

North Berwick Board of Selectmen Minutes November 17, 2015

**NORTH BERWICK BOARD OF SELECTMEN MINUTES
NOVEMBER 17, 2015**

Present: Chairman Galemmo, Selectman Cowan, Selectman Hall, Selectman Folsom, Selectman Johnson, Jr.

Also Present: Dwayne Morin, Lynn Manley, Qiana Qualls, John Archambault, William Houston, David Parker

Chairman Galemmo opened the meeting at 6:30 pm.

1. Pledge of Allegiance

2. Review and Approve Minutes of November 3, 2015

Selectman Folsom motioned to approve the minutes of November 3, 2015 as written. Selectman Cowan seconded the motion. VOTE: 5-0

3. Public Input

There is no public input at this time.

4. Unfinished Business:

A. Roads: Update on Road Projects – Project Breakdown

Dwayne stated that there is a progress report included in the packets for the Selectmen to review. He stated that we did pretty well for our road projects. He stated that on the bottom of the page on Page 10 of the packet, it shows the budget that we had for the road as well as what the costs were. He said that Gould's Bridge Road came in under budget by about \$6,000. We are going to do Hammond Road in the spring. Pleasant Street came in under budget by about \$5,000 and Lower Main Street was under budget by about \$13,000. He stated that Dyer Street was over budget by about \$12,000. He said that overall, we were under budget on all the roads by about \$9,000. He said that they will roll over about \$25,000 next year which will help next year's road projects. We are also going to try and sneak in another little road project to utilize these funds. Dwayne said that the sidewalk project came in about \$3,400 under budget and the Transfer Station project came in about \$5,000 under budget.

5. New Business:

A. Conservation – Agriculture Commission: Meeting with Commission

Lynn Manley stated that the Conservation & Agriculture Commission had put together some items to review with the Selectmen which starts on Page 12 of their packet. She stated that the first item regarding Town Forests was brought up by Dave Parker and they all thought that it was a good idea. She stated that they could take the town properties that are not being used or built on could be officially declared Town Forest. This would pave the way to be able to get a conservation easement for the protection from development. She knows that this would have to be presented to the people for a town vote at a Town Meeting. She stated that the Town Forest thing has been kind of a New England movement and Vermont has really lead the way with it. Dwayne showed the Selectmen on the computer which properties the Committee was looking at. They include two properties on Stub Marsh Road and a property on Bauneg Beg Mountain. Dwayne said that they would have difficulty making the property on Bauneg Beg Mountain Town Forest because this property was already designated at Town Meeting as Conservation Land so it is already protected. Another property is located on Oak Woods Road at Map 6, Lot 21. Dwayne said that they actually own two adjoining lots together. One is 6-21 and one is 8-1. Dwayne stated that if we are going to declare the 6-21 we should probably also declare the 8-1. Selectman Johnson, Jr. asked if we had an easement to these properties and Dwayne said that they did not. Selectman Johnson, Jr. asked if we declare it Town Forest do they need a forestry plan to maintain the property. Dwayne said that they did. Selectman Johnson, Jr. asked how they would get in to the property to maintain it. Dwayne said that this is one of the things that they need to look into. Dwayne said that when they obtained these properties they were designated as Recreation lands for hunting. There is no road access or town access to the property. Selectman Folsom asked what property this was and Dwayne said that it was the old Hubbard property.

Dwayne said that another one of the properties that he was concerned with is the property at 264 Lebanon Road which is actually where the Community Center is located. He said that to designate that as Town Forest would be inappropriate since it is already designated as Recreation. Qiana Qualls stated that they were thinking about the back part of the property where the wooded area is for the walking trails. Dwayne said that this would go along with the Recreation designation as well.

Dwayne said the other property they are looking at is the Maple Street property. Chairman Galemme asked what this property was currently designated as. Dwayne stated that it was not currently designated as anything. He said that when the Town took it, the Selectmen at the time were thinking of making it Light Industrial or Commercial development. Selectman Johnson, Jr. asked if there is a part of the property that could be kept as Town Forest. Dwayne showed them on the map where there was some upland property that was originally supposed to be a subdivision. There was a logging company that came in and stripped just about every tree off that property about 20 years ago. They came in to the Planning Board to put in a subdivision on part of that land. The other part of the land is quite wet. Dwayne stated that if they combine our properties with some of the properties that Great Works Regional Land Trust own, they could

connect the properties for the walking trail. They would be able to have an unabated hiking system from the Community Center down to the Village.

Selectman Folsom asked what the Maple Street property was currently zoned for and Dwayne said that it was Village B. Selectman Cowan asked how many acres of land and Dwayne stated that it was 60 acres. Selectman Cowan asked how much of it was wooded. Dwayne showed them the parcel of land on the computer and said that there is some growth on the property.

Chairman Galemme asked what exactly they meant by designating the property as Forest. Are they talking about a specific legal term that exists now? Lynn Manley stated that they would have to discuss it. Chairman Galemme asked what kind of designations we had now. Dwayne stated that for the most part the designation that they have now are Conservation and Recreation and whatever a use might be such as this property which is Town Hall Property.

Dwayne said that there are other properties that could be considered such as the Beaver Bog property. This is where the Boy Scouts sometimes camp out. Selectman Folsom asked what the access was to this property. Dwayne said that we own the right of way off of Pine Meadow to this parcel.

Selectman Cowan stated if their goal with this designation is essentially for preservation purposes. Lynn Manley stated that it is the goal to preserve it from being developed. Chairman Galemme asked if they would then have to designate it as Conservation or Recreation. Lynn Manley stated that we can actually designate it as Town Forest per State law. Selectman Johnson, Jr. stated that he would like to know what the State definition is for Town Forest. Dwayne stated that it is Conservation and the town would have to manage the wood that is on it and it would not be allowed to be built upon. Selectman Cowan asked if managing the wood meant that the Town would have to periodically harvest the trees. Dwayne stated that they would have to hire a certified forester that would put together a forestry plan for us. He stated that this could be part of the Project Canopy Grant that we would seek. Selectman Cowan stated that it makes a lot of sense not only by preserving the property but it is also economically feasible. She stated that right now we are not getting any benefit from the property so if we are harvesting wood, we would be getting some financial benefit from it.

Chairman Galemme stated that they can remove the Community Center and Bauneg Beg properties because they are already under Conservation and Recreation so they are preserved. He stated that regarding the Oak Woods property, the problem is with access to it. They will have to do a little more work in researching for this one. Dwayne stated that it would be an issue because if our forestry plan requires that we harvest the trees, we would need to be able to get equipment there to do this.

The Board all agreed that they should move forward with designating the properties.

Lynn Manley stated that the other item that they wanted to discuss was in regards to a Local Food & Community Self-Governance Ordinance. She stated that there are 16 towns in Maine that have adopted this Ordinance. She said that if we adopted it, we would be the first town in York County to do so. Dwayne stated that the Ordinance that the Commission had sent him was

not the Ordinance that the towns had passed so he wanted to know which one they were planning on proposing. Lynn said that other towns have started with the one that they sent him as a template and changed it to meet their needs. Dwayne said that he looked at both of the Ordinances and he has issues with both of them. He said that the one that has been passed by the 16 towns has never been tested. It was tried but never tested. He said that if they send this to our Town Attorney, he will tell us not to adopt it because part of the Ordinance is illegal. One of the main illegal parts is where it says that the town will not recognize any State or Federal law. He said that they lean on Home Rule authority which states that the towns have the right to adopt these Ordinances. However, the legal basis for Home Rule is that the towns are only given the power to accept Home Rule based on what the State and Federal government give us the authority to have Home Rule over. It is called enabling legislation. We cannot usurp Federal and State law. There is a section in that Ordinance that states that we won't recognize State and Federal law. This puts the Town on a financial legal hook which could be very expensive.

Dwayne stated that the goal is laudable. Lynn Manley stated that the best thing would be for the State to adopt this. However, they feel that the more Towns that adopt it the better the chances are that the State will eventually pass it. Dwayne said that it was a good idea but he doesn't feel that the vehicle that is being proposed is the right way to go about it. He stated that we can do Town Resolutions to encourage the State to pass it.

Dwayne stated that the Ordinance that Lynn sent him which is located on Page 13, is actually a New Jersey Ordinance. A lot of the things in it have no bearing in the State of Maine at all. Lynn said that she may have attached the wrong one. Selectman Cowan stated that she likes the idea of adopting a Resolution that states that they approve the concept. The Commission could work with Dwayne on drafting a document that would keep us legally within the appropriate boundaries but at the same time supporting the initiative. Dwayne stated that they should think of a list of goals that are the primary driving force for the Ordinance. He understands why the other Towns have adopted it and he has read various articles from different resources so he is aware of what it is all about. He believes that they could do the Resolution and it would give us some guidance. If the Planning Board wants to change an Ordinance that affects small farmers. If we have a Resolution that states that we don't want to put ordinances or laws in place that affect small farmers. This goes beyond the purview of what we want in the town. Qiana Qualls asked if the Resolution would go to Town Meeting to be approved and Dwayne said that it would.

Chairman Galemme stated that in regards to a nullification ordinance, the Board of Selectmen tend to vote those down because they are unenforceable. He does agree with a Resolution going before the Town supporting small farms. Dwayne stated that he does like some of what he saw in the sample Ordinance. He stated that our Zoning Ordinance is pretty ambiguous and there is really not any great definitions. We could definitely use some of the ideas from the sample to help spruce up our Ordinance.

Selectman Cowan asked what the time frame would be if the Committee wants to work on the Resolution so it could be included in next year's Town Meeting. Dwayne stated that if they want to put it on the ballot they would have to have everything completed by the middle of January. If they were to put it as a Warrant Article, the Board of Selectmen can decide on them until the

middle of March. Selectman Hall suggested that the Conservation and Agriculture Commission put together their goals and work with Dwayne to draft a resolution. Once this is done, the Board of Selectmen can make a motion on it.

David Parker just walked into the meeting. Dwayne reviewed what they had discussed so far.

Chairman Galemmo stated that the process would be that they would approve the Resolution and it would go before Town for a vote. This would then show what direction the Town wants to go and we would now have to figure out how to implement the changes to the Ordinance to meet what the Resolution states. He said that our Comprehensive Plan states that farms are a good idea and the Resolution would help us by refreshing the initiative to do it. Selectman Folsom stated that they should have the Planning Board have a say in this as well. Selectman Cowan said that in the past, the Planning Board stated that they would welcome any guidance in this area to help them make better decisions. Dwayne stated that one of the issues that the Planning Board has struggled with is regarding livestock and where roosters or other things are allowed. The Ordinance states where some of them are allowed but some are allowed in the Residential neighborhoods with Planning Board approval.

Selectman Cowan would like to have the Commission come back to a future meeting to go over what they come up with.

4. Unfinished Business:

B. Budget FY17: Continue Discussions on Budget Items for FY17

Dwayne stated that last night, he was appointed the Chairman of the York County Emergency Communications Group. They are starting to get this under control. He said that they set their budget for next year and our share will go up \$200. It will go from \$4,000 to \$4,200. He stated that the biggest thing that is going on is that the Town of Hollis has been utilizing our frequencies, our equipment and our facilities but they refuse to pay their bill. They sent them a bill for \$3,000 which was a discounted bill. They are getting off the frequency so they decided to just charge them the \$3,000 instead of \$4,000 so they could complete their project and get off our equipment. They received a letter from Hollis stating that they were willing to pay \$800. Dwayne said that they motioned last night to go after the full amount. He said that they will tell the press what is going on and that 6 communities have been paying for Hollis communications and they are refusing to pay their bill. Selectman Johnson, Jr. asked if they had signed a contract and Dwayne said that they did not. He said that when they all joined up in 2006, they all signed a contract. Hollis was sent a contract but they never signed it. At the time, the Town of Waterboro was taking care of it. He said that if Hollis did sign one, they don't have a copy of it. They have copies of all of the other ones. Dwayne said that they have been sending a bill since 2006 and they have always paid it before. He said that if they would tell Sanford to stop allowing them to use the frequency, they would have no coverage. Selectman Cowan asked when their project was supposed to be done. Dwayne said it was supposed to be done in September and now they are saying that it may not be done until next year. They apparently never got their licensing. They just filed their applications two weeks ago. If the FCC denies or changes their application, it will delay it further.

Selectman Cowan asked if they stated why they didn't want to pay the bill. Dwayne said that Hollis is upset with Sanford and they are saying that Sanford forced them to be on that frequency. Obviously that is not the case since they are moving off of the frequency. Dwayne feels that it is more of a personality thing. Dwayne said that if they still don't pay, they will have to bring them to court. They have threatened to shut them off in the past, but they are now going to follow through with their threats.

Reminders: Next Board of Selectmen's Meeting – December 1, 2015 – 6:30 pm Municipal Building

5. New Business:

B. Paving: Offer From Libby-Scott for FY17

Dwayne said that Libby-Scott came to him and made an offer to pave for the Town again next year and they will charge \$2.00 less per ton. He said that we paid \$73.47 last year so it would be \$71.47 for next year. Dwayne said that he thinks it is a good idea because we do not have a lot of paving next year. He said that if he puts it out to bid, the cost would be high because we are only paving Randall Road and Beech Ridge Road. We would only be putting out about 2,000 tons of paving which is significantly lower than what we usually put out.

Selectman Cowan motioned to accept the bid from Libby-Scott at \$71.47 per ton. Selectman Folsom seconded the motion. VOTE: 5-0

C. Holiday Hours: Establish Holiday Hours for Offices

Dwayne stated that Christmas and New Years are on Friday this year. Our policy states that on Christmas Eve and New Year's Eve we work until noon time. This year, this would be on a Thursday and we work 1-7 on this day. One of the ideas that they had was to do 8-12 on Thursday morning on these days. Selectman Folsom asked if they would do the same with the Transfer Station because they have the same hours on Thursday. Dwayne said that they would have to do it with them as well. Dwayne said that they have plenty of time to announce the change in the hours for people to be aware.

Selectman Hall motioned to approve the holiday hours for Christmas Eve and New Year's Eve to be 8-12. Selectman Folsom seconded the motion. VOTE: 5-0

6. Other Business:

Selectman Folsom asked if the rumors of a Walgreens coming into town was true. Dwayne said that they have not had any proposal from them. Dwayne said that one of the changes that the Planning Board is looking to make is to allow drive-thrus for pharmacies and banks in the Commercial zone.

7. Review and Approve Warrants and Correspondence:

Warrant:	November 10, 2015	- \$ 11,770.69
Warrant:	November 17, 2015	- \$ 522,062.82

Selectman Hall motioned to approve the Warrant for November 10, 2015 for the amount of \$11,770.69 and the Warrant for November 17, 2015 for the amount of \$522,062.82. Selectman Folsom seconded the motion. VOTE: 5-0

8. Adjournment:

Selectman Folsom motioned to adjourn the meeting at 8:12 pm. Selectman seconded the motion. VOTE: 5-0

Respectively submitted,
Susan Niehoff, Stenographer

Original to Town Clerk

Chairman: Charles Galemmo

Selectman: Wendy Cowan

Selectman: Elaine Folsom

Selectman: Michael Johnson, Jr.

Selectman: Jonathan Hall