

BOARD OF SELECTMEN'S MEETING
January 28, 2016 5:30PM

Quorum noted

A. 5:30 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 October 8, 2015, as amended.

VOTE

4-0

Chair concurs

Motion by Mr. Fernald, seconded by Mr. Murphy, to approve the minutes of October 22, 2015, as amended.

VOTE

4-0

Chair concurs

Motion by Mr. Fernald, seconded by Mr. Murphy, to approve the minutes of December 17, 2015, as amended.

VOTE

4-0

Chair concurs

F. Public Comment:

5:58 PM Mr. (Bob) Fisher said that he went to an executive session meeting last night and he didn't think it was handled very well; that he asked permission by point of order so that he could find out what it was about because people think it's a secret meeting. He added that it wasn't clear what the executive session was about and discussed his frustration that none of the Selectmen clarified what it was about.

Mr. Beckert disagreed, saying that it stated what the executive session was for on the agenda.

Mr. Fisher asked the Board, as a whole, when you have an executive session on the agenda and the public wants to know what it's for, what is the procedure; discussing various reasons and what might be helpful to clarify to the public what a particular executive session might be about. He added that the Board doesn't let

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the public know and the public wants to know; that the Board doesn't go far enough in their explanations on agendas.

6:01 PM Mr. Beckert said that the agenda was very clear and had exactly what we were going into executive session for and it met the requirement of the law. He added that it was incorrect for a member of the public to call for a point of order.

Mr. Murphy explained that a point of order can only be made by Robert's Rules of Order by the members meeting, so it is someone on this Board who is allowed to make a point of order; that a point of order is raising a question about why we're doing what we're doing now, not the issue; that it's not to allow you to speak to the issue but, rather, asking if we overlooked something or isn't somebody else supposed to be speaking on this; that it's something wrong with the agenda and we didn't do something in the right order. He clarified that the agenda is the 'order' and a point of order is that something's wrong with the agenda, not the issue we're talking about.

6:04 PM Ms. Davis said that she didn't think the agenda was very descriptive and we do have some citizens who do like to kind of know what's going on; that she was wondering if we could put a little bit more of a description in there so that they know a little bit of why we are going in there without giving the whole thing away.

Mr. Lee said that he didn't see any harm in that.

Mr. Pomerleau said that we have specific direction, here, on FOAA laws on what we put into the agenda for an executive session and it does call for some narrative so that the public can understand what the nature of the executive session is; that he does believe that we do not always go far enough in describing them and we could do a better job. By way of example, he said that 'personnel issue' was too general but adding 'disciplinary action' or 'potential wage adjustment' might help clarify; that there's supposed to be some sort of general narrative so that the general public has some sense of why we are going into executive session.

6:06 PM Mr. Beckert said that last night it said 'labor relations'.

Mr. Lee agreed and it probably satisfies the basic requirement but there really is no harm, as long as we carefully word a little something to go with it so that we aren't tipping our hand as to what it is we must keep secret but that it has to do with a department, etc. He added that he would be happy to put that in in the future.

Mr. Fisher asked if the Board had a written procedure for how they do executive sessions.

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Mr. Lee said that State statute dictates what has to be on the agenda, found in 1 M.R.S.A. §405.A through H; that it should have a short narrative to help people understand the nature of the executive session. He added that sometimes, like 'legal consultation' will suffice, which is what he put; that what he is suggesting, in deference to Mr. Fisher's point, he thinks we could put 'legal consultation – consideration of an additional attorney' or 'consideration of a specialized attorney' and then you would know exactly what it was.

6:08 PM Mr. Fisher said that he wasn't interested in what you say in the meetings; that he's interested to find out what the meeting is going to be about and, if you can't speak to it, come up with a reason why you shouldn't. He discussed his frustration on the quickness of calling the last executive session.

Mr. Lee said that he understood; that he would just say, for the record, that the reason we had to call it quickly is because there was a timing element to it; that, with the two parties, there was a timing element that needed to be resolved and we had to move quickly.

G1. Department Head/Committee Reports

6:10 PM 1) Sara Castellez – Application for Appointment

Ms. Castellez was not present for this item and the Board tabled it until she could be present.

Mr. Lee noted that the Comprehensive Plan Review Committee is beginning to wrap up its work so he didn't think appointing anyone to that would be terribly helpful; both the Business Development Committee and the Energy Commission are very depleted.

6:11 PM 2) Conservation Commission – Resignation: Claudette Moran

Mr. Beckert recommended the Board accept this resignation, with regrets, and send her a thank-you for her service.

Mr. Murphy moved, second by Mr. Fernald, that the Board of Selectmen accept the resignation of Claudette Moran from the Conservation Commission, with regrets.

VOTE

4-0

Chair concurs

G2. Public Works

6:12 PM 1) Pump Station Funding - Update

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Mr. Lee said that he was solicited, if you will, by an agency (Moors and Cabot) that sets credit ratings for towns; that if you get a good enough credit rating, they sometimes can save you a fair amount of money when you borrow, or bond, money. He added that he met with a gentleman from Moors and Cabot discussing what they do and he did confirm with Mr. Lee that, in this case, where you can borrow from the Clean Water State Revolving Loan Fund, that that is our best bet and his company could not touch that. He said that if we're bonding other types of projects that don't qualify for State revolving loan funds, they can generally do better than the bond bank on putting up a building, for example, or the purchase of a vehicle, etc.

2) Legal Opinion Re: Stormwater Budget/Heating Fund

Mr. Lee said that Ms. McGill is taking her time with it and it is important to do it in an unbiased manner; that she doesn't have it ready for us and hopes to have it next week, he thinks, according to that memo. He pointed out that no one on staff has reached out to Ms. McGill and she has not reached out to anyone on staff for any further information; so, there has been no further communication between us and the attorney on this, as he suggested we would do; that he would leave it unbiased and he just wanted to confirm that we are doing that.

6:13 PM 3) Public Works Bidding Requirements

Mr. Lee said that the DPW Director approached him after the last meeting; that he was a little concerned with feeling like his bids get dealt with differently, and at a higher level and more demanding, than other entities coming before the Board with the three-bid requirement. He added that the DPW Director asked if he could include a letter stating his concerns and the way he feels about it; that Mr. Lee checked with the Chair and the Chair said that there was probably no harm putting it in. He said that he thought the only concern he had with regard to it – he did see what the DPW Director was talking about and does sense the same type of thing – was the last part of the memo on whether, or not, we were directed to go get these five bids from these five companies or there would be a withheld vote or withheld approval; that if that was the intent of that statement, he thinks that was, maybe, a little off-base but he is not sure that was the intent, but just to remind us that there are a number of other paving contractors that we could go to; that he doesn't believe we are being directed to do it, necessarily, but there are several others that have been mentioned and we might look at them if we are having trouble finding bidders. He said that he would defer to the DPW Director if he wants to say anything more about it.

6:15 PM Mr. Moulton said that he has observed it on a number of occasions; that he has made a couple of statements as it relates to it. He added that he just wanted it documented that he sees this and he does feel he is held to a different level, a

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higher scrutiny. He added that he did know that the bigger things he has are more money and he gets it; that he isn't looking to get out of doing what's required by the purchasing policy but, in his opinion and based on observations, what's good for one should be good for all, whether it's a committee or department head. As an example, he used the situation with the plow equipment; that there are only two vendors in the State of Maine but we had the discussion about having to get three, and if you only have two, then you only have two. He said that people come in for more consultants, etc. with two bids and it gets waived, and with less scrutiny. He added that he wanted it to be in the record that he's willing to do what he has to do; that he goes by the purchasing policy and everything he does meets the intent of the purchasing policy but he does feel he is held to a different level of scrutiny by members of the Board, in his opinion; that that is the point, to make a point in the record of what he sees and how he feels.

6:17 PM Mr. Pomerleau said that he thought the entire tone of this letter is disrespectful, contemptuous, and insolent on its face; that he thought this was an issue for the Town Manager to handle as a supervisor and he doesn't believe this letter should ever have come to this Board in this tone. He added that if there's any question about the purchasing policy, read it; that this Board is following our purchasing policy and it is our discretion as to how we administer it; that it's not subject to criticism by department heads.

Mr. Murphy disagreed with Mr. Pomerleau; that he thinks that our major department head has a right to fair treatment by us. He added that he also finds the bidding, or purchasing, requirement is confusing and too demanding when it's hard to get a response from companies that don't want to respond because the job is too far away or they know they won't be chosen and do not want to spend the money to make a bid, as examples. He said that he thought the Town should reconsider, once again, a way out of this minimum of three, as if there's something magical about three; that it hasn't helped us, it's created delays, and he thinks we ought to be able to have something better. He added that he wants our department heads, if they don't think they are being handled right and they are responding to something this Board is doing directly, to deal with us directly. He said that, to him, it wasn't insulting at all. He thanked the DPW Director for informing the Board how he feels.

6:18 PM Mr. Lentz commented on 'held to a higher standard' as a department head and a professional versus a volunteer committee; that he thought department heads should be held to a higher standard.

Ms. Davis said that we have discussed, multiple times, that the Board does not approach a department head directly and have to go through the Town Manager; that she thinks, by the same token, when there's a problem a department head should come to the Town Manager, he should evaluate the complaint, and any

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resulting opinion should come from the Town Manager; that this does seem out of line; however, the point made that it does seem as though we are waiving this in an arbitrary fashion kind of hits home, she agrees. She added that she wasn't happy about the two bids; that she wasn't happy about the fact that we negotiated with one contractor on the TIF Alternatives Committee without even speaking to a second one and we didn't even have a third one. She said that some of this arises because of the paving account mentioned; that she looked back through her notebook and, when we did the salt bid, there were SMRPC bids put out but, when we approached Granite State Mineral directly or they approached us, we got a substantial discount; that when we do the paving bids, the same system applies. She added that it does seem, in some instances, that we could be making a better effort to get a more competitive price from more people. She said that there's truth on both sides.

6:20 PM Mr. Lee said that he would like to suggest to the Board that the policy under which we work has been adopted; that it is, however, perhaps the most sophomoric thing he's ever seen. He added that, clearly, the intent was that you must solicit for at least three bids; not get three bids, but to solicit at least three bidders and that is the source of constant aggravation for him; that he can't wait until we adopt a purchasing policy that's more reasonable. He said that, hopefully, the days of 'go get three bids' and nobody wants to bid and you have to beg and whine to get a bid will be behind us because that is not, at all, a way to conduct business.

6:21 PM Mr. Pomerleau said that this 'three-bid' thing is not unique to this Town; that it's universal everywhere and the reason for it is to get the benefit of competition to benefit the taxpayers to get the best price we can. He added that what frustrates him with failing to get three bids is that we continue to use the same failing methods and sources year after year after year; that it's a constant flow back to this Board that 'we only got two', only two people responded. He suggested changing the approach to getting bids; to seek other vendors. He said that we are paying you people good money and what we expect are results, not excuses.

6:22 PM 4) Sewer Ordinance Appendices Update

Mr. Lee that he met with the Planner and DPW Director separately today; that earlier in the week he had assigned them to write up Appendix A and Appendix B for the Board's consideration and we should have those early next week. He added that we are also going to meet early next week with Mr. Pratt (Underwood Engineering) to look at the ordinance in its entirety to see if there are any other issues so that we can begin to prepare to get public involvement and, hopefully, approval to amend it so that it is proper.

G3. Administrative Department

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6:24 PM **1) Town Manager Activities Report**

Ms. Davis asked about Lines 43/44.

Mr. Lee said that the Energy Committee (EC) created a hot link on the Town website so that the public can go on and track the solar power being generated at the Public Works building; that the promo button you click on he didn't think was particularly well-written so he edited the promotional link so that it looked better.

Ms. Davis asked Mr. Lee to elaborate on Lines 53/54.

Mr. Lee said that there was a lady who works for Workforce Housing Coalition (WHC) who asked to meet with him; that there is a person here in Eliot who had submitted an application to WHC because twice per year they do Charrettes, which is intended to provide information, debunk myths about workforce housing, etc. to promote workforce housing in this area. He added that he and the Planner met with her and we told her that she probably wasn't in the right town for this discussion right now because of this sense he received from having seen the TIF survey we did recently, trying to expand the number of building permits, and the use of the Growth Permit system.

6:27 PM Ms. Davis asked about Line 57.

Mr. Lee said that we have this strange FOAA thing going on that is directed at one of our employees; that he doesn't know what the person is seeking but, then, for some reason this person also wanted our Personnel Policy; that he wasn't sure if they were going to study it and, maybe, suggest that he needs to discipline somebody, or something; that he doesn't really know what it's about.

Ms. Davis asked about Line 72.

Mr. Lee said that we just discussed it.

Ms. Davis asked about Line 86 regarding Barrington Power and the solar project. She said that she reread the presentation that was given in our minutes and she has a few outstanding questions; that she's not sure quite where we're standing with that. She asked what the next steps are with regard to the solar power and can we ever fit that into a workshop to have some discussion about that.

6:28 PM Mr. Lee said that we did have Charlie come in and explain it; that it is currently in the draft budget for consideration by the Budget Committee and the BOS; that he has told the man who runs the company that, until June when it's voted on, he won't know the will of the people. He suggested we put that as a stand-alone article; that he's in a holding pattern right now but what we're doing is getting our

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ducks in a row should this pass in the sense that we're trying to get a contract roughed out for Board review, starting the process of getting DEP permits for the landfill, and things like that so that, if it passes, we will be more prepared to move forward. He said that he would work to get that draft contract to the Board so they can get up to speed on that.

6:29 PM Mr. Pomerleau said that, reflecting back on that, it was pretty complicated, as he remembered; that he doesn't remember that we ever, as a Board, came to any conclusion or decision to move forward with it.

Mr. Lee said that if, during the budget deliberations it gets removed, then he would be of the mind-set that it's done; that it's just a proposal before the Board for their decision.

Ms. Davis said that, throughout the minutes, it seemed the company was getting antsy about the delay and, now, it sounds as though they're willing to wait a little bit.

6:30 PM Mr. Lee agreed, saying the reason they were getting antsy is because the solar tax credits were set to expire but that has been renewed for another year; that they were set to expire about the time we would want to do it and, by that time, he already has a thick book of business that thought they wouldn't get in under the tax frame; that, if that was the case, he wouldn't be available to do it; that now they have time to stretch all the projects over time, he feels a lot better about doing it.

Ms. Davis asked, regarding her questions, if the Board wanted her to work something up and submit it to the Board to decide if we want a workshop, or where we want to go with this.

The Board agreed with her suggestion to submit her questions to the Board.

6:31 PM Ms. Davis asked about Line 94 and if Mr. Lee had resolved Mr. Bradstreet's questions.

Mr. Lee said yes, it has been resolved.

Ms. Davis asked about Lines 106/107 regarding the need for more administrative support.

6:32 PM Mr. Lee said that during this Libbey appeal, in particular, which was really demanding on the Planner, CEO, and Administrative Secretary, there was mounds and mounds of paperwork that went with that and they were all scrambling; that we have also been getting some heat from members of the public, the BOA to

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some extent, about minutes not being timely but gaining ever so slowly; that the demand is that the meeting was held last night and they want the minutes now; that we are trying to do the best we can, here. He added that we feel like we're going to fail, at some point, that we're not going to be able to do it; that the Libbey appeal paperwork was huge, a mountain of stuff that had to be produced accurately and legally; that three of them did nothing for 10 days to do that stuff.

6:33 PM Ms. Davis said that he sees this as a continuing problem, asking what would be the resolution.

Mr. Lee said that his draft budget is out and he is not going to make any amendments to it right now unless, as policy makers, you believe the situation and would like to discuss and think about adding. He added that one of the things he's going to talk about later is, possibly, some reductions to his budget proposal due to a shift in the way we're going to structure the Police Department. He said that he would very much like to have 10 to 15 hours a week for a part-time person just doing the stuff he's way over-paying the Planner and other people to do the most basic things; that just the amount of stuff we have to file here is unbelievable and, when you create this much mess, you also have to file the mess. He said that he would love to do that but he knows how it would probably be received; probably poorly, try harder, delegate better, whatever, but we had all hands on deck and even had the Clerk's office helping us; that going into the future, he is going to ask somebody from the Clerk's office, on any down-time, to help on some of these tasks, such as copying and filing. He added that there are peak periods that we are just plain overwhelmed.

6:34 PM Ms. Davis asked if this was something we could discuss in greater depth during budget talks.

Mr. Lee said yes, he would think you might discuss it during budget talks; but, in the meantime, he does want to say that he plans to manage the problem through having other parties chip in more, at times, when it seems suitable.

Ms. Davis asked about Lines 115/116 regarding the resolution for the unemployment.

Mr. Lee said that the unemployment was granted because there was no misconduct.

6:35 PM Ms. Davis asked if that was coming out of our budget.

Mr. Lee said yes, we are self-insured in unemployment; that Mr. Pomerleau was very helpful in providing insights into the details of this. He added that part of that leads to a discussion that he thinks we ought to have at some point where we

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convert over to having unemployment insurance and not doing our own pool. He said that he suspected that, for years and years, there was very little turnover and it was probably cheaper to self-insure unemployment, nor was it as expansive; that, especially in the Police Department in trying to find and keep recruits, we might want to discuss whether that is a more conservative, safer way, as it is a fixed cost every year and not big chunks coming out that were not planned for.

6:36 PM Mr. Pomerleau said that, in support of the MMA pool versus being self-insured, the many, many years he spent with unemployment insurance, there were very few municipalities that were self-insured and the reason for that is that, when you're on the hook, you're on the hook for a long time and you're never off it, which is a bit different than if you have a pool and an experience rating; that he thinks it's very risky to be self-insured and can be very costly.

6:37 PM Mr. Murphy returned to Line 57, asking if copies of the Personnel Policy weren't available for the public and why would they rise to the level of a FOAA request.

Mr. Lee said that they were available for the public; that it was just the way the person presented it through the FOAA request; that it took just a couple of minutes to send that to him digitally. He added that, additionally when you're talking about administrative support, he has the administrative secretary doing all this FOAA stuff, trying to track it, when did it come in, when did we respond; that we have five days and did she get him everything, show him she got him everything, did she file it; that he was just saying that, behind the scenes when trying to keep up with all this stuff, it's busy, busy work to get all this paperwork proper and filed and cross your T's and dot your I's; that it's hard some days.

6:38 PM Mr. Murphy said that most of this has a legal responsibility; that it isn't just fun but must be done.

Mr. Lee agreed that this wasn't optional and has a timeframe on it.

Ms. (Donna) Murphy asked if the Town has looked into getting some students who need their volunteer time to come in and doing some of that filing.

Mr. Lee said no but he did have something come across his desk from the Muskie Institute where they are looking for internship opportunities in the same program he came out of; that he doesn't know if it's paid or unpaid but he would like to talk with the school. He added that the school (Portland) is quite a distance from Eliot, especially if it's unpaid. He said that, on the other hand, he would not want to bring in a Public Administration Master's Degree intern just to make photocopies; that he would have to give them an experience greater than that. He said that, with high school students, he would be comfortable doing that.

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6:40 PM Mr. Pomerleau said that you have to be real careful about volunteers doing the work of paid employees; that there is a Department of Labor (DOL) violation and you have very limited areas where you can use volunteers and, generally speaking, to do the work of an employee is not one of them.

Mr. Lee agreed, adding that we do deal with some information of a confidential nature and he doesn't want anybody to handle it except somebody who is sworn to do it properly.

Mr. (Grant) Hirst said that at one point he was under the impression that when you bought unemployment insurance, you could only do it January 1st, or thereabout, and could not do it mid-term.

Mr. Lee agreed that may be the case; that he has made a note to call MMA to come down to talk to us about the cost of unemployment insurance in a future workshop.

There was discussion regarding an open season for this and possibly putting this into the next budget season.

a. Financial Reports

There was no discussion regarding this.

6:41 PM 2) FEMA/MEMA Reimbursement – reserve Amounts/Truck

Mr. Lee said that Chief Muzeroll has done great work getting the FEMA application, with the DPW Director, but when asked how much we were receiving, as you can tell by the memo, he gave a total amount and wasn't broken down; that he thought we had been clear about it but, somehow, it went through the cracks. He added that we spent quite a bit of time in the Finance office trying to straighten this out and, when we broke it out into the various categories, there is only one category that can go into the equipment fund and that is the reimbursement share for the use of the plow trucks; that that changed all the calculations from around \$42,500 to around \$29,150; that the approved bid was for \$38,263, which leaves a funding deficit of \$9,115 with being able to do it exclusively with emergency management agency funds. He added that the Finance Director has suggested that there are two straightforward choices; that we can either make a request that the Board make an exception to the policy and allow use of the overtime and material reimbursement funds (normally drops through to fund balance) or we can draw from the DPW vehicle reserve account, which has adequate funds to cover the deficit. He said that, in speaking with Mr. Moulton, this year we have the purchase of a dump truck and, even if \$9,000 were to be used, we would still have adequate funds to meet the CIP's series of

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purchases. He added that, in deference to that policy we've adopted, we should just let the equipment stuff go to the reserve accounts and let the other stuff drop through to fund balance.

6:44 PM Mr. Beckert said that he would think you would take the inadequate funding and make up the difference from the reserve account for Highway Department vehicles; that that is what they are set up for, a savings account that, as long as it's used for Highway Department vehicles, this Board has the discretion to use it for that.

Ms. Davis said that going through the accounts when this first came up we did already set aside enough money for this pick-up truck; that she would like to keep the record straight and take the full amount out of the equipment fund and, then, take the FEMA money, put it before the voters, and use it to offset the price of the dump truck so that we use the money we originally appropriated for this truck. She added that the money is there and we have more than we need to buy this truck; that she thinks that keeps the record straight – spending the already appropriated money and put the FEMA money into the budget as an offset revenue for the equipment being requested in this budget year for the next budget year.

6:46 PM Mr. Lee said that it's six of one and a half dozen of the other; that he understands the 'keeping it clean' idea, so, he doesn't have any problem doing that; that it really has no net effect on anything; that if the Board wants it done that way, no problem.

It was the **consensus of the Board** that Ms. Davis' suggestion would be used for this.

6:47 PM 3) 2016 Town Meeting & Election Schedule

This was a formal request from the Town Clerk to set the included dates for the 2016 Town Meeting and Election.

Mr. Murphy moved, second by Mr. Fernald, that the Board of Selectmen approve the Town Clerk's request for the Town Meeting and Election dates, as contained in her memo of January 6, 2016.

VOTE

4-0

Chair concurs

4) MMA Worker's Comp Benefits Report

This is informational.

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6:49 PM 5) Financial Policies – Collection of Personal Property Taxes

Mr. Lee said that there are only four or five areas left in the financial policies that need to be addressed, one of which is what we are going to do about personal property collection; that we do not have a policy on what to do. He added that there are a couple other areas he needs to re-write for the Board's consideration, one is the resupply cards we have; that he thought we were going to get to a purchase-card system but we can't find enough vendors that will take a town credit card; that there are still a few little things that he needs to tidy up. He wanted to give them a little background on the difficulty of collecting personal property taxes, how towns struggle with it, and how it varies from very small to very large amounts, saying that we are lucky in that we don't have a large commercial base as opposed to Kittery where they probably have significant amounts of personal property that make up a lot of revenue. He reminded the Board that we did set a policy back about a year ago, which he thinks has been well-received, that if a person has personal property of under \$2,000 value, we don't care, as, at \$14/\$1,000, it isn't worth the time, expense, and frustration.

6:51 PM Mr. Pomerleau said that one thing in this article that may be of interest was that one town has been considering an annual license to operate a business in the town, which requires you be up-to-date with your taxes in order to get your license renewed. He added that that may be a very effective tool; that he realized it may be cumbersome.

Mr. Lee said that it might not be legal. He added that, when he's looked into these issues, it's usually been that to hold over someone's head the non-payment of taxes, to not allow them to serve on a committee, to not allow them to get a business permit, to not giving building permits, can't run for office, we've always been told no. He explained that taxes have its own collection system; that it's a perfected security and that's your remedy, ultimately taking their property. He added that he has tried different things in different communities and there is just not a great system – you cajole them, call them, send them a reminder, threaten them with a UCC filing, etc. but, at the end of the day, unless you go in, take their stuff, and auction it off or take them to small claims court, there's no good way to collect those taxes.

6:54 PM Mr. Pomerleau said he wasn't sure the licensing idea was an issue; that if he recalled, at even on the State level with unpaid income taxes, etc., he might have seen some legislation that would prevent the reissuance of a license or a sales certificate.

Mr. Lee said that if Mr. Pomerleau discovered something to let him know because he would love to find a solution.

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Ms. Davis asked if we had a lot of outstanding personal property taxes, currently.

Mr. Lee said that he doesn't have a precise amount, but, generically looking down through the records, it's not a lot of money; that if you added all the accounts up it would probably not be more than \$20,000, and that goes back to 2013.

6:55 PM Mr. Pomerleau asked if there wasn't a gap in us being able to actually identify businesses that are here; that there's no direct link; that the industrial park could change businesses every week and there's nothing that brings them here (Town Hall); that we don't even know who is out there.

Mr. Lee agreed.

Mr. Pomerleau said that therein is the business license idea; that we would at least be able to identify the people we should be talking to.

Mr. Lee said that he thinks one of the things we need to think about is that, if we say people must register their businesses - at no cost, who do we call if there's a break-in, emergency, etc. - that he'd love to have that information just for the police much less inviting them to Business-after-Hours, etc. - a lot of companies resent having to do that and, if they refuse, what are the consequences.

6:57 PM Mr. Fisher discussed people that have moved their personal property from one town to another, and moved it back, to avoid date deadlines for paying taxes and asked if that was still going on.

Mr. Lee said that he doesn't know if that is going on here, and suspects it may be, but we don't chase personal property down.

6:58 PM **6) York Hospital – Neighborhood Network Programs**

Mr. Lee said that, when we did the TIF survey, there were a lot of concerns for our seniors and what we were, or could be, doing for them. He added that he met with York Hospital over a new program they are rolling out called 'Neighborhood Network' that will offer a menu of services, such as referrals for pre-vetted contractors/tech assistance/personal shoppers, transportation, monthly newsletters, health and wellness activities, book clubs, discussion groups, etc. He added that he thought this was good and he hoped seniors would look it up or come see him for any help with that.

Mr. Fernald said that ECSD has been networking with York Hospital for years and should be made aware of this, if they aren't already.

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G4. Public Safety

7:01 PM 1) Police Officer Reimbursement, Town of Buxton

Mr. Lee said that the Town of Buxton recently issued us a check for \$24,000 for the reimbursement of the hiring of Officer Warren Day; that the Police Chief is suggesting that it break down to have \$20,000 be placed in the overtime account and \$4,000 be placed in the uniform account. He added that this money is to reimburse us for the period of August to December of this fiscal year so he does think it's appropriate that it go into the budget we are currently in; that the hiring of Officer Day had a direct financial impact on the Eliot Police Department and he is asking for approval on this.

7:02 PM Ms. Davis said that Officer Day left in May of 2015 and we have uniform allocations that we budgeted.

Mr. Lee said that the uniform piece might be able to be backed out; that he was talking to the Chief and that Officer Day did leave in May, but the bulk of the impact to us actually started happening around August; that it was about three months later that we started getting double-hit on that. He added that the \$4,000 was probably provided in the last fiscal year and the overtime hits happened after he was gone.

7:03 PM Ms. Davis said that she thought we had hired someone since then and that should have resolved the overtime issue except that, now, we've lost someone else.

Mr. Lee discussed a young man who had been working for the department but couldn't pass the academy physical, which is a requirement to serve as a police officer, and, unfortunately, we had to let him go. He added that Patrick Roy has just come back from the academy, and that will help with the overtime, but we are still short-handed.

7:05 PM Mr. Murphy asked why we shouldn't just follow the request of our Chief.

Ms. Davis said that the uniform account is budgeted because of the union contract and, so, we have already budgeted for each officer for the amount that they should get, per contract.

Mr. Lee clarified that the \$4,000 was from the previous fiscal year; that he thought it would be reasonable to drop the \$4,000 through to fund balance.

7:07 PM Ms. Davis discussed her concern regarding the overtime budget overspending and discomfort at adding another \$20,000 to this budget.

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Mr. Lee said that we do have to staff police 24/7 and we don't have options on not doing that job. He added that he understood her frustration but, when you're short-handed, overtime happens. He said that the officers even signed a memorandum of understanding allowing the Chief to change their schedule to reduce overtime; that they are on 12 hours, now, and were good enough to help us keep that number down. He added that he really does believe this is legitimately due to the overtime account.

7:08 PM Mr. Fernald moved, second by Mr. Murphy, that the Board of Selectmen, from the monies received from the Town of Buxton, place \$20,000 in the overtime account and \$4,000 be dropped through to the undesignated fund balance.

DISCUSSION

Ms. Davis asked for confirmation that, if this money is not used for overtime, it would not be used to offset other expenditures in the department. She asked if we could keep an eye on that line item and, if it isn't spent on overtime, the taxpayers get it back.

7:09 PM Mr. Lee said that that is absolutely his intent and he's sure it's the Chief's intent, as well. He asked that, if people have questions or thoughts prior to having the meeting, members, if they would, kind of, advise him to bone up on these things, like dates, etc., so he could come prepared; that that would be helpful.

Ms. Davis said that she really wrestled with this overtime budget issue; that apparently there's a need but now we're offsetting that with the new hire; that we're trying to cut back on overtime but, then, saying we need this overtime.

7:10 PM Mr. Lee added that we lost somebody and somebody else is going to have to go to the academy, at some point, and the overtime issue is going to be back, again.

Mr. Murphy said that this department has the most volatile personnel list of anyone, as far as he knows, and we continually run into this when people leave; that that's what causes the overtime so he thinks they should be prepared.

DISCUSSION ENDED

VOTE

4-0

Chair concurs

7:11 PM **2) Four-Town Grant Submission – Regional Dispatching**

Mr. Lee said that Berwick, South Berwick, Eliot, and Kittery are close to being able to present to all four town leaders a regional idea for dispatching; that this

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grant application is a very thorough explanation of what we're considering. He added that we are asking for just under \$200,000 because there will be a real need/cost to upgrade and replace technical equipment. He said that the anticipation, based on the numbers we've been crunching, is that there will be an approximate \$1.33 million regional savings over a five-year period by doing this. He added that we get about \$27,750 worth of equipment we will need to be interactive with the new dispatching technical equipment. He said that dispatching would be located out of the Kittery Town Hall. He added that they have been discussing additional personnel needs, as one of the main things we want to do is have the same, or better, quality of response, foremost, before we look at savings; that they are also discussing the integration of two unions.

7:17 PM 3) Draft: Proposed Police Department Re-structuring/Cost Report

Mr. Lee said that he didn't think they would need the lieutenant but, in speaking with the Sergeant, the sense was that we might need another sergeant-type position, or two sergeants, because there needs to be somebody else there who can answer questions for our very young officers. He added that it looks like we can save about \$42,000 going forward; that this is on a trial basis, with a potential patrolman in the future; that he isn't adding anybody but is strictly the elimination of the lieutenant and expansion of the detective position into a detective/sergeant position.

7:19 PM Mr. Fernald said that the department has to be effective, first, and if we can save any money after that, fine.

Mr. Murphy asked when Mr. Lee thought there would be the possibility of adding a sixth patrolman.

Mr. Lee said that he didn't know; that he couldn't predict future needs that clearly. He added that he thought we can do it, as proposed.

7:20 PM Mr. Pomerleau said that, in doing some research regarding management/patrol ratios, he found a standard 1-7, 1-8 ratio, which is about where we'd fit without a lieutenant. He added that what he found in the research is that it kind of leaves it up to the demands, requirements, and unique circumstances of the town you're in. In discussing the need for a second sergeant with five patrolmen, he said he was thinking that it was possibly too much management; however, one of the real reasons you get turn-over in a small town is the lack of a career ladder; that for a very young guy looking for a career, Eliot is not the place to go. He added that he wasn't sure we achieve that if you make the detective the sergeant as opposed to one of the patrol positions.

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7:22 PM Mr. Lee said that the money numbers still work, even if he did one person sergeant and one person detective; that what he is doing is putting the detective stipend and sergeant stipend and putting it on one person; that he could break it up into two people.

Mr. Pomerleau said that the thing he didn't like about the detective/sergeant position is that the detective position seems to be a very specialized area, as their job is to investigate and not out patrolling. He asked if it would diminish his effectiveness as a detective to now be a sergeant.

7:23 PM Mr. Lee said that it may and we're not done with the whole idea; that he wanted, from a monetary standpoint, to give the Budget Committee and BOS some idea of what we might be able to do during the budget process. He added that it was a draft but it was important to put something on the table so we know where we're going in putting this budget together. He agreed with Mr. Pomerleau, saying he thinks it is a better thing, career ladder-wise, to have a detective, a sergeant, and a sergeant, reminding them that these sergeants are also working the road.

Mr. Murphy asked if the sergeant position could be two levels, a lower sergeant and a higher sergeant, or are they equal.

Mr. Lee said that he had never heard of that but he knows what Mr. Murphy means.

Mr. Murphy said that Mr. Lee was talking about the need to be promoted.

7:24 PM Mr. Lee said that we are not looking at that, at the moment; that traditionally you either have a sergeant or a lieutenant but there is a corporal, which is between a patrolman and sergeant.

H. New Business:

7:25 PM Mr. Beckert suggested reversing New Business and Old Business on the agenda.

Mr. Lee said that he put a memo out for the Board on a couple of different things.

Regarding executive session meetings for the **Town Manager evaluation** and his contract extension negotiations, the Board was in agreement with the dates.

Regarding the proposed schedule of **BOS budget meeting dates**, the Board was in agreement. All meetings will start at 5:30 PM.

7:29 PM Mr. Lee said that the other day we had an executive session to interview Attorney Robert Bower as a potential addition to our team of attorneys, in this case for

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labor issues. He added that when we came out of executive session there was no action taken and it was suggested that, after having time to think about it, we may want to take it up under New Business.

- 7:30 PM** Mr. Pomerleau moved, second by Ms. Davis, that the Board of Selectmen retain Attorney Robert Bower, Jr. from Norman Hanson DeTroy, LLC to assist us in our upcoming labor negotiations with the Police contract.

DISCUSSION

Mr. Fernald said that we did have a good conversation with Attorney Bower; however, this is very important to the Town and he feels more comfortable with our Town attorney, Bernstein Shur.

- 7:31 PM** Mr. Murphy said that he enjoyed the discussion at that meeting and was glad to meet Attorney Bower but he was concerned that our present legal assistance simply has not communicated with us enough or has been given enough instruction about the matter with which he conducts our actions; that that is where he thinks we can improve things and retain some continuity.

Mr. Pomerleau said that, given that he's perfectly qualified, this is not a negative reflection on the existing firm we're using; that they're quite competent. He added that, in any management circles he's been in, you tend to give deference to the person you are assigning the task to, the team they want to work with; as part of the negotiation team he thinks Ms. Davis feels the same way. He said that we feel we would be very comfortable with Attorney Bower; that, additionally, there's a pretty substantial cost-savings to the Town; that he can see no way that there's any harm done to the Town by taking Attorney Bower; that he has very high credentials and the cost-savings, in the long run, could be quite substantial but, more importantly, from his and Ms. Davis' perspective of having to sit with the negotiation team and work with the attorney, he prefers to see Attorney Bower.

- 7:33 PM** Ms. Davis said that since being put on the negotiating team she has had encounters with all three attorneys and, based on the seminar we attended with Attorney Bower, she feels fairly confident that he could represent our interests at this time in a manner we need them represented; that she would highly recommend that we go in that direction. She added that we have a certain strategy we need to follow and a certain path we need to take and we feel like he is the most qualified to pursue that.

- 7:34 PM** Ms. (Carol) Selsberg said that there must have been a compelling reason to be interviewing a new attorney.

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Mr. Beckert said that it was at the request of Selectman Davis and Selectman Pomerleau; that they just attended a seminar that this gentleman spoke at.

7:35 PM Ms. Selsberg asked how long we have had the current attorney.

Mr. Beckert said that the Town of Eliot has dealt with Moon Moss McGill, now Bernstein Shur because the principle, Linda McGill, went to Bernstein Shur; that she has been, along with Matt Tarrasevich, with the Town since at least 1996. He added that he is quite comfortable with the attorneys, Ms. McGill in particular, at Bernstein Shur because they have dealt with labor relations for us, getting us through several police firings; that they've represented us very well. He said that he read a memo today from Mr. Bower, thanking us for the interview and, in his own words, he felt that we were in competent hands with our current attorneys.

7:36 PM Ms. Selsberg asked if Mr. Pomerleau could explain why you felt you wanted to look at new, or additional, counsel; was it a matter of economics or just change.

Mr. Pomerleau said that we attended a training session put on by MMA in Portland and Attorney Bower was one of the presenters; that when you get into certain philosophies on how to approach labor negotiations - the fact-finding, arbitration levels - he thinks Attorney Bower clearly stood out as a person who would be a firmer representative; the type of person that, with some clarity, is going to give you some type of direction; that he has specialized in this whole area for many, many years and sat on the Maine Board of Arbitration. He added that, when he asked a specific question that we had discussed with our attorney in another area, he was much more comfortable with the response.

7:38 PM Mr. (Bill) Selsberg asked if his firm sponsored the seminar.

Ms. Davis said no, what you might call bi-partisan; that they were representatives with all viewpoints so we got to hear from many different sides.

Ms. Selsberg asked, over the past 10 years, if the Board could estimate a percentage of how happy you've been with the representation in arbitration with the current counsel; that that would certainly be her persuasion – how much we've benefitted or lost based on the representation.

Mr. Pomerleau said that his response would be to look at the contracts we have and how happy you are with them.

7:39 PM Mr. Fernald said that, with that, it's not a reflection of Bernstein Shur because, when we do contract negotiations with a union, the lawyers are not involved at that time; that it's between the two Selectmen and the arbitrators, and so forth; that to say that what's been done in the past is Bernstein Shur's neglect is untrue

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because they were not involved. He added that they have been, however, involved in other things to do with employment, etc.; that he has sat on the Board for many years and worked with them for many years and he feels very confident in them; that his concern is that these are people he knows, have worked with, and feel comfortable that they will do the best for the Town. He agreed that money becomes involved, here, and this may drag out; that we need people that are concerned with the Town and say that, maybe, we need to go down 'this' avenue.

7:40 PM Mr. Fisher asked if they knew how much money an hour he gets.

Mr. Pomerleau said that Attorney Bower's fee is \$185/hour and Bernstein Shur charges us \$300/hour.

Mr. Fisher asked if Attorney Bower was on retainer.

Mr. Pomerleau clarified that we are not replacing our law firm; that we are using one specific lawyer for one specific purpose – contract negotiations with the Police union.

Ms. Davis said that we have been tasked with this job and we do have confidence in Bernstein Shur; however, for this specific job we feel this person would do the best job for the Town. She added that she thinks, based on our interview with him, he made it pretty clear he's not going to, in any way, string this out or expand this fight to the point where it's going to cost us unnecessary funds; that he'll be honest with us and tell us what we need to do.

7:42 PM Mr. Selsberg asked if they had had an opportunity to check with any other communities that Attorney Bowers has represented, as to their satisfaction with him. He added that that is a very important part.

Mr. Pomerleau said that he did have a crunch of a timeframe with a pending action that we have to do something with.

Mr. Selsberg said that, without checking on other community satisfaction, he felt that we wouldn't be doing a service to Bernstein Shur.

7:44 PM Mr. Beckert said that he has thought about this and he's comfortable with Bernstein Shur; that he's not so sure we've given enough direction to our attorney at Bernstein Shur. He added that he thinks, whoever is on the negotiating team, direction from the entire Board needs to go to the attorney, whoever it is, with our thoughts on how we want this to move forward.

DISCUSSION ENDED

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VOTE

2-2 (Fernald, Murphy)

**Chair concurs with the opposition
and the motion fails**

I. Old Business

7:46 PM 1) Over-the-Road Banner Policy – 6th Reading

Mr. Lee said that he got input from Mr. Fernald and Mr. Murphy and incorporated those, softened the language to not require 501C3 and clarifying we don't do this for for-profits.

Mr. Murphy moved, second by Mr. Fernald, that the Board of Selectmen approve the proposed revised policy regarding over-the-road-banners for the Town of Eliot, dated January 19, 2016.

VOTE

4-0

Chair concurs

J. Selectmen's Report:

7:49 PM 1) Committee Vacancy Report

Mr. Murphy said that it is going down; that there are currently 11 vacancies.

There was discussion regarding the Comprehensive Plan Committee about how important it is to the Town, how understaffed it is, and that there will be a need within the next year and a half of getting the Comprehensive Plan reviewed.

Mr. Lee said that we are at the point where letters are going out to committees specifying what they need to work on and would like to check back in twice a year to see how the committees are doing; that the Comprehensive Plan Committee has done a nice job.

7:53 PM Mr. Tessier asked if we have looked at how much of an impact it's going to have on the committees when we implement the new charter.

Mr. Lee said that he thinks we'll have to conduct a series of reminders, training, specifying new rules limitations, allowances, powers, duties, etc. He added that he will be looking at vacancies that will be created with the new limitations very soon to help with the transition.

7:55 PM Mr. Pomerleau said that, having attended the **BOA hearing on the Libbey Appeal**, it gave him some grave concerns about due process. He added that he doesn't know if the applicant is going to go to court, or not, but he's going to

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...speak into the end result of the decision; that he thinks our attorney was there and he will probably have some views to share about that process, as well. He suggested that maybe we need to discuss BOA procedure; that he has some very serious concerns about how it all happened; so, that said, were we expecting some feedback from Attorney Saucier so that when we get that we can take that into some kind of...he's not sure where our role, as a BOS, is with this oversight responsibility for our quasi-judicial boards but he thinks we certainly have some responsibility to make sure we're not violating due process standards, and so forth.

7:57 PM Mr. Lee said that there is, from his understanding in speaking with a BOA member recently, a requirement in the by-laws for periodic training; that this same person remembered back in 2009 when Chris Vaniotis came in and did a very, very good training just to remind people of the procedures, etc. He added that he hasn't heard from Attorney Saucier, yet, but he is expecting that that might be a discussion point – to understand the very complicated procedural issues and do them correctly.

7:58 PM Mr. Pomerleau reported on the Choose to be Healthy meeting he attended at York Hospital. He said that there was a huge turnout; that they had a panel of 15-20 people, including fed DEA, State DEA, County Sheriffs; that our Police Chief was there and takes a very active role in this Hope Program that he's trying to establish with Portsmouth that, in essence, encourages people to turn themselves in and they will do everything they can to place those people somewhere. He added that it bears paying attention to because it's a huge problem and more so than we think here in Eliot. He said that the superintendent was there and she told him, he thinks, that there were five expulsions related to drug issues. He said that he forgets what year it was but, in one particular year, Maine had the highest level of prescription opiate addiction in the country, which is alarming and starts to give you the scale of the problem. He added that the York County Sheriff said that, typically around Christmastime, the jail population is down and told a story that, out of a 168-bed capacity he had close to 150 people there; that what was striking was that the majority had been arrested for drug distribution coming across the border and abandoned by their gangs, left there because they don't make bail, etc. He said that the most common age to drug exposure and addiction is 14. He said that on the education side the emphasis was on parent modelling as the #1 preventative. He added that, most striking, was law enforcement recognizing they can't arrest their way out of this problem and that it requires treating it like a serious illness; that they have to change the image of this because it is 'middle America', not skid row, and so much of it comes from initial addiction to prescription drugs. He added that Dr. Nash has speakers coming in to the schools.

8:04 PM Mr. Lee said that he could put the link up on the Town website.

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Mr. Pomerleau said that he put it up on EliotOnline today that included a survey for community members and a link to resources available; that he thinks everybody needs to do everything they can. He added that he is certainly glad that this Board allowed me to go to represent our Town and have a presence there that would indicate that we're going to do anything we can.

8:05 PM Ms. Davis said that she notified the DPW this morning that there was a **pothole** on Route 101 and it's been taken care of.

Mr. Lee said that Mr. Moulton reported it to the State two days ago, as it's a State road.

Ms. Davis said nicely done. She discussed the upcoming **meeting with Planning Decisions**, who is doing a study for the TIF Alternatives Committee, and she would like to, again, request some kind of a representative sample report that they have issued/done for another town so the Board would be able to review that prior to our meeting on Wednesday; that, in order to guide Planning Decisions and get useful results, she feels we need to see some sample of work that they have done that is similar to what we are requesting. She asked Mr. Lee to request this from Planning Decisions.

Mr. Lee said that he would get one or more samples.

8:10 PM Mr. Beckert said that he didn't know if we have a written policy on when **agenda items need to be in** but he thinks we need to make everybody stick to it. He added that he doesn't mind getting something that's additional information on an item already on the agenda but not something that isn't in this book, to start with.

8:12 PM Mr. Lee said that his in-house rule for the staff is Thursdays at noon; that he doesn't entertain anything after that except 'inability to pay abatement' and we have no more time; that, normally, if you don't get it in by Thursday at noon before a BOS meeting, it's going on two weeks later because he still has to get packets prepared.

8:13 PM Ms. Davis asked Mr. Beckert if there was something particular.

Mr. Beckert said that he doesn't like when Ms. Davis, or anybody else, comes up here the night of a meeting and throws a packet of paper in front of each one of us that we haven't seen until that night. He added that, if it's that important that we need to talk about it, then let's get it on the agenda properly; that that's his point.

Ms. Davis asked if he was saying that it didn't fit under Selectmen's Reports.

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Mr. Beckert clarified that not substantive stuff did; that Selectmen's Reports are something like what Mr. Pomerleau did tonight on the meeting he went to, or something like that; that when a Selectman or a committee member comes in the night of a meeting, when we've already set the agenda the previous Thursday and throws something in front of us...that we don't even allow it at PB meetings. He said that he doesn't like getting stuff that night that we've never seen before and be expected to act on it, or make a decision on it, or whatever. He added that he is just asking that any board members, committees, Town employees, or department heads, if they can't get it on the agenda on the previous Thursday to our meeting, it waits for two weeks.

K. Other Business as needed

There was no other business.

L. Executive Session

There were no executive sessions.

M. Adjourn

There was a motion and second to adjourn the meeting at 8:15 PM.

VOTE

4-0

Chair concurs

DATE

Mr. John Murphy, Secretary