deal with it.

Mr. Murphy said that he sympathized with Mr. Moulton's concern; that he thinks he's concerned with the liability and the health and safety of people; but, he tends to think that it's a very popular public place; that you could meet an awful lot of people there and get a lot done in terms of meeting with people and conversing; that he, himself, several years ago, sat there for one whole morning getting signatures on a petition to affect laws in Augusta, and we won; that for him to object to other people trying to do what they want to do in some other issue would

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not be smart or sensible or honest; that he would hope to persuade Mr. Moulton to warn people, put up signs, and try to kind of help them be sensible about the way they run through but he agrees with Mr. Pomerleau that he has to sometimes park three lanes away from the doors to carry his trash between cars on his way to there; that people are used to cars so they can make mistakes.

7:20 PM Ms. Davis said that, as someone who was there that day, she will suggest that the new location is difficult; that the public seemed confused by that location and part of the problem was that they would stop in the travel lane; so, if we could put it on the out-bound side where it was before, she thinks people have a better idea of what they're doing when they are on that side and that might help alleviate the problems.

Mr. Moulton said that, one, it's a safety issue, and it's not exaggerated by any means; that he's bringing this to you as a concern, that he's done his job; that he has no problem with it continuing; that we will look at relocating it but one of the things that needs to happen is that people need to abide by the rule that was set forth by Boards prior, that they stay in the designated area. He added that employees are not babysitters, so, we shouldn't have to babysit people who want to do this; that if they can comply, that's fine and, if they can't comply, they will be asked to leave. He said that he would just like that better clarified tonight; that there is no issue with political whatever; that this is just something he has brought forward to you, as it was reported to him.

7:21 PM Mr. Beckert said that he would take a couple from the audience but he was not going to get into a big, heated discussion

Ms. (Kim) Reed, Governor Hill Road, said that she is one of 'those' people and she does wear the orange vest, and she has never gone out into the road to solicit to pass out any flyers; that it was people that would stop and motion her over; that she is the one with the safety vest and when she has handed them a handout, there has never been a backlog of cars behind them; that they've motioned to her; that she hasn't motioned to them to stop; that they have asked her to come out.

Mr. Beckert said that that's simply solved by telling them that you can't; follow the rule and tell them that you can't.

7:22 PM Mr. Bradstreet said that he was personally the one who brought it to Mr. Moulton's attention; that the first week that Ms. Reed was there, she was a peach, she stayed within her boundaries; that the people who wanted were given a nice turning lane, with a big sign; that those who wanted to talk with her turned in without the waving of the flags or the approaching of the vehicles; that the second week, prior to the voting, there were four people out there; that he spoke with Ms. Davis about concerns about safety: waiving, papers, and charging cars; that she

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addressed it back to him as a concern; that she understood it; but these things, in his estimation, our own secretary was a witness to people charging her car as she came in; that it's a busy street coming in; relocation, setting up like we had established the week before; that he doesn't have a problem with free speech but his #1 concern is safety for the people out there; that it confuses people, it distracts them, it's a busy intersection coming into that dump. He said that, going out the same way, we have back-up; that we have people who want to get in and get out and, when they get frustrated, they back up, try to pass people on the inside and the outside, doors are open, kids are running. He added that, personally, he doesn't think it's the venue; that, yes, it's a public area but suggested they put it over to the Town Garage or 'here' in this parking lot to do whatever you've got to do but not on a business day during the height of traffic. He added that the other thing would be to comply with what was done the first week; that he had no complaints; that, as she sat there, she had a numerous amount of people that stopped that had a concern; that it was ideal and he was all for it but that second week there was a lot of charging and a lot of flag-waving out there, and a lot of distraction to the public coming in. He reiterated that that's his concern; he reported it, saying to do what you may.

7:24 PM Ms. (Donna) Murphy said that she was also present during that time and at no time did anybody charge a car; that the waiting that went on was not in any of the travel lanes; that there were people holding it up motioning to people to pull over; that, again, nobody charged any cars in her presence.

Ms. Saurman said that she, too, was out there when she was running for the school board; that she put up a sign, leaned it next to her car, and she just stood there and waited for people to come to her; that she didn't wave a pamphlet, they knew what her sign said and, so, that might be a consideration; just be there, say stop if you want the information, but you don't have to wave anyone down; that people know you're going to be there, they know who you are and why you're there. She said that, if they want to slide in, they'll slide in; that she thinks you have a right to be there but she thinks you should just be there and let people come to you.

7:25 PM Mr. Beckert said that what he's hearing from the Board is to take a look at it, monitor it, change the location if it needs to be changed, make sure they follow the rules; that if they don't follow the rules, then ask them to leave.

Mr. Lee said that, as far as his reason for putting this on, he would simply like something documented, here, in the records that we have advised you that this is a liability issue and he doesn't want to be hung on the day it happens.

Mr. Beckert said that we've discussed it, take a look at it and let's move on.

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7:26 PM 4) Change Winter Hours at Transfer Station

Mr. Lee discussed the memo from Mr. Moulton that asks for a change in the Wednesday operational hours from 10AM to 6PM to 9AM to 5PM due to lighting safety issues during the winter; that resident traffic is minimal, it would be a cost-savings, and all employees are okay with this change. He added that he didn't think starting this on December 16th would be adequate notice; that he thought we might do it effective January 1, or something like that; that he thinks we need a couple of weeks to get people warned of the change in hours.

7:28 PM Mr. Pomerleau said that he put this question out on EliotOnline and heard from a fair number of people that work for a living that said that this would prevent them from being able to use the Transfer Station (TS). He added that, granted, the numbers may be small, comparatively, but they matter; that this is the essence of customer service, here; that it's limited to one week-day, as opposed to the weekend, for anybody that works and making it an hour earlier in the morning doesn't help them a bit because they are already long-gone to work.

Mr. Lee said that it depends on where you work.

Mr. Pomerleau said that it is a customer service thing for him; that there are people who want it to remain the extra hour because that's the only time they can use it. He added that there's an adverse action for some people; that he sees where it is of no benefit to the public by reducing the hour; that it's a real simple situation for him. He said that he looked at the contract and there is no reference to TS hours; that there is for the Highway Department but not the TS; that if it did and, with the training Mr. Lee recently attended with us, this has to walk into past practice issues; that it isn't part of a contract and, if it were subject to the contract, and the contract clearly says that you can't make separate deals that conflict with the contract. He added that, from a strict customer service standpoint, he sees no benefit to the public, he sees harm to the public, so leave it alone.

7:30 PM Mr. Murphy said that, personally, it doesn't matter to him.

Mr. Fernald said that it doesn't matter to him, either.

Mr. Murphy said that he doesn't know how many people get served at that time, and would not be served.

Mr. Moulton said that it varies but he doesn't think it's any more than 12.

Mr. Bradstreet said that we are around 10 to 13 people between 5PM and 6PM. He added that our big rush is between 4PM and 5PM. He said that this isn't a contractual thing, at all, so please don't enter that into it; that it's a safety issue

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and he's just reporting because what his job says is that anything he notices as a safety issue he reports to Mr. Moulton, and it comes up the ladder. He said that, as a concession for those few people, we are there an hour early, so, if you have a few people that are recycling properly, they can come around the back door and get rid of their garbage and go to work; that if you want to take the liability or the expense of lighting out there, that's fine. He reiterated that he's just done his job, as lead attendant, to notify that there's a safety issue; that he'd like to close it at 4PM because, by 4:15PM, it is very dark out there, but that's a high impact. He said that there's a lot more cars and people but 5PM to 6PM is, to him, a safety issue; that it has nothing to do with the contract; that he personally doesn't care; keep us open to 9PM, you're going to pay him.

7:32 PM Mr. Reed said that in one of these statements it says, "...minimization of costs to improve the lighting requirements necessary for safety purposes." He asked if there was some need for more light that you're saying is needed.

Mr. Moulton said that, if the hours stay, he will look to increase the lighting so we have less issues

Mr. Reed said that you're saying that you want to change it to 9AM to 5PM but, from 4PM to 5PM, it's dark, too, so, what's the difference.

Mr. Moulton said that it's a high impact; that it's a catch-22; that it's a minimal impact this time of year for a week or two and then it turns, so, it's less than an overall issue. He added that a concern was brought to him and he is bringing it before the Board; that it's another safety issue and it's his job to report safety issues to the Town Manager and the Board. He said that his solution would be to add a couple more lights and spend a little bit of money to make sure people are safe, reiterating it's a safety issue, liability for the Town, concerns of residents, and employees. He added that it's going to cost you a whole lot more; that changing the hours is a no-money expenditure; that if we stay with the current hours he would take it upon himself to spend the money to add a couple more lights because he feels it is warranted and needed. He said that he was there yesterday, a cloudy dark day, and it got dark a lot earlier; that there are a lot of shadows and there's a couple of lights that we would add; probably a sum of \$1,500 in lighting to add a couple of lights and run a little bit of conduit; that it's not a lot of labor but the cost of the light; LED, low-impact, not high energy. He said that issues are there, someone trips and falls, and he's just informing them; that it's up to the Board to decide what they want him to do.

7:33 PM Mr. Reed asked if all that was by way of saying you're going to add lights now

Mr. Lee said that he doesn't think Mr. Moulton is saying that we're going to add lights; that, obviously, from 4PM to 5PM is a different level of darkness than

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5PM to 6PM and there's a short period where it's so busy, with so many people and so many headlights going, that it does kind of make it safer because there is a lot of light being brought into the TS; that by 5PM the people coming in are far and few between and a very little bit of light out there. He added that, again, it's a safety issue; again, if you aren't that concerned and if we're being overly cautious, then tell us to not put in lights and leave it open until 6PM; that at least we have a placeholder that we brought the safety concern to the Board.

7:34 PM Ms. (Donna) Murphy asked how many years this TS has been open until 6PM and how many injuries have occurred; that, if you're going to wait until January, it starts to get lighter after December 21st, she thinks. She added that, almost every week on Wednesday that she works she is there, and she can't get there, even if it's an hour earlier in the morning, because she leaves her house between 7AM and 7:30AM; that she was there last night and she didn't have any issue with the lighting; she was in and out and she's never there alone when she is there between 5PM and 6PM.

Mr. Lee said that it was good with us; we brought it to your attention.

7:35 PM Mr. Lentz said that, for the sake of the people who do have to work and find that a better time to go, isn't \$1,500 a cheap price to pay; that he would think so, and you would eliminate the safety issue and you serve the public as best you can.

Mr. Murphy asked if Mr. Moulton could purchase the kind of lights that are on standards that would be somewhat portable and they might have a use in other places in the Town at other times, such as late in the evenings at ballgames. He added that the Town might have a use for such lights more than one hour at the TS.

Mr. Moulton said that that's a possibility; that a ballpark estimate from renting and using prior to here, you're probably looking at a \$10,000 to \$12,000 expenditure because it would be a mobile unit. He added that his lights would be single lights, with photo eyes on them, that would come on when it got dark and go out when it got light; LED, low-impact, low cost to operate, and long-lasting.

7:36 PM Ms. Saurman said that she agreed with Mr. Lentz with the fact that you could put lights in for \$1,500 and Mr. Pomerleau is talking about that being a customer service issue; that she would think we would want to take good care of our customers. She added that, since there has been this much discussion and the issue has been brought up about safety, then should there be an accident however rare it could be, all someone's got to do is watch these discussions and say, "These folks were made aware of the safety issue and they ignored it"; that then we are in even bigger trouble, as opposed to having it brought to our attention knowing it can be fixed for \$1,500 and everyone is as safe as we can make them be.

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7:37 PM Mr. Fernald said that he had a different outlook on the whole thing if it's a safety issue; that he hears this 'well, nobody's gotten hurt, yet'; that it was like trying to get a light over Depot Road, or whatever, we have to wait until we have so many people that get killed before we actually get the process done. He added that he didn't think we ought to wait until we have people injured before we act.

Mr. Fernald moved that the Board of Selectmen move the Eliot Transfer Station Wednesday hours from 10:00 AM to 6:00 PM to 9:00 AM to 5:00 PM. There was no second and the motion fails.

7:38 PM Mr. Beckert asked if he had a motion to increase the lighting at the TS.

Mr. Murphy moved that the Board of Selectmen move to increase the lighting at the Transfer Station.

Mr. Beckert asked if there was a second.

Ms. Davis said that that kind of expenditure falls within the discretion of the operating budget and can be determined by the DPW Director.

Mr. Beckert said that he thinks Mr. Moulton is asking us for direction and if you don't want direction from us, that's fine.

Mr. Murphy said that he was in favor of such lights.

Mr. Pomerleau said that he didn't believe it was necessary; that he doesn't think there's a safety issue.

7:39 PM Mr. Beckert said that he's not getting a second for that motion, either, and the motion fails. He said that it's up to the discretion of the Town Manager and the DPW Director whether we have more lights, or not.

5) Update of Pavement Management System

Mr. Lee said that, in 2014, Public Works conducted an analysis of the roadway inventory and he thinks, at that time, we spent approximately \$40,000 and did a very thorough 3-dimensional pavement scanning, which actually goes down into the sub-base. He added that, since the implementation of that plan in 2014 he's followed that plan with minor deviations; that Mr. Moulton had asked what it would take to extend and update this and we were told a rather modest price of \$4,900 and he would do it from his existing paving budget line of \$52,740 so that we continue to have an ongoing 5-year capital plan for road maintenance and upgrade.

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Ms. Davis said that, this year, we did gross budgeting and we put, she thinks \$500,000 against paving; that DOT money was used as a revenue offset so, if \$52,740 is what we have left, \$52,740 is all we have left.

7:40 PM Mr. Lee said that he has not had a chance to speak to Mr. Moulton; that the old way of doing this, where you consider the State money not a revenue and it gets spent, is not how we're doing that now. He added that that money stays on the revenue side of the budget and whatever he was allocated for an appropriation includes that money; that there is no additional money; that it is \$52,740 and that's all we have. He said that that was counted purely as a revenue and, again, this year it will be counted purely as a revenue; that we just need to confirm that we did at least that level of paving.

7:41 PM Ms. Davis said that she looked at the road study that was conducted by CMA; that they gave us a 5-year plan and they actually broke down the roads that would be done each year; that it goes from 2014 through 2018, asking if we've finished all of this; that we're only two years in so why are we needing to reassess this at this time.

Mr. Lee said that, in all likelihood, we would want to extend it at some point during the five years so that we continue to have an ongoing plan. He added that we can wait until next year or the year after to extend it, too, but just thought this was a pretty reasonable amount; that we would like to always have that five years out there but, again, it can wait; that there's no doubt about it. He said that he does think this Town is well-served to have a long-term plan for its roads and what the base and surface needs are. He reiterated that we just thought we'd put this before the Board to see if you would like to extend the plan so we are looking forward and even beyond 2018.

7:42 PM Ms. Davis said that it's a bit like a wage study, though, if we sort of wait until we get a little bit further down the road, it will be fresher when we do make a reassessment, in her opinion.

Mr. Lee said that probably what we're seeing here is each year that we've done...he doesn't know how it would affect prices going into the third year or the fourth year; that of course with more roads entered that have been done, it's probably going to get more expensive as we wait because there's going to be more to capture that has been done and we're going to have to look at fresh stuff going forward, and so forth. He said that, nonetheless, we just wanted to see if you wanted to extend it now and, if not, we'll be back at some point to extend the plan later.

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- 7:43 PM** Mr. Beckert said to Ms. Davis that it has been his experience that, normally with a capital improvement plan, regardless of what it is, when one year drops off you add another year on the outer end of it to keep it a moving, live plan. He added that he doesn't know what the sense is to have a capital improvement plan if we're going to go through two or three years and, then, we aren't going to do it and, then, come up with another full five all at once. He said that the usual intent of a capital improvement plan is to keep it rotating; that whenever one year drops off you usually add another year on.
- 7:44 PM** Mr. Pomerleau said that he thought the whole point behind this baseline study was to get the foundation from an assessment of our roads and conditions and, then, once we had that why can't he update it, himself. He asked why we had to pay an outside consultant; that he didn't have any impression that Mr. Moulton was extending it when he first read this but updating and reevaluating the same 5-year plan, which he would say in Year 2, no, it doesn't make any sense to him. He said that if you're trying to project further outward, with that whole foundation that we paid \$40,000 for, why can't our DPW Director do it, himself; that there can't be that much changes.
- 7:45 PM** Mr. Moulton said that he disagrees a little bit with change; that you can look to the severity of a winter. Using Old Road as an example, he said that that was on the list and done within the timeframe, but look at the condition of how it went from where it was supposed to go and where it was this year; that it was on the list but the dramatic change...unfortunately for everyone in this room you don't get the phone calls that he gets, "Well you're doing this and doing that road. Why aren't you doing my road because it's just as bad." He added that it's a tool to be used and keeps it updated; that to him its shorter money to keep it maintained and updated, it refreshes the look at the \$500,000, we continue to look at capital costs, a way to justify budgets. He said that he would use it as a continuing tool; do it every other year to keep it fresh, then, we're not spending \$40,000 in five years but \$4,900 every other year. He added that, to him, it's good money spent in the short-term to keep your plan moving forward and to keep the cost-justification in the budget request; that he had said that a budget of \$500,000/year is what he needed and, with all due respect to everybody, it took a \$40,000 report to do it. He said that we have it, let's use it as a tool, let's continue to move forward with it, keep the plan fresh; that we're spending short money and we just keep moving forward. He said that we're always getting knocked for not having plans and not thinking ahead; that he constantly thinks ahead; that every time he brings something forward he gets "no, we don't want to spend the money" and he's a little frustrated with it, at times that we don't want to spend that money now but, in the long-term, you're going to spend long money; that it's totally up to you folks.

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7:47 PM Mr. Murphy said that he thinks that 1% is a cheap insurance policy and he realizes that Mr. Lee, himself, cannot do this kind of study because he doesn't have the equipment to do the measuring and the observation of roads and measure their state; that you can go around, by hand, and apply common sense but you don't have the technology. He added that he thinks that if we're trying to use or determine the value of this approach, a one-time grab and watch it fail in five years is not the way to do it. Rather, he would ask if it worked, is it still saying the same thing or is it detecting changes more rapidly. He added that you have several years you could compare this year's test with last year's to see whether it looks the same, or, why does this road look different, and so forth. He said that he is in favor of this.

7:48 PM Mr. Fernald said that he was in favor of it, also.

Ms. Davis said that she thinks we've spent \$50,000 on this and they developed a 5-year plan for us; that \$5,000 is short money for this but it seems premature; that this was done in May of 2014. She asked if Mr. Moulton was saying that they are incapable of accurately predicting a 5-year plan; that, if so, they shouldn't have given it to us.

Mr. Moulton said that he is not saying they are incapable; that he's doing exactly what Mr. Murphy said; that we're looking to look at it to see how things have change, if they've changed, and why have they changed; that it's a plan, a tool.

Ms. Davis asked what they will do when they come.

Mr. Moulton said that same thing but for less money because it's not a full Town; that we'd look at everything we've done and what's left; that it's kind of a snapshot of the whole picture as a comparison to continue the plan that way; that you've done this, this looks good and it wouldn't involve as much work because you already have the base to build on.

7:49 PM Mr. Lee said that the scope of the work is included in the Board's packets.

Mr. Pomerleau said that one thing about that **report** last year when that guy was here and he asked him to be specific with what fixed cost factors they put into it, he couldn't name anything; that, with the labor rate, were they local or state or regional or union, cost of materials, what was the percentage for inflation built into the matrix; that they had to do all this with fixed numbers and he didn't know any of them, so, he wasn't left with a great deal of confidence in the report, to start with. He added that, less than one year past it, to update it, he's still trying to grasp why; that Mr. Moulton said that he gave the same number they did and he's sitting here saying, "Well, yeah, let's rely on him." (Mr. Moulton), and now you're reversing the argument and he wants to rely on you. He said that he

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doesn't know why we need to go back out and spend \$5,000 into Year 2 of a 5-year plan.

7:50 PM Mr. Lee said that we're just proposing it, you can shoot it down.

Mr. Pomerleau said that there ought to be a rationale behind it.

Mr. Lee said that there is and we've explained ourselves as clearly as we can; that he chooses not to argue with people, he just explains his reasoning and then sit back.

Mr. Pomerleau thanked Mr. Lee, saying that he got his rationale and his point.

Mr. Lee said that that's all; that we just want to continue to plan ahead, that's it.

Mr. Beckert asked for the pleasure of the Board on the proposal.

Mr. Murphy moved, second by Mr. Fernald, that the Board of Selectmen approve Mr. Lee's plan and authorize \$4,900 to be spent for an updating of the CSA Road Management Plan, which lets us take another look at CMA before we spend bigger monies later on, funds to come from the existing paving budget line.

VOTE

2-2 (Pomerleau, Davis)

**Chair concurs in the affirmative
and the motion passes.**

7:51 PM **6) Pleasant Street Stormwater Project, Citizen's Request – Review #2**

Mr. Lee said that, in the interest of the hour, you are all very familiar with this; that Janice Bakula was here with her husband, each of you had two weeks to go down and take a look; that we are basically back, as asked, and he thinks we're looking for a decision whether to honor any of her request, all of it, some of it. He added that we don't have a lot of additional stormwater money; that we budget very tightly on that, believe it or not; that we want to do customer service but that often costs money.

7:52 PM Mr. Beckert said that, to be perfectly honest, he doesn't see anything wrong with it.

Mr. Pomerleau said that she challenged him, last time, to find out what this law was with regard to public access and using that specific language, which he couldn't find; that he did find the applicable statute for public easements and town ways. He added that when you put all the statutes together, it's pretty clear to him that it has to have automobile access; that you cannot change it if it was that way

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when the Town...something in the emails he read someone claimed it was two easements given to the Town and it became a Town way; that whether they were donated easements or Town ways, if it was originally a boat launch accessible by automobile, by State statute, it has to remain that way.

7:53 PM Mr. Lee said that he thinks so, too.

Mr. Pomerleau said that, as far as the appearance of it, he went down there and looked at it; that he had gone down there before and it looks a whole lot better than it used to; that he thought the rocks were the nicest looking thing down there, to be honest with you. He added that he didn't understand why anybody would want to restore it to its previous state, which was nothing but ugly brush and weeds and all that saw grass on top of that, with a bunch of leaves dumped over the side of it. He said that he finds no sympathy for spending one dime down there.

7:54 PM Ms. Lentz said that we talked with Keith Searles, who is a neighbor down there, and he told us a very interesting story. She said that, years ago, there was a deer that swam across the river and it was so exhausted that they had to have the ambulance and fire crew come down to help revive it; that the wardens then came and picked it up but he had a point; that if there was anybody in trouble out there in the river and she got her handle all the way down, and the two posts, the rescue crews could not get down to the river.

7:55 PM Ms. Davis said that she had a couple of questions. She said that the reason she took the photos, in part, was because she did speak with Ms. Bakula and she had maybe three major concerns, if she interpreted them correctly. She said that the first one was that, when they were handed out paperwork on this as part of the process of informing the neighborhood, per the engineering drawings that we got, the piping and everything that's shown on her side of the launch should have been on the other side. She asked what the reason was for flipping that over.

Mr. Moulton said that there were two things that happened; one was that there was a different treatment system put in the ground to save the Town money and we had to re-orientate it and redirect the flows, so the pipes shifted; it was an engineer's change and was trying to save the Town money on the whole entire project; that it was all done in the Town ROW. He added that, while doing that, the excavation, some of her embankment failed; that the best fix for a failed embankment is erosion stone. He added that we can seed it or do whatever the Board wants; that if you don't want to spend any money, that's fine by him; that he thinks it's great and also acts as an alternative drainage swale. He said that any heavy flows that don't get collected or come off the ramp, it gets slowed down and doesn't erode the embankment and catches the sediment. He added that all the things we need and want and have to do for our MS4 and our construction, etc. as

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it relates to stormwater; that it was redirected, primarily, because the treatment system we put in the ground that will ultimately save the project money had a different outfall but is still within the Town's ROW.

7:57 PM

Ms. Davis said that part of that is that you do have these neighborhood meetings and they were given one set of information and, then, things changed part-way through; that she guessed that a lot of them feel involved when they give their opinions and they had a different expectation than what they ultimately received.

Mr. Lee asked if it was them or her.

Ms. Davis said her; that she has heard from a couple of other people but she's been the most vocal.

Mr. Moulton said that, if you recall, one of the things we did before any Park Street or Pleasant Street started was for an access grant; that we looked for input from the residents because we were looking at accessibility to the river. He added that, after going through Park Street and all the things we went through, the project came out great and they were all happy at the end but, at the end, the plan proposal for the access was different; that based on input from Pleasant Street, we abandoned the access-portion of it and didn't accept any grant funds for Pleasant Street because of the neighborhood input; that we went with a strictly outfall drainage project for improvement for the Town's MS4 stormwater treatment; that the boat ramp is better than it was and will last a lot longer than the pavement; that that was the other alternative brought before everybody and they had discussion and approved to go forward; that the change was discussed and the change was done. He said that, if she is comparing to that neighborhood meeting, that was for an access grant, which was totally different than abandoning from the drainage and outfall project, which everybody in the Town area received plans for. He added that Ms. Bakula showed him, Mr. Lee, and Ms. Pelletier, a drawing and he's not sure where she got it because it wasn't distributed by the Town and he doesn't know what it was but it clearly showed an area of rip-rap that was all-encompassing, repeating that he didn't know where that information came from; that he and Ms. Pelletier, to the best of their knowledge, ever distributed that drawing; that it was all-encompassing, it wasn't detailed, the scope of the project is laid out to show the effective impacted area. He said that there are two different things that she is comparing - the access grant meeting involving the residents and, then, the drainage and seeking easements; that everybody that was impacted by the project got an easement; that we got signed approval if we affected them; we restored their property back to the way it was or better than what it was. He said that we have done everything we've said we would do for everybody; that he thinks, ultimately, that this comes down to somebody looking at the aesthetics and having a disliking of it; that that's the way he sees it.

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8:00 PM Ms. Davis said that, even according to our engineering drawings, though, it did show piping going straight down and she did have that chart, and that was the expectation, that it would be confined to that area; that she was surprised. She added that the second thing Ms. Bakula mentioned was the amount of excavation near her property and the fact that it wasn't really...she knows it doesn't look great out there, right now, that it just kind of falls off; that from her own perspective, when she saw the rip-rap out there, unless they go over the guardrail, it would be very difficult for them to get to their property with the rip-rap up at the top where it is. She asked if Mr. Moulton could talk to her and try to find out a little bit of easing this situation.

Mr. Moulton said that we've tried.

Mr. Lee said that we have a couple of times.

Mr. Moulton said that he understood her concern but the full access all along, by everybody in that area, was down the boat ramp.

8:01 PM Ms. Davis said that just getting onto her property across that rip-rap would be difficult; that if she wanted to go clean that up and take a wheel barrow there, she has no way to do that.

Mr. Moulton said that he would talk with her.

Ms. Davis said that that was not something that she mentioned; it was just when she discussed use of her property, Ms. Davis was thinking that there was no way to even get there easily. She said that the final, really major thing is Ms. Bakula's concern about the safety issue; that Ms. Bakula did show her some photos that she had taken of people on Pleasant Street in the middle of the road trying to back their boats out; that people were parking in the road and she realizes, she's discussed this with other residents and they say that lawn guys do it, other people block roadways and that is true but, if this is becomes an area where this occurs frequently, is a concern of ours.

8:02 PM Mr. Lee said that we have said to her that she needs to call the police and say that you are blocking a public road, move on, and she said that she was afraid they were not going to like her; that he was sorry but that's the recourse and that's why we have law enforcement.

Mr. Moulton said that he added signage to that area for that purpose so that there is an enforcement that the Town Police Department can do; that it says 'No Parking either side' or 'No Parking'; that the signs allow the Police Department to ticket; that it's a matter of picking up the phone and calling the PD. He added that the bottom line is that, if you ticket a couple of people, it won't happen again

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because the word will get right out fast; that if you drive straight ahead it looks like you can drive right into the river and that's why we put the chevrons on the corner, so that it identified the curb. He added that there are 'No Parking' signs on that section of Pleasant Street and any of the side roads immediately adjacent to Pleasant Street that are public ways; that we have done everything we can do to ease the concerns; that, if it's a matter of traffic concern, you have to call the Police Department and let them deal with it.

8:03 PM Mr. Murphy said that, as far as the shifting of the outlet pipe over there, his reading of the whole project was that one of the major concerns about the project was to greatly reduce the number of outfalls into the river, to combine them on the land and conduct them in better and bigger pipes to safer areas where they could be monitored and where their outflow could be collected and tested for polluting the river; rather than have seventeen outlets that had to be tested for possible pollution they have them down to three or five.

Mr. Moulton said that we went from eleven to three.

Mr. Murphy said that that was a tremendous change and so, naturally, there's a re-positioning of the outlets and the closing up of some; that he doesn't know why she should be surprised at that, as that was part of the plan from the very beginning.

8:04 PM Ms. Saurman said that she walks that stretch of the river quite a bit and she finds that new access much easier to use than the prior one; that when you go down there and look and you see the rocks you folks put in, it leads down to a river full of rocks so, she cannot understand, for the life of her, why there would be an objection to the rocks; that that's probably the rockiest section of the river and she would hope that, whatever you decide to do there, there's no thought of putting any grass to grow over rocks that lead down to the river. She added that anyone who comes from out of town to put their boat in there will discover pretty quickly, unless they know for sure what they're doing, they're going to lose the end of their truck; that the people who probably will use it are probably the people who live right on Pleasant Street, to put in a jet-ski or their little dinghy's or that kind of thing, and it's their neighborhood and they would know how to use that ramp the way it's designed now.

8:05 PM Mr. Beckert asked Mr. Moulton if the embankment, and everything, is stabilized now.

Mr. Moulton and Mr. Lee said yes.

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Mr. Beckert said that, in his opinion, there is nothing left to do; that the pipes are within the Town's ROW, the rocks look fine, it looks better than it did, and it's easier to use.

Mr. Murphy asked if she has riverside property that she is now not going to be able to get to easily.

Mr. Moulton said that the guardrail has always been there. He added that Ms. Davis discussed a concern and he will go talk with Ms. Bakula about pedestrian access; that he will make her a little walkway.

8:06 PM

Ms. Davis said that that was her idea; that it was just that, if it were her property and it was difficult to get to it – to at least ask her; that, in follow-up, she will encourage Ms. Bakula to make phone calls when there is a problem there; that as Mr. Moulton said, word will get around and it will solve it, ultimately.

7) Replacement of 2004 Pick-up – Follow Up

Mr. Lee said that you all have the materials before you, Mr. Chairman, he's not going to re-cap it; that he thinks you've all had a chance to study it and see the recommendations.

Mr. Moulton apologized for the third bid not being in at the time; that he had it as a verbal and noted it as such so that you would have at least the number; that he did get the hard copy and you do have a copy of it now. He added that he obtained three bids for the replacement of the 2004 pick-up truck; that he made a recommendation and, at the time, he didn't go with the verbal but you see the variation in pricing; that one is from Westbrook, one from the Arundel area, and one from Portsmouth; that the variation is roughly between \$700 and \$1,000 between all of them. He added that he had previously recommended going with Holloway because of their proximity to the Town should we have any issues with service, etc.; that he's provided the Board with three bids and leaves it to the Board to make the decision; that he's given them his recommendation.

8:07 PM

Mr. Pomerleau said that it appears the only primary reason for Holloway is service.

Mr. Moulton said proximity; that it's close to Eliot.

Mr. Pomerleau asked if, with the manufacturer's guarantee, you can go there no matter where you buy it.

Mr. Moulton said that you can, yes.

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Mr. Pomerleau said that it's about \$1,100 between Holloway and Weirs; that if you can service it there, anyways, then why wouldn't you take the low bid.

8:08 PM Mr. Lee said that we are fine with that, as well. He added that, sometimes, there's a little bit more love if you take it back to the agency from where you bought it, that's all.

Mr. Pomerleau said that he talked with a service manager about that once and he told him that it's not his problem if the sales people couldn't sell you their vehicle; that he makes his money on the status of where it comes from.

Ms. Davis said that, with use of the FEMA money, she thinks we need further discussion; that she thinks there's enough in the equipment CIP; that she would be perfectly happy to approve the purchase of this vehicle but she thinks that, when the auditor comes next week, we need to have a discussion; that she actually created a spreadsheet for the equipment CIP fund, rather than take it from FEMA she would like to consider taking it from our regular CIP fund.

8:09 PM Mr. Lee said that we are recommending that we take it from the FEMA funds because the other existing CIP funds are there for already dedicated purposes; that FEMA was a windfall, in a sense.

Ms. Davis said that what she is saying is that we have already put money in the CIP for this purchase.

Mr. Lee said that we also do have an existing adopted policy that when FEMA reimbursements come through that a portion of those funds, not the overtime and not the materials used because that would drop through (can't capture), but the wear and tear on the vehicle that they reimburse for hours of 'this' truck or 'that' backhoe or 'this' loader would go into a special fund for replacement of vehicles, also, or go into reserve, also with the intent of having to replace things more quickly than you had assumed if you have bad winter after bad winter after bad winter. He said that that is equally just as viable a source of money, in his estimation.

8:10 PM Ms. Davis said that she has a real problem with circumventing the will of the voters. She added that the voters set aside money to replace the 2004 truck; that the FEMA money came in as a windfall and she really thinks we should be putting that aside and tapping into that on a warrant article within our dedicated CIP requests. She said that we have the money for this truck and there's no reason to be using this FEMA fund for something that we've already saved for. She added that when we tap into this money, this is like not asking the voter what they want to spend this money on.

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8:11 PM Mr. Beckert said to Ms. Davis that the FEMA funds are reimbursements for money that the Town has already expended that the voters had already approved; that it's a reimbursement; that we don't need approval to spend it as it's already been approved by the voters; it's a reimbursement from the government.

Ms. Davis said that if we were paying a department back for operating funds that they used in that fiscal year, she would agree with him, but this is money that is after the fact and we are outside of the fiscal year; that we received it later so this is what she would call a windfall. She added that she is perfectly agreeable that we set it aside and, then, when we come to the budget season, ask the voter if we can tap into the FEMA money for, say, 'this' dump truck to put towards this , rather than tax the voter, then the voters get a voice. She reiterated that we have saved for this truck and she believes there is money; that she has corrected the spreadsheet according to the warrant articles over the last three years; that she thinks if you want the blessing of the auditor to look at this spreadsheet, we should take the money that we set aside for this and buy it with that money.

8:12 PM Mr. Lee said that he believes it is six of one half dozen of the other; that if it would make you feel better, it's fine with him; that he doesn't think that auditor, however, is going to back up what you're saying, he doesn't think that's going to be an issue for him but we will see when the auditor examines. He added that what we can do is take from existing raised taxes that are in a reserve and he will simply put in next year's budget to take FEMA reimbursement money that is in the general fund, or whatever, and move it forward into the reserve account, as we have a policy that says that's where it ends up. He said that this money coming in from FEMA is going into that reserve account; that it is the same pool of money; that he doesn't understand the argument, to be candid, but he will try to work however you guys advise him.

8:13 PM Mr. Murphy asked Mr. Moulton what we lost that FEMA is reimbursing us for.

Mr. Lee explained that it is made up of three things – peoples' time in responding to the emergency, additional material that you used during the emergency, and additional hours and wear and tear on your equipment; that two of those categories – overtime and materials – drop through to fund balance automatically by policy; that the third one, which is the wear and tear on the vehicles, goes into the respective vehicle reserves, be it a fire truck that was out a lot, it goes into a fire truck reserve and, if it's vehicles from Public Works out on blizzards, they go into that vehicle reserve. He said that that \$44,000 that FEMA is going to be giving us is going into the exact fund that Ms. Davis is referring to. He said that he doesn't understand the semantics of it, he guessed.

8:14 PM Ms. Davis asked if she could explain it.

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Mr. Beckert said quickly, please.

Ms. Davis said that we set aside, rounded, \$50,000 for that F-250; that, if now, we spend FEMA money on the F-250, we have \$50,000 just sitting around in there that we could spend without voter approval; that the voters already allocated funds for this; that later on, when you get your money from FEMA, you should ask them (voters) what they want you to spend it on.

Mr. Beckert said that they don't go back to the voters for reimbursement money approval to expend it.

8:15 PM

Mr. Pomerleau asked for one point of clarification. He said that he remembers that, on the drop-back thing from FEMA, if it was in the same fiscal year, then it went back into the account from which it came but, if it happened outside that year, it dropped back into the general fund.

Mr. Lee said yes, for two of the three categories.

Mr. Pomerleau clarified that this is not one of them.

Mr. Lee said right; that this is the money that we get for the additional wear and tear on a vehicle, which goes into a capital reserve; that we only have one DPW capital reserve; that this money is going in there, as well as the money allocated by the taxpayers, for this purpose. He added that, as he said before, he can make it work both ways; that it doesn't make any difference and is purely semantics to him; that he didn't think the auditor would have a concern so don't let that persuade you as to why that might be the case. He said that he can do it the other way because that might clearer, smell clearer, etc. with the voter; that he gets that part. He added that it requires a lot more shenanigans but we'll make it work.

8:16 PM

Ms. (Donna) Murphy said that, from what Ms. Davis says, is that the voters already set that money aside to purchase this vehicle; that that money is already sitting there, enough that we've approved to pay for the vehicle.

Mr. Beckert clarified one thing about reserve accounts – once voters approve money for a reserve account, as long as this Board spends it for what the voters approved it for, we don't have to go back to them and ask them for permission to expend it, again, period; so, whatever's in that account, if we want to go buy a \$600,000 road grader, if we've got the money and the voters already approved it and it's in the reserve account, we don't have to go back and ask them to do it. He added that, as long as we expend it for what the voters put it in the account for, which is reserved for Highway Department vehicles, collectively, that's all we need for approval. He said that this Board are the trustees of all the Town's reserve accounts, period; that it is semantics, the money is going in the same

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account. He said that, either way, we agreed that we have to replace the F-250 and asked for the pleasure of the Board.

8:17 PM Mr. Murphy moved, second by Mr. Fernald, that the Board of Selectmen agree with Mr. Moulton's letter to utilize the Highway FEMA reserve for the purchase of the truck from Weirs Motor Sales in the amount of \$38,263.

DISCUSSION

Ms. Davis said that voters never said where they want that FEMA money to go.

Several Board members said that they don't have to, it's a reimbursement.

Mr. Beckert said that it was reimbursement for money spent out of the Highway Department's budget during a storm event.

Ms. Davis said that you are talking semantics, yourself; that this is not right.

Mr. Beckert disagreed; that he was talking experience. He added that it is this Boards' duty, and we are the trustee of those reserve accounts, and that is a reimbursement dollar figure that comes from FEMA; that it goes into the account that it came out of.

8:19 PM Ms. Davis said that you ask them for \$50,000 to buy a truck and now you're spending \$50,000...

Mr. Beckert disagreed.

Mr. Pomerleau said that it's not really reimbursement money; that they are not replacing money.

Mr. Beckert said that they are giving you money for wear and tear on your equipment.

Mr. Pomerleau said exactly, so it's only paper money and not really money that came out of an account. He added that he understood depreciation, and stuff like that; that on that point, he sees Ms. Davis' point because, had this not happened, you'd have \$50,000 sitting in that reserve designated for a truck; that if you use this money, instead, now you've got \$50,000 sitting in that account and the voters have had no say on how to spend it.

Mr. Lee reiterated that he would be more than happy to bring the FEMA money forward in the 16/17 budget to be clear.

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8:20 PM Mr. Beckert said that it's just an offset what you ask for.

Mr. Lee said that it really will; that if it's a matter of clarifying and making people feel like it's a clearer thing, he doesn't mind that. He added that he does think it's a bit of overkill.

Ms. Davis said that she would like to ask Mr. Murphy to rescind his motion and take this out of the allocated money so that we can keep our accounting straight and ask the voters.

Mr. Murphy said that this accounting is extremely simple in his mind and he does not want to withdraw his motion.

DISCUSSION ENDED

VOTE

2-2 (Pomerleau, Davis)

Chair concurs in the affirmative

8:21 PM **8) Sewer Allocation: Norma Spinney, 120 GPD**

Mr. Beckert said that this has been recommended by the Sewer Committee, there is adequate allotment, and the betterment fee has been paid.

Mr. Moulton said that the connection has already been paid because it was an emergency connection to sewer due to septic failure.

Mr. Murphy moved, second by Mr. Fernald, that the Board of Selectmen approve the request for a sewer allocation of 120 gallons per day for a residential connection for Brian and Norma Spinney of 8 Hickory Lane.

VOTE

4-0

Chair concurs

G3. Administrative Department

8:22 PM **1) Town Manager Activities Report**

Mr. Murphy asked about the use of 'SB' in lines 88 and 89.

Mr. Lee said that refers to you as the Select Board; that the new 'SB' is the old 'BOS' and he is beginning to change out of BOS to Select Board, per the Charter.

Mr. Murphy asked for clarification regarding Line 118 about not utilizing the Regatta Room anymore.

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Mr. Lee said that he is in hopes that we would never move anything to the Regatta Room, again, because there is access to a bar.

8:23 PM Mr. Beckert said that we had no other alternative.

Mr. Lee agreed that we did not; that what we have created, however, is an existing alternative with the Grange; that we now have a key to the Grange and, if we need an overflow, we'll go there. He said to please let's not move it to a place where you're crossing government business with the potentiality of somebody going in and deciding to have a few and coming back into the public meeting and turning it into something negative.

Mr. Beckert said that he was glad we have the arrangement with the Grange because we used to have a similar arrangement with the school.

Mr. Murphy asked for clarification on Line 147 regarding what was meant by the 'IMA'; that he thought it was referring to the Police, not the sewer.

Mr. Lee said yes; that what we wanted to meet about was the percentage of who contributes what toward the Police Chief and his benefits if we go forward with a joint Chief.

8:24 PM Mr. Pomerleau asked for an update on Lines 178 and 179 regarding the round-about.

Mr. Lee said that we had a long meeting with the school officials and South Berwick's Town Manager and some DOT officials. He said that, at the location of Route 236 and Depot Road and Cedar Road, they laid out two different plans; that one was an enhanced intersection and one was a round-about; that they wanted to get some initial comments from us about how that might be received in this area. He added that we kicked it around and, of all the people in attendance, he thinks the school officials were the least impressed with the idea of the round-about; that he thought that he and the South Berwick folks could probably live with it but we recently had a collaboration meeting the other morning and these two fellows were in attendance, here, and upon further discussion...the reason for this round-about is pretty much to keep trucks moving through on Route 236 and not having them have to come to a dead stop and having to get back up to speed; that he thinks it's about adding efficiency as a travel corridor; that they said an enhanced intersection would add only about 30% or 40 % and would have a couple of designated turning lanes, etc.; that the intersection improvements call for eminent domain of a house right there at the intersection, as well as the round-about. He added that, upon further reflection, we never asked them to come down and fix this intersection; that we don't see data that even supports that there's a problem and he thinks it's a solution in search of a problem; that in a sense, we're not

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really too fond of doing anything at that intersection other than repairing the piece of drainage that they have a little bit back from that intersection that is collapsing.

8:27 PM Mr. Fernald said that there is going to be a public hearing and we encourage everyone to go to that.

Mr. Beckert said that he was unfamiliar with the design of this proposed round-about but the one at the intersection of Route 9 in Sanford was a pain.

Mr. Lee said that that was basically what we gave them for feedback; that our fear is that it is the Sanford round-about and that is not well-liked, not well-understood, and not well-designed; that we don't want one, thank you very much and we don't know what you're doing here, in a sense but we did agree regarding the public hearing and giving our views. He added that there are also walk-way issues with kids trying to crossing Route 236.

8:28 PM Mr. Pomerleau asked what South Berwick had to do with a round-about down here.

Mr. Beckert said the school district.

Mr. Lee said that it does, also, in the sense that it's a corridor issue. He added that one of the things they talked about at the meeting is whether they are simply exporting their perceived problem at this intersection to the next one and the next one is where we need intersection work, not this one; that if you fix this one, the tie-ups are going to get greater up there; that there are no gaps to get out now and you'll have a constant line without breaks, and actually exporting a bigger issue down-stream. He said that this whole crosswalk thing – they have an island where a kid gets to stop in an island for a second and, then, go.

Mr. Fernald said that going from Cedar Road to Kittery is just about impossible if you've got a line of traffic coming south from Route 236.

Mr. Beckert said that DOT's issue with Route 236, and this has been looked at for years and they've never done anything, was putting in a by-pass road up near Route 91 that by-passes the Town of South Berwick, which is where the major congestion is.

8:29 PM Mr. Lee said that the long and short of it is that there will be a public hearing coming up and we encourage all of you to attend; that we told them that we believe they're going to have a tough sell on any intersection improvements down there; that we don't see a need, this seems more like it's for trucks going through our Town than it is for us using our Town.

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Ms. (Donna) Murphy asked, with the Grange having restrooms on a separate floor, is that considered handicap accessible and can meetings be held there, or is it not.

8:30 PM Mr. Beckert said that there's an outside entrance downstairs; that you can get in on the ground floor; that you'd have to go back outside and to the first-floor entrance.

Mr. Fernald asked, regarding Line 79, if there was any response to the letter about the sliver of land; that he didn't understand how this land was sold three times without knowing that piece of land, which goes through the barn, was overlooked.

Mr. Lee said that he truly did not know the origins of this but he did speak to Ms. Donovan and she wants to come before the Board for reconsideration on January 14th to explain the issue; that she's going to do some research as she thinks she might have been paying the taxes on that sliver of land right along. He said to please do her research and show us that she's been paying that, meet with Ms. Painchaud.

8:31 PM Ms. Davis said, regarding regional dispatch, it seems there's been a lot of back-and-forth on that.

Mr. Lee said that we've had a number of meetings going and we're trying to work on formulas and staffing and what a regional department would look like, the timing, and so forth. He added that it's proceeding but the issue is that South Berwick and Berwick would like, possibly, to fold up the South Berwick dispatch and go with Kittery and Eliot from the Kittery center to try to save some money; that it does appear we can save some money. He said that, next, he thinks he and the Kittery Fire Chief are going to try to write a \$275,000 capital grant for the materials that are needed to enjoin all of our various repeaters and all the technology that's required to speak to each other, etc. He added that we're all still working very hard on this and everyone has positive views, adding that the price we pay now will be going up under any formula we have and we will get hit the worst of anybody, whether we do this regional thing, or not.

8:33 PM Mr. Fernald said that this has been an ongoing thing for the past 15 years without any result.

Mr. Lee said that he understood that but he is working with them and, hopefully, we will get a resolution to it, one way or the other.

a. Financial Reports

There was no discussion.

**BOARD OF SELECTMEN'S MEETING
December 10, 2015 5:30 PM (continued)**

b. TM Annual Evaluation/Contract Negotiation - Reminder

Mr. Beckert said that this is a reminder that Board members have to have their Town Manager annual evaluations to him so that he can compile results of the scores on each item for the meeting on January 14th.

c. Correspondence: Ed Cielezsko

8:34 PM This is informational.

2) Joint BOS/Budget Comm. Meetings 6:00 PM

Mr. Lee said that, as we go forward into the budget season, and as he discussed with the Budget Committee Chair, they normally go 6:30 and we normally go 5:30 so, any time there is going to be a joint meeting he suggested we call it for 6 PM for those joint meetings only.

The Board agreed.

3) Town Office Closing: Christmas Eve at Noon

8:35 PM Mr. Lee said that there was a request by the Clerk to shut down at noon Christmas Eve, Thursday, December 24th and that this be paid leave granted to the employees. He discussed contract language that says that if we give additional paid time off we would have to also do that with DPW; therefore, his discussion with the Town Clerk is that he would recommend that we do close at noon but they would have to use benefit time off.

Mr. Beckert asked if they had a problem with that.

Mr. Lee said yes, but, when we have unions that we have to play against, that's how it plays out. He added that, if the Board allows us to close, it would be with some benefit time off.

It was the consensus of the Board that the Town Hall be closed at noon on December 24th and the employees will use their leave time.

8:37 PM **4) Upcoming Select Board Meeting Calendar (Holidays) – No Correspondence**

Mr. Lee said that our next meeting falls on Christmas and, therefore, we will not be having one; that we'll probably have another beastly agenda like this one in January.

BOARD OF SELECTMEN'S MEETING
December 10, 2015 5:30 PM (continued)

8:38 PM **5) Request from Town of Kittery to Meet Re: Amending IMA for Shared Police Chief**

Mr. Lee said that Kittery operates on a Chair/Vice-Chair sort of thing and that we would actually have to designate people to go on behalf of the Board to discuss this; that Mr. Fernald properly pointed this out. He added that, tonight, what he would ask is one of two things – one, that we will meet with Kittery and that we are designating so-and-so and so-and-so to go and do the speaking for the entire Board, or, alternatively, we have stated our piece that we are looking for a 75/25 change in the shared Police Chief, given the crime rates, the populations, etc., and the 60/40 really doesn't work; that calls for service, it's all Kittery and we are a very limited user. He said that he doesn't know if the Board wants to even engage in that conversation; that, if not, when you get under Old Business: Joint Police Chief Search, that sort of becomes a non-starter because we probably won't do a joint search, we'll probably go our own ways. He added that this is important to decide whether we want to go discuss it with the Kittery officials and see if they will agree to amending the IMA for the shared Police Chief.

Mr. Beckert said that he doesn't personally have a problem going down to discuss it with them; that they've got a change in Council Chair.

8:40 PM Mr. Fernald said that he really does think this is a Board issue; that he thinks that the whole Board should be there.

Mr. Beckert said that they are not going to do the whole Council and we don't do the whole Board when we do union negotiations, either.

Mr. Pomerleau said that he's not sure what's going on with them; that at least twice he's read in the paper that they didn't want to meet, they have decided and, all of a sudden now, they want to meet with us. He added that he doesn't think we should be meeting with them until we know what we want; that he thinks part of that is what were the savings we thought we projected, did we realize any, what's the 75/25 look like, what's the alternative in-house, if we're not going to merge what are we looking at. He said that we made adjustments when we split the Chief and he thought we upgraded a lieutenant and a sergeant; that we have things we ought to know, what we're going to do before we sit down and talk with them.

8:41 PM Mr. Lee said that he didn't disagree and that's certainly a valid topic for a workshop; that it will require a tremendous amount of looking into numbers, and so forth, which we are not going to be doing any time soon; he's going to be working on budgets. He added that, in the meantime, the Chief is due to get done June 30th and a police chief search is not a quick thing to do; that the Kittery Town Manager will probably, if we decide to go into analysis mode in looking at what we made, saved, is it worth it or not, etc., that will probably be the death

BOARD OF SELECTMEN'S MEETING
December 10, 2015 5:30 PM (continued)

knell of any further discussion because she will probably have to proceed, on her own, to meet a timeframe to get a replacement staff member.

Mr. Pomerleau asked if he knew what it was they wanted to talk about.

8:42 PM

Mr. Lee said yes; that we previously had an interlocal municipal agreement (IMA) for how we paid for the Chief's salary, his benefits, etc.; that when we started looking at the regional dispatch and looking at the numbers and started applying formulas for regional dispatch, he got looking at the numbers for Kittery and Eliot regarding police calls, crime rates, number of sworn officers, etc. and he's not sure how we ever came up with 40/60 to begin with; that he had a little bit of discussion with Board members, here-and-there, and it seemed it should be more a 30/70 or 25/75, given our level of staffing and crime and need. He added that he has sort of informally said that the Board has kind of said this formula doesn't make sense in light of some of the stuff we've seen, we're probably going to want to look at a lesser thing; that he was hoping that she and he could work out something and present it back to you but, then her board got involved and wants our Board to get involved; that, if we begin to slow this down enough, there's a real practical standpoint from Nancy Puff and him, in terms of sitting in this seat, that we must still move on with things when we're going to be without a person. He reiterated that we can do analysis and sit down to try to determine all this at some point; he can't do it during the budget process because his plate is overflowing. He said that we talked about looking back over 30 years of sewer and recreating some history, what happened to the \$66,000 back in 1985; that he doesn't have money to do a forensic audit, he's not going to go dig into it, at this point; he can't, we don't have the resources – not within a country mile do we have the resources of doing that. He said that he thinks that if we get into this kind of a thing and try to understand where do we stand, what do we gain of benefit, which he thinks is a perfectly valid way of reviewing it, he thinks she and the Kittery Council are probably going to have to say, because we're not going to be ready to talk to you until April, see you later; that that's his feedback to the Board.

8:44 PM

Mr. Selsberg said that he has a different issue. He said let's assume that Kittery agrees with a 25/75 split, he has a problem that he has only 25% of that man's time, he really does; that we don't even know if we've saved a nickel and, even if we win on the 25/75, did we win, asking what did we win. He added that he thinks we need a Police Chief, we're wasting time.

Mr. Lee said that, in response to what you said, he also said to her at our meeting we had, that we expect him here 50% of the time; that she said that doesn't make any sense; that he agreed it didn't make any sense, that there's a whole lot about this that doesn't make any sense; that, in fact, he's not real keen on doing a shared Chief and he's said that from the get-go, as he thinks you lose a lot in that but he knows the budget forces of this community continue to want to save the money at

BOARD OF SELECTMEN'S MEETING
December 10, 2015 5:30 PM (continued)

whatever other, it seems at times, ramifications take place; that, in this case, he thinks Mr. Selsberg is exactly right; that he has real concerns.

8:45 PM

Mr. Selsberg said that he doesn't know if we saved any money and, when he asked that question at the last meeting, we really don't know how much it really came down to; that if we all knew it was \$10,000 would we be talking about this, no, we really wouldn't be. He added that he doesn't know how we do this.

Ms. Selsberg said that we know that Kittery is hurting for money because that has been in the papers; that they're having trouble funding their community center so, they've got to be looking for some help from us.

Ms. (Donna) Murphy said that she thinks, at one time, Mr. Pomerleau did run some numbers and it wasn't a significant amount of savings. She added that she is speaking as a citizen; that she has never been in favor of a shared Chief; that she firmly believes our Town needs a Chief, the attention needs to be paid to Eliot; that Kittery is a much different town. She added that, as a citizen, she would seriously support looking at what we need to do to re-adjust what we have here and look at a Chief.

Mr. Pomerleau said that if we were looking at the old 60/40 he'd be looking right in that corner; that, as Mr. Selsberg said, who knows what time we got out of him, anyway; that there was no tracking so, that's a tough argument because he said he didn't have any problem managing the two towns.

8:47 PM

Mr. Lee said that, if he could, he believes we would be doing both communities, both town managers, both boards a big favor by saying, you know what, we're going to go our own way; we don't want to meet, we don't want to talk percentages, we don't want to do any of that; that that's his personal view and for a whole bunch of reasons that he understands, having been here for 22 months working with these departments and seeing the flows of work, and this-and-that and everything else. He added that he is very much of the opinion that we do need our own Chief and he thinks Kittery needs a different type of chief than Eliot needs. He said that he doesn't think we could find a chief that he's going to say that that is the type of Chief he would like for our warm, little, fuzzy Town and that's one they need for their big Route 1, Kittery, all the stuff they have going on; that they are two different types of communities, drastically; that he thinks we should just walk away and go our own ways. He said that we tried it, Chief Short did a nice job while he was here, and he (TM) was alright with everything but, if he's going to get done, he would just as soon go back to having our own Chief. He said that that's all he's heard from people, he hasn't heard much support for sharing a chief, especially with a town that has the needs that Kittery Police Department appears to have.

BOARD OF SELECTMEN'S MEETING
December 10, 2015 5:30 PM (continued)

8:48 PM Mr. Beckert asked the Board if they wanted to go the route of our own Chief; that that's fine but let's make a decision.

Mr. Pomerleau said that he is fine with going that way, especially if the Town Manager thinks they are not inclined to change the 60/40; that that comes with the caveat that we have to examine what we did and we have to look at our own structure now that we're getting the Chief back; that we made changes based on his absence and now he's going to be back.

Mr. Lee agreed.

Ms. Davis asked if it would hurt anything for the Chairman and Vice-Chairman to go listen; that we're not cutting any deals but, it never hurts to, at least, go hear them out.

8:49 PM Mr. Beckert said that it makes no difference to him; that he thinks why there's been a change is that they've had a change in the Council due to their election that changed the Chair and Vice-Chair; that you have different people asking to sit down, now, whereas, the other ones that were there didn't want to. He reiterated that it makes no difference to him; that if this Board wants to go our own Chief route then let's make a decision.

Ms. Davis said that we may be tending that way but they may have ideas that we're not aware of, yet, and it wouldn't hurt to go listen.

Mr. Murphy said that that is what he would say, too; that it would be kind of abrupt if we suddenly, tonight, said that we're not going to do that.

Mr. Pomerleau said with no commitments but just to hear what they've got to say.

It was the **consensus of the Board** to have the Chair and Vice-Chair meet with Kittery's Council Chair and Vice-Chair.

Mr. Beckert said to Mr. Lee to set something up any time after 2:30 PM.

8:50 PM Mr. Selsberg asked if we should be thinking along the lines that, in the event that is not successful, we should be thinking about an interim Police Chief.

Mr. Lee said that he has been.

6) Communication from Attorney: Immunity of Town Officials

This is informational.

BOARD OF SELECTMEN'S MEETING
December 10, 2015 5:30 PM (continued)

Ms. Davis suggested sending a copy of this to the auditor because some of the suggestions within the auditor's letter don't comply with this legal opinion from Attorney McGill.

8:51 PM Mr. Lee said that, perhaps, they don't but he would be happy to send it to him.

G4. Public Safety

1) American Ambulance Contract Extension – 2nd Review

Mr. Lee said that he would recommend entering into that agreement whenever you are ready.

Mr. Murphy asked if there are any changes from the last one.

Mr. Lee said no.

Ms. Davis said that there's nothing here that can bite us; that it seems too good to be true.

Mr. Lee said that there really isn't.

Mr. Pomerleau moved, second by Mr. Fernald, that the Board of Selectmen enter into the Ambulance Service Agreement between Eliot and Kittery, starting July 1, 2016.

VOTE

4-0

Chair concurs

I. Old Business

8:52 PM **1) Over-the-Road Banner Policy - Revised**

It was decided to hold off on this until the next meeting.

2) Joint Police Chief Search with Kittery Update

This has already been discussed

J. Selectmen's Report:

8:54 PM **1) Committee Vacancy Report**

Mr. Murphy said that we have 12 vacancies on 5 committees.

BOARD OF SELECTMEN'S MEETING
December 10, 2015 5:30 PM (continued)

Ms. Saurman, referring to her earlier comments about the sewer ordinances being incomplete, she would like, with regard to the various committees, if possible, that the Board direct each committee to take a look at their records to make sure that are, in fact, up-to-date and complete; that when a citizen comes in and can't find what we're supposed to find, that does not bode well for us; so, in terms of minutes being kept up-dated and ordinances finished, that she would hope that, along with looking at what vacancies we have, we look at whether our committees are updated doing what is supposed to be done.

Mr. Lee agreed that we need to address things like that.

Mr. Murphy said that he continues to work with the York County Watershed project and we will be meeting on January 4th.

K. Other Business as needed

There was no other business.

L. Executive Session

8:27 PM Mr. Fernald moved, second by Mr. Murphy, that the Board of Selectmen enter into executive session as allowed by 1 M.R.S.A. §405-6 (C) – poverty abatement #1A-2015.

VOTE
4-0
Chair concurs

9:21 PM Out of executive session

Mr. Fernald moved, second by Mr. Murphy, that the Board of Selectmen grant the requested abatement of 2014 taxes in the amount of \$2,824.23 on Case 1a-2015.

VOTE
4-0
Chair concurs

M. Adjourn

There was a motion and second to adjourn the meeting at 9:25 PM.

VOTE
4-0
Chair concurs

DATE

Mr. John Murphy, Secretary