

North Berwick Board of Selectmen Minutes December 1, 2015

**NORTH BERWICK BOARD OF SELECTMEN MINUTES
DECEMBER 1, 2015**

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

Absent: Selectman Folsom

Also Present: Dwayne Morin, Jon Morse, Jim Marchese, Richard Reynolds, Betty Hall,
Anne Whitten, William Hall, Larry Wick, Matthew Qualls, Barry Chase

Chairman Galemmo called the meeting to order at 6:30 pm.

1. Pledge of Allegiance

3. Review and Approve Minutes of November 17, 2015

Dwayne Morin said that in the first paragraph on Page 5, the third sentence currently reads, "However, the league basis for Home Rule...". It should read, "However, the legal basis for Home Rule...".

Selectman Cowan motioned to accept the minutes of November 17, 2015 as amended. Selectman Johnson, Jr. seconded the motion. VOTE: 4-0

4. Public Input

There was not public comment at this time.

2. Public Hearing – 6:35 pm Junkyard Permits

Chairman Galemmo read the notice for the Public Hearing into the minutes as follows:

Public Hearing
Town of North Berwick, Maine
Automobile Junkyard Permits

The Town of North Berwick Board of Selectmen will be holding a Public Hearing on Tuesday, December 1, 2015 at 6:35 p.m. in North Berwick Municipal Building Room 212 for a hearing on the applications of Sandra and Merritt Wick and Francis Hall Family Trust for an Automobile Junkyard Permit. This Public Hearing is being held pursuant to Title 30-A M.R.S.A. §3754.

The Public is invited to attend this Public Hearing.

Dwayne stated that every year they need to hold a Public Hearing on the two junkyards that are in town that are permitted by the Board of Selectmen. The first one is for Betty Hall which is located on Lebanon Road. The second one is for Sandra and Merritt Wick which is located on Governor Goodwin Road. Dwayne stated that they have had no issues with either one of the junkyards this past year so he is recommending that the Board approve the applications.

Chairman Galemmo asked if there were any comments from the public.

Matthew Qualls asked what exactly the permit was for. Dwayne stated that, by State Law, every year towns need to issue junkyard permits so the State of Maine knows where the junkyards are located. He said that they need to notify State Police and the Secretary of State to let them know that we are holding Public Hearings and issuing permits to these 2 junkyards. Dwayne stated that the big thing is that when the junkyards are no longer permitted, they have six months to clean things up. He said that, for the most part, the junkyard permits keep on rolling over year after year.

Jon Morse asked exactly what a junkyard was. Dwayne said that the definition of a junkyard is 3 or more unregistrable and uninspectable cars. He said that these are automobile junkyards with recycling so they are treating a little bit differently. Dwayne said that they also get recycling licenses that come with the junkyard permits that allows them to take parts off the automobiles and sell them.

Chairman Galemmo closed the Public Hearing at 6:37 pm.

Selectman Hall motioned to approve the junkyard permits for Sandra and Merritt Wick and Betty Hall. Selectman Cowan seconded the motion. VOTE: 4-0

6. New Business:

A. Planning Board: Meeting with Planning Board

Dwayne stated that they typically meet with all of the Committees at least once during the year. He said that they typically meet with the Planning Board so they can see what Planning Board is working on for the upcoming Town Meeting and discuss any issues of mutual concern. Dwayne stated that there are five changes that the Planning Board is proposing. The first one is a change to our Explosive Materials Ordinance. Dwayne stated that it is to coordinate it with the State Law. Our current Ordinance states that propane tanks, whether they are buried or not buried, if they are bulk storage they need to be 75 feet from the line. State law actually allows them to be closer than that. This has been a problem, especially in the downtown area for anyone that wants to convert to propane. Selectman Johnson, Jr. asked what is considered to be bulk storage and Dwayne said that it was anything over 250 gallons. Dwayne stated that they want to change it and make it what the State law actually states it should be. He said that they sent this to the State and the State actually provided us with the recommended language to use.

Dwayne said that the second proposal is not actually a zoning change. It is a change to our electrical ordinance. He stated that when we adopted the Ordinance, we actually put in a specific addition of the National Electrical Code to be the 1999 edition. They are apparently not utilizing that anymore because it is obsolete. They are using the 2013 edition. He said that they just want to add a phrase to the current Ordinance that states that we are adopting “the current State of Maine adopted National Electrical Code”. This way we won’t have to update it every time they change it. It will be updated for good and will help us keep our Electrical Ordinance current. We will also change the number of copies that we need on file from 3 to 1.

Dwayne stated that the next proposal was actually brought to them by a property owner in town. It deals with uses that are abutting our town with other towns. He stated that our town abuts 5 towns and there are 5 different zoning ordinances that surround our town. There are couple of places that are actually causing some conflict in terms of uses that are along town lines. He said that the biggest conflict is along the Berwick town line especially when you are going out of town along Route 4. Berwick has deemed the area that is adjacent to us as Commercial zone and we have it as a Residential zone. He said that most of the other areas that touch are mostly Residential zones. He stated that there are cases where a use might be allowed in the Town of Berwick, Town of Lebanon or Town of Sanford and someone owns property that extends into North Berwick. There has been issues where someone has wanted to expand their use into North Berwick but have not been able to because of our zoning ordinance. The idea would be to allow uses that are in other towns to come into North Berwick as long as they meet certain criteria. Some of the criteria that we are setting up is that they cannot expand more than 250’ along the existing roadway frontage, cannot expand by more than 50%, have at least a 100’ vegetated buffer and cannot be closer than 250’ from an existing residence. Dwayne said that it would allow some of those uses to expand because their land is split between North Berwick and whatever the other neighboring town is. Chairman Galemme asked if the other towns were reciprocal. Dwayne stated that every one of our borders are Residential and match with the other towns. Dwayne showed everyone the map of the surrounding areas and what the zones were located. Rick Reynolds stated that it would also be a Conditional Use so the Planning Board

would have to review prior to approval. Dwayne stated that it would mostly be along the Route 4 and Route 9 roads. A lot of the other areas are wetlands and could not be built on.

Dwayne stated that the next proposal had to do with some changes with conditional use requirements in the Land Use Tables. The first change has to do with Shoreland zones. Currently just about everything that someone want to do in Shoreland Zoning needs to go before the Planning Board for a conditional use. Dwayne stated that our Shoreland Zoning is very large. Anyone that wants to build in this zone have to come before the Planning Board. The Planning Board would like to ease some of this so that it would allow the Code Enforcement Officer to issue permits if they meet all of the criteria of the Ordinance. For a Single family dwelling under the Shoreland Limited Resource zone, it would be changed from a CU to a CEO. Barry Chase stated that this would still allow the CEO to bring it before the Planning Board if he is not comfortable with issuing the permit for some reason. Matthew Qualls stated that it would also not inconvenience the applicants as much. Barry Chase said that if they are just looking to add a deck to their house, they would not need to come before the Planning Board unless the CEO had an issue with it.

The other change in the Tables is under Miscellaneous. Under the section, Structures accessory to permitted uses, we would change the “CU” to “CEO” in the Resource Protection, Shoreland Stream and Shoreland General zones. This would allow the CEO to issue permits as long as the rules and regulations have been met. Also, under the section, Structures accessory to uses which are similar to permitted uses, we would change the “CU” to “CEO” under the Shoreland Limited Residential. This would be structures such as a garage. Dwayne stated that if somebody wants to build a garage and it meets all of the requirements, they need to go before the Planning Board. This is something that the CEO could easily issue a permit for unless there was some issue with the application. Selectman Cowan asked if this was something that came before the Planning Board often. Dwayne said that there has been at least three in the past two months and they are having another one at their next meeting. Dwayne said that they also changed the Shoreland zone a few years ago. The Planning Board used to figure out a percentage but we changed it to a flat increase based on square foot numbers instead of the percentage. He stated that a lot of this can be handled at the code enforcement office and if there is an issue, it can be brought before the Planning Board for review. Dwayne said that right now, an applicant comes in and files an application. They have to go before the Planning Board and have a Public Hearing which costs the applicant’s money before obtaining their permit.

Another change in the Land Use Tables is under Business/Commercial/Industrial. They are proposing to add a section titled “Banks and Pharmacies (with or without drive through). Also in another section, Drive-in or Take-out eating establishments, & Drive-in facilities offering goods and services to customers waiting in parked motor vehicles, except drive-in theaters, Auto Serv. Stations, they are proposing a couple of changes. The want to change the “NO” to “CU” under the Commercial II district and remove the part that says, “except drive-in theaters, Auto Serv. Stations”. Dwayne stated that this was a request from a citizen. He stated that when they did the Comprehensive Plan, there is actually a section on drive-throughs within the town. Our Comprehensive Plan says that we did not want to allow for any more restaurant drive-throughs in our community. This was really to stop franchise restaurants from coming into the community. He said that the one thing that they never discussed was banks and pharmacies. The idea would

be to allow drive-throughs for banks and pharmacies in the Commercial and Industrial zones. It would be a "CU" so the Planning Board would need to review it. Chairman Galemmo stated that it also has it as a "CU" in Village Center district. Dwayne said that the Village Center is actually a commercial zone. Dwayne reviewed the different zones on the map on the computer. Selectman Cowan asked why the citizen wanted this change. Dwayne said that they are trying to sell their property on Route 9 as a commercial property and it is hindering the sale of their property.

Dwayne asked the Planning Board if they were also considering allowing drive-throughs for restaurants in the Commercial II zone. Rick Reynolds stated that they were proposing to do so. Dwayne asked them why they wanted to do this. Matthew Qualls stated that it was just to be more consistent with the other Commercial districts. Dwayne stated that this was a direct violation of our Comprehensive Plan. They discussed it further and decided that they would not change it to a "CU". They will leave it as a "NO". Dwayne stated that he is concerned about putting something before the voters that is in violation of the Comprehensive Plan.

Chairman Galemmo stated that they need to have a general discussion about the kind of development that we want. He stated that if we had a McDonald's go in across from the bed and breakfast, it would probably hurt their business. They need to focus on what they want the town to look like. He stated that doing a zoning change because somebody wants to sell their property is probably a concern for that person but not necessarily for the rest of the town. Dwayne did state that the town has always expressed wanting a pharmacy. Selectman Cowan agreed with Chairman Galemmo and said that we need to be mindful of the kind of businesses that we bring in. She feels that we need to keep the small town feel that we have here and she feels that the townspeople have been very clear about sharing that vision as well. She feels that the change to allow pharmacies has some validity but states that we need to be very careful of what doors we open up to. Dwayne stated that the intent is to just allow the banks and pharmacies.

Barry Chase stated that one of the things that fellow Board member Rick Reynolds keeps saying is that the Comprehensive Plan states that we should be encouraging development along the Route 4 and Route 9 corridor. Chairman Galemmo stated that any business would have to meet all of the standards that they set forth previously. Barry Chase said that he feels that the standards have been a good thing. He said that our Dollar General is much better looking than some of the others that have been built around the area.

Dwayne stated that the Selectmen had sent the Planning Board a proposed change in the sign ordinance. He knows that the Planning Board tabled this proposal. Dwayne stated that this past year, the Supreme Court had a case that came out of Dallas. They made a finding that will pretty much affect every sign ordinance in the United States. He stated that he sent our Sign Ordinance off to our Attorney to review. He said that if you have different sign requirements for different organizations, this will be deemed illegal and unconstitutional. Unfortunately, we do have that. You can differentiate between permanent and temporary, but when you start differentiating between political, service or what they consider free speech items, that is when you come into some potential constitutionality problems. He said that the way they drafted their opinion, it left the door wide open for constitutionality challenges. He believes that we will need to do some tweaking to our Ordinance. We have different sizes for different types of signs in our Ordinance.

He thinks that we will probably have to come up with an appropriate size that would cover the size for all temporary signs. The length of time that they are kept out needs to be uniform. You can't tell politicians that they can keep their signs up for a month but tell a church that they can only keep their signs up for a week. He said that the Planning Board will have to come up with a size for the temporary signs that would work for all the different types. Rick Reynolds asked Dwayne if he thought that they would get this done to have for a vote at the Town Meeting. Dwayne said that he should have the attorney's recommendations before the next Planning Board meeting on the 17th so they can review the comments.

5. Unfinished Business:

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

Dwayne said that he is just keeping it on the Agenda. He said that most of the departments have been working on their budgets.

B. Paving: Revised Offer from Libby-Scott for FY17

Dwayne stated that at the last meeting, they had a proposal from Libby-Scott to review that reduced our tipping fee by \$2.00 per ton. Since then, they came back to Dwayne and wants to offer an even better deal. Dwayne said that the way that paving used to happen is that it was all encompassing. He said that they would go to the paving company and tell them what they want done and they would come up with one all-inclusive price per ton. Over the years, things started to get broken out. We are one of the last towns that are still all inclusive. The sweeping, tacking and grinding were all included in the tonnage piece. What they are doing now is pulling all of these things out and billing for them separately. Dwayne said that the proposal is a drastic reduction in pavement. It would bring our pavement costs down by \$6 per ton. We would pay for tack coat at \$7.25 per gallon which is actually the going rate for tack. We would pay for (??) paving at \$25 per square yard. If we wanted them to grade, which we don't usually do, it would be \$.90 per square yard. If we wanted them to reclaim it would be \$.90 per square yard. He said that if we would want them to grade, the price is \$21.85. However, we usually do our own grading so we wouldn't have this charge. This is actually a good deal, especially with this upcoming year because we are going to be paving out in the country. There are less driveways so it will cost less.

Selectman Cowan motioned to approve the revised quote from Libby-Scott. Selectman Johnson, Jr. seconded the motion. VOTE 4-0

Reminders: Next Board of Selectmen's Meeting – December 15, 2015 – 6:30 pm Municipal Building

6. New Business:

B. William Hill Firefighter Assoc.: Request for Annual Bingo Letter

Dwayne stated that every year, the William Hill Firefighter Association comes to the Board to allow them to have Bingo within our community. Under the State law, the Board of Selectmen control who can and who cannot have Bingo within their community. They hold Bingo at the Community Center usually through the winter.

Selectman Johnson, Jr. motioned to allow the William Hill Firefighter Association to hold Bingo for 2016. Selectman Cowan seconded the motion. VOTE: 4-0

C. EMA: Resignation of Mark Kelewae as EMA Director

Dwayne stated that Mark Kelewae has decided to step down as our EMA Director primarily because of his work commitments. He works for the shipyard and spends a lot of time in San Diego. His resignation is effective 1/1/16. Mark recommended Mike Barker as his replacement. Mike is our Rescue Chief and he is certified at the federal level as an EMA Response and Director. He is currently in discussions with Mike about the position. Typically the EMA Director has come out of the Fire Department so Dwayne want to talk to the Fire Chief. Mike is a member of our Fire Department as well. He is also a Fire fighter at Logan Airport and before that he was in the Coast Guard and was in charge of Boston Harbor. He retired last year and he was hired at MTA as a Firefighter at Logan Airport.

7. Other Business:

There is no other business at this time.

8. Review and Approve Warrants and Correspondence:

Warrant:	November 24, 2015	- \$ 16,220.10
Warrant:	December 1, 2015	- \$ 60,188.28

Selectman Hall motioned to approve the Warrant of November 24, 2015 for the amount of \$16,220.10 and the Warrant of December 1, 2015 for the amount of \$60,188.28. Selectman Cowan seconded the motion. VOTE: 4-0

9. Adjournment:

Selectman Cowan motioned to adjourn the meeting at 7:47 pm. Selectman Hall seconded the motion. VOTE: 4-0

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