

**North Berwick Board of Selectmen Minutes December 15, 2015**

**NORTH BERWICK BOARD OF SELECTMEN MINUTES  
DECEMBER 15, 2015**

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

**Also Present:** Dwayne Morin

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

**1. Pledge of Allegiance**

**2. Review and Approve Minutes of December 1, 2015**

Selectman Johnson, Jr. motioned to approve the minutes from December 1, 2015. Selectman Cowan seconded the motion. VOTE: 4-0 Abstain: 1

**3. Public Input:**

There was not public input at this time.

**4. Unfinished Business:**

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

Dwayne Morin stated that they are working on the budget. He stated that they received the health insurance numbers and they are increased by 8%. The retirement numbers are up 8-12 percent. He stated that the Maine State Retirement redid their system this year and this resulted in some pretty hefty increases.

**B. Junkyards: Sign Permits Approved Last Meeting**

Dwayne stated that they needed to sign the junkyard permits that were approved at the last meeting.

**C. Planning Board: Zoning Changes**

Dwayne stated that the last time that they were together with the Planning Board they had reviewed the questions that were going to be put on the ballot. Since that time, there have been two other things that have occurred. The first one is in regards to a demolition permit, which the Selectmen had discussed at a previous meeting. He stated that the Planning Board will be discussing it at their meeting on Thursday. Jim Marchese did a good job of putting together what a demolition permit should be. Dwayne included a copy of the proposed change and a copy of

the permit application for their review. Dwayne stated that the Board will need to decide what the charge for a demolition permit will be. He stated that Jim also indicated on the application what the applicant should be aware of when doing a demolition such as contacting Dig-safe and what to do if there are any hazardous wastes on the property. Selectman Johnson, Jr. asked if there was a reason as to why we would have to charge for it. Dwayne stated that he thinks a nominal fee should be charged that would help to cover administration costs. He stated that it is really not about making money but to make sure that they are keeping their records up to date for tax assessing. Selectman Cowan agreed that a nominal fee would be probably be a good idea.

Dwayne stated that when they met with the Planning Board, they had also discussed drive-thru franchise restaurants. The Planning Board had originally requested this change but after meeting with the Selectmen, they had decided to not go through with this change. However, at their meeting two days later, they decided to go ahead and put it before the voters. Dwayne said that he has spoken with one of the Planning Board members and also with Jim Marchese about it. Dwayne said that they actually did not say that they were going to put it before the voters but they wanted Jim to write something up so they could discuss it at their next meeting. Dwayne read what the Comprehensive Plan said:

Action: Amend land use ordinance to restrict franchise drive-thru restaurants.

The Planning Board stated that to restrict them does not mean to prohibit them. The Planning Board said that when they go through the Conditional Use review, they can restrict people from doing things. Dwayne stated that this is not what the intent of this was. He stated that when you write a Comprehensive Plan, there is a lot of wordsmithing that is involved. He stated that you never put the word prohibit in a Comprehensive Plan because it leads to lawsuits. So instead they use words like restrict or condition. He stated that there was no question that the idea was to limit drive-thru restaurants to the current locations that we had in the town. He stated that if we include it in the Commercial II zone this allows for expansion. Expansion is the exact opposite of limiting. The Planning Board member said that if a business like McDonald's wants to come to town, they can just not allow them. Dwayne told him that if they have it as a Conditional Use, it is allowed. The Planning Board could not say no. The only thing they can do is set conditions. He told them that they can put restrictions on it but they cannot restrict. He said that he doesn't think that the Planning Board understands this. Chairman Galemme stated that he has a hard time believing that some of the members do not understand this because some of them are in the industry. He said that he wonders why they bother getting together to discuss these things when they go back on their decisions after leaving the Selectmen meeting. Selectman Cowan said that she was very irritated because they totally want to violate the Comprehensive Plan. She thinks that it is crystal clear and that Dwayne's explanation to them the last time they met was absolutely clear. She said that she didn't hear any of them have any questions about what restrict meant. She feels that they are very clear about the meaning and said that they even stated that it was an error at the meeting they had with them. Now all of a sudden it is not an error and that it was intentional, so it leads her to believe that they thought that it just wasn't going to get noticed.

Dwayne stated that he is writing the Planning Board a memo and implore them to not pursue this change any further. He said that he has already told some of the Planning Board members that if

they continue to move this forward, he will recommend to the Selectmen to not put it through to the voters because it is in violation of our Comprehensive Plan. Selectman Folsom asked if this meant that it would restrict a pharmacy with a drive-thru coming in to town but Dwayne said that this issue was only for drive-thru restaurants. Dwayne said that they had already approved the change to allow drive-thru banks and pharmacies to be brought before the voters. Selectman Cowan stated that she didn't think that they had approved it. Chairman Galemmo said that he has been doing a lot of thinking about this issue. He said that they talk a lot about the downtown area being dead and that it is because of no traffic. If we look at how things are developing in this area and how many more people are moving into the area, we are becoming more suburban. He wonders what this area will be like 10 years from now. He said that if they want to bring any kind of business into the downtown area, what we need is a reason for people to stop and get out of their cars and walk. That will all happen up there on Route 9. He said that if they go ahead and allow these drive-thru's, then we are taking away what could be a reason for people to get out of their cars and start walking around. He said that they would be writing off the downtown area forever. He said that if we say we will have these drive-thrus, then we are saying that this is what Routes 4 and 9 are going to be. There will be no reason for people to stop, walk around or do anything. Selectman Cowan stated that she thinks convenience does have its price and that we need to be careful about balancing the decision to make things more convenient to people versus the quality of life that we all enjoy in this town. She agrees with Chairman Galemmo and she is revisiting this proposal too. She said that it is perhaps understandable if they were doing a drive-thru for a bank but, in her mind, if they go along with approving it for a pharmacy they could be opening up a whole new can of worms. Dwayne asked her how this would happen. She said that they would open the door for the whole drive-thru concept. Dwayne said that it wouldn't because we would be specifying exactly what is allowed as a drive-thru. Dwayne stated that he is fine with their position but he does disagree. He said that when you specify a certain land use, this is the whole idea behind zoning. He stated that for the 20 plus years that he has been here, the number one thing that people have asked for in this town is a pharmacy. He also stated that all of his discussions with the people that run pharmacies will not come here unless they can have a drive-thru. He stated that a bank will not open up a place here without a drive-thru either. He thinks that by restricting to certain land uses, you open it for that use but close it for anything else. He stated that the main reason for this proposal was for a pharmacy not a bank. He said that we don't have banks knocking on our doors. Selectman Folsom agreed with Dwayne and said that it was also a tax revenue. Dwayne said that as far as the quality of the construction, they have that under control now. We have enough meat within our Ordinance to regulate that. Chairman Galemmo stated that there are some pharmacies without drive-thru's but Dwayne said that they were very few. Chairman Galemmo said that he heard that the person that owns the pharmacy in South Berwick was looking to come to North Berwick. Dwayne said that he has had discussions with him.

Chairman Galemmo said that he doesn't think that they will get much tax revenue from this because most of these properties already have buildings on them so it would be a swap. Dwayne said that they would get some tax revenue because they get more for commercial buildings rather than residential. Dwayne said that it would build a commercial base and provide job opportunities within our community, but it would be more for convenience for our citizens. Dwayne stated that pharmacies are fueled by elderly so they are not looking to get out of their car and walk around.

Chairman Galemmo said that he would like to have businesses come in that would bring people to the downtown area. Dwayne said that the big problem with the downtown area is because there is no through traffic. He said that our Comprehensive Plan calls for our commercial to be on Routes 4 and 9. The 10 year plan that they created was to have commercial on Routes 4 and 9 and attached to the Village but away from it. Dwayne said that the reason that down towns used to flourish is because people didn't travel. They lived within their community. Now we are a mobile society. Most of the people in our town travel out of town for work. Selectman Cowan stated that she feels that this has been the case for a long time. Dwayne agreed and said that this is why the downtown has had a steady decline. Chairman Galemmo said that people still like a place to go walk around and go to shops. Dwayne said that you need an anchor in the downtown. Right now, there is Cumberland Farms. Dwayne said that if Cumberland Farms could move tomorrow, they would. Chairman Galemmo said that the things that will get people to our downtown are not going to be the things that they need. It will be them wanting to recreate. He said that if they are going to do anything with all of this, this is what they need to think about. He stated that South Berwick has some downtown with the ability to walk around. Dwayne stated that this is because they have two major routes that meet right in the center of their community. Unfortunately, our two major routes don't go through our downtown. Dwayne said that our two major routes will go through our downtown because our downtown is shifting. That is the way the Comprehensive Plan was written and that is what the Town wanted so we are following the Plan. The first thing was to change our zoning which we did. The next part was to implement changes to go along with that.

Chairman Galemmo stated that they still need to discuss changing the term limits for the Planning Board members. Selectman Cowan said that there needs to be a good balance and she doesn't feel that there is one right now. Chairman Galemmo said that they want to make this change that is against our Comprehensive Plan. They have also said that they will periodically bring up the internally lit signs. He said that they just want to pick these things apart. Dwayne stated that the internally lit signs was never in our Comprehensive Plan. Selectman Johnson, Jr. asked when the Comprehensive Plan expires. Dwayne said that it doesn't really expire. You review it every 10 to 20 years. Chairman Galemmo stated that there are a good number on the Planning Board that would like to see just about anything done. Dwayne said that there are a number of the members that are pro development. Dwayne said that the majority of the people that he talks to in town are pro development but they want to see it with controls.

Selectman Hall asked what the process would be from this point if the Planning Board chose to still go forward with this proposal. Dwayne said that it would come before the Selectman and they can say that they will not send it to be voted on. Dwayne said that if they still want to move it forward, they could go by way of petition. However, the way the petition reads, it states that it must go through legal counsel review. He said that our legal counsel review will say that it is against our Comprehensive Plan so it still would not go forward. The legal backing for our zoning is our Comprehensive Plan and they cannot conflict. Chairman Galemmo stated that anything that goes before the voters to vote on, the Selectmen need to approve it and they can choose not to. He stated that they have done so in the past and Dwayne said that they have also added things. He said that if the Planning Board didn't agree with the Selectmen's proposal, the Selectmen can say they are adding it anyway. Selectman Cowan said that they have allowed for

the Planning Board's voice to be heard on the ballot as far as what the Planning Board supported or didn't support. She feels that the Board of Selectmen have more than tried to accommodate the Planning Board and try to be inclusive with the Planning Board, but she doesn't feel that it is reciprocated. Dwayne said that, from his perspective, he does not want to see Boards in conflict. He stated that the whole reason that they started these meetings was because there was conflict. The whole reason that they said they were going to meet every year on the first meeting in December was to work out these differences. It does nobody any good for the Selectmen and the Planning Board to be in conflict. It is very counterproductive. Selectman Cowan asked Dwayne if he had told the Planning Board members that and he said that he has and they will hear it again at their next meeting. Chairman Galemme agreed that conflict is not good and that is why they meet with them. Dwayne stated that difference of opinion is also good because it brings things about. Selectman Folsom said that it has happened in the past and she does not really want to see that again. Selectman Cowan said that she thinks that there are people now on that Board that seem to be of very similar mind and they appear to be unwilling to work with them. Selectman Folsom said that the Selectmen still have control over what the Planning Board does. Selectman Cowan agreed with that but she stated that when you see this kind of response after Dwayne spent a lot of time laying it out for them and then just two days later they change their minds, it looks like it is intentional. Chairman Galemme stated that ultimately, the Board of Selectman are the ones in charge and we appoint them. When we have a Board, where he feels that a good number of the members are doing things that violate strategic plans and make comments like, "whatever we put before the voters, they will vote for it", and seem to have a disregard for what the people want and are pushing forward an agenda of their own, that is something that the Selectmen need to consider when we look at the makeup of that Board.

Selectman Hall stated that he feels that the issue is the members on the Board. He said that he doesn't know any of them or what they believe. He said that Dwayne is looking to have the Selectmen approve two members tonight. Chairman Galemme said that they can have the members up for new terms come in and be interviewed.

**Reminders: Next Board of Selectmen's Meeting** – January 5, 2016 – 6:30 pm Municipal Building

## **5. New Business:**

**A. Planning Board:** Review Applications from Geoff Aleva and Matthew Qualls for Membership

Dwayne stated that there are two terms that are up as of December 30, 2015. Dwayne said that every year at the beginning of December, he looks to see what terms are up. He sends them a letter to see if they are interested in being reappointed. He sent one to both Geoffrey Aleva and to Matthew Qualls. Matthew Qualls brought in his application yesterday. Dwayne said that he has only been on the Board for about a year because he just filled in the term that had expired at the time. Geoffrey Aleva sent him an email stating that he was still interested on being on the Board. He has been on the Planning Board since 2012. Chairman Galemme asked if they change the terms, can they make it so that even existing members would have the new terms. Dwayne said that they could not. It would only be for newly appointed members after they

change the terms. Selectman Hall asked if they change the terms before discussing reappointing these new members. Dwayne said that if they did that they would go without 2 members on the Planning Board, which they can do if the Selectmen choose to do so. The only problem with having 5 members on the Board is that there will be nights when there will be no quorum so that would mean that nothing could happen. Selectman Cowan asked what the process would be if they wanted to move forward with changing the terms. Dwayne said that it would have to be a Town Meeting vote. Selectman Johnson, Jr. asked what it was that they wanted to change the terms to and Dwayne said that it was from 5 years to 3 years.

Selectman Cowan motioned to direct Dwayne Morin to write up a change to the zoning laws to change the terms for the Planning Board members. Selectman Hall seconded the motion.

Selectman Hall asked if they could put something before the town that would say that this year's appointments would be contingent to any town vote decision and Dwayne said that they could not. Chairman Galembo said that he would like to table the current applicants until they can talk to them and possibly entertain any other applicants if there are any. Selectman Johnson, Jr. asked how somebody applies for the Planning Board. Dwayne said they just need to come in to see him and fill out an application. Selectman Hall asked if they could temporarily elect people and Dwayne said no. Chairman Galembo said that all of the other Boards are for 3 years so he is not sure why the Planning Board is for 5 years. Dwayne said that our Ordinances are very elderly and were drafted years ago and that is what they had for the Boards. He said that it was just more recently that terms started to change to 3 years.

VOTE: 5-0

Dwayne is looking through the Ordinance to find where it states what the term limits are so he can show the Selectmen. The Selectmen all agreed that they should have Geoffrey Aleva and Matthew Qualls come in to meet with the Selectmen. Dwayne stated that the term limits might be in the Planning Board By-laws which would be easier to change. He went down to the office to get a copy of them for the Selectmen to review. The term limits are part of the By-laws and not the Ordinance. Dwayne passed out a copy of the By-laws to the Selectmen and asked them to look on Page 3. The last sentence states, "These by laws may be amended by a two-thirds vote of the entire membership of the Planning Board.". Dwayne stated that he would like to review this with the attorney because By-laws should be amended by the Board of Selectmen. Selectman Cowan said that the Board of Selectmen supersedes the Planning Board anyway. Dwayne said that he is guessing that the Board of Selectmen approved these By-laws at some point. Selectman Cowan stated that this means that they can also disapprove the. Dwayne said that he needs to check to see what the process is for this to happen. Dwayne said that they should probably issue a statement to the Planning Board that they would like to change the terms to three year limits.

Selectman Cowan motioned to table the appointments until Dwayne has looked into how to change the term limits for the Planning Board. They would still like the two applicants to be present at the January meeting. Dwayne said that this means that they will be down to 5 members because their terms expire in December. These two applicants will not be able to take part in any meetings until after they are appointed. Selectman Cowan asked when the next

Planning Board meeting was and Dwayne said that it is on January 14<sup>th</sup>. Since they will be here on the 5<sup>th</sup> for the Selectmen meeting, this will still allow time for them to be appointed before the next meeting. Dwayne also stated that they had discussed term limits with the Planning Board when they met with them last year and they were all in agreement with changing them. Dwayne would like to talk to our legal counsel about the part where it states that the By-laws can be amended by the Planning Board and not the Board of Selectmen. He stated that not only the term limits would have to be changed in the By-laws but it should also state that the By-laws can be amended by the Board of Selectmen.

Selectman Johnson, Jr. seconded the motion. VOTE: 5-0

**B. Zoning Board of Appeals:** Review Applications From Craig Linscott, Todd Hoffman and Tim Kezar for Membership

Dwayne stated that they have three members that are up at the end of December and all of them want to come back. Tim Kezar has filled out the application. Craig Linscott and Todd Hoffman have sent him letters. Their terms would expire in 2018. Selectman Hall asked if we could have these applicants come in to meet with the Board and Dwayne said that they could.

Selectman Hall motioned to have Tim Kezar, Craig Linscott and Todd Hoffman come to a meeting to meet with the Selectmen. Selectman Johnson, Jr. seconded the motion. VOTE: 5-0

**C. William Hill Firefighter Assoc.:** Accept Donation of Tools for Fire Department

Dwayne said that the William Hill Firefighter Association has been buying a lot of stuff for the Fire Department. It is actually part of their charter to raise money to help defray the costs of items so we don't have to pay for it out of taxation. They just purchased a 5 piece tool kit for the fire truck and they are donating them to the Town. The Selectmen just need to accept the donation.

Selectman Folsom motioned to accept the tool donation from the William Hill Firefighter Association. Selectman Cowan seconded the motion. VOTE: 5-0

**D. EMA:** Discuss New EMA Director Appointment

Dwayne stated that at the last meeting he had mentioned that Mike Kelewae had submitted his resignation as EMA Director effective January 1, 2016. He had recommended that Mike Barker be appointed to the position. Dwayne spoke with Mike and he is willing to take over the EMA Director volunteer position. Dwayne spoke with the Fire Chief and the Police Chief to get their feedback and they had no reservations whatsoever.

Selectman Folsom motioned to approve Mike Barker to be the new EMA Director. Selectman Hall seconded the motion. VOTE: 5-0

**E. Assessing:** Discuss Potential Changes in the Agreement with South Berwick

Dwayne stated that we share an Assessor with the Town of South Berwick. The way that the agreement is structured is that we pay 2/5 of the cost and they pay 3/5 of it. They get the Assessor 3 days a week and we get him 2 days. However, there are situations when it comes to holidays and vacations, we may not get him 2 days a week. The contract called for the Managers to meet on a quarterly basis to discuss the schedule. He stated that they would meet on a yearly basis to discuss it and make any changes. Three years ago, the South Berwick Town Manager came to Dwayne and said they felt that we were getting more of his time than what they were getting. The Assessor works for South Berwick Monday, Thursday and Friday and we had him on Tuesday and Wednesday. The Manager said that most of the holidays fall on Monday. When this happens, he would like to have him on the Wednesday after the holiday four times a year. Dwayne agreed to this. The following year, he approached Dwayne again and said that they would like him six times a year and Dwayne agreed to this as well. This year, the Manager came to Dwayne and said that the Assessor is now at the level of 4 weeks of vacation, he wanted 8 days per year. Dwayne went through the calendar and he felt that we owed him 9 days. He said that there were 6 Monday holidays. He said that in March, April and May, the Assessor could pick a Wednesday to work in South Berwick. Dwayne received an email from the South Berwick Manager saying that they had figured out the first quarter and everything balanced out and that we were going to owe them some hours in the second quarter. Dwayne replied to him that originally they had asked for 8 days and we went ahead and gave them 9 days so everything should balance at the end of the year. To try and figure it out by hours it almost impossible because it does no town any good for the Assessor to be here for 1 hour and there for 7 hours. Dwayne said that he doesn't really care as long as the work is getting done. The South Berwick Manager emailed back stating that he wanted to change the schedule. He wants us to have Mondays and Tuesdays or Thursdays and Fridays. Dwayne told him that when they first signed the contract, we were going to take him Monday and Tuesday but South Berwick asked us to take him Tuesday and Wednesday. He stated that the reason for this was with Monday holidays, it would allow us to still have him one day out of the week and they would still get him 2 days. Also, South Berwick is closed on Wednesdays so they didn't want him there when they were closed and we are only open on Fridays until 1:00 so we did not want Fridays. Dwayne talked to the Assessor about working here on Monday and Tuesdays instead of Tuesdays and Thursdays. Craig, the Assessor, said that he thought that it was working fine now but he would do whatever.

Dwayne just wanted to see how the Selectman felt about it. Dwayne said that he ran the numbers for the next three years and if we took him on Mondays and Tuesdays, it would actually work out the same. We would lose 9 Mondays because of how the holidays fall next year. Dwayne said that his only concern was personnel wise because we have a split person in the office so right now Craig gets to work with both of them during the course of the month. If he goes to Mondays and Tuesdays, he will only interact with one of the employees. Selectman Cowan stated that if we have this nice working relationship that has been established and has been in effect for a while and Dwayne has gone above and beyond to try and accommodate them, why should we have to change again. She feels that at some point we need to make some demands. She asked Dwayne what his preference was and he said that he had none.



## **6. Other Business:**

Dwayne wanted to give the Board an update on the sign issue. He sent our Sign Ordinance to the attorney for them to review and see how we can make it comply with the recent Supreme Court decision. He said that it is going to be a very difficult process to get our Ordinance to comply with the Supreme Court decision. He said that it will most probably be a multi-year change. He stated that when you look our Sign Ordinance under Section 5.2.6, we have 24 items. He said that 7 of the items need to go away. We need to get rid of all of our temporary signs and combine all into one standard for all temporary signs. The standard needs to be a size, a duration and a location. There is no content rule anymore. He said that the Selectmen had discussed feather signs and banners in the past. These fall under the description of a temporary sign, unless we want to ban them. He stated that we could ban the feather signs but we couldn't ban the banners because they kind of go along the same line as signs. We can do other things. We can relegate them to only certain zones or prohibit them from certain zones. We can say that they can't have more than one sign within so many feet. Chairman Galemme stated that he would rather ban them than do all of these other things. He said that instead of looking at the types and dimensions of signs, maybe we should look at what the purposes are for putting up the sign. Dwayne said that they can't do that anymore because it is illegal. Dwayne said that signs have always been done because of land use and because of purpose. The Supreme Court decision stated that you can no longer do it for purpose. Chairman Galemme said that we should look at all of the purposes that we use temporary signs for and try and find something that fits for all these purposes. Dwayne said that in regards to duration, we need to actually specify a time period. He said that it will read something like this: Temporary signs can be located at least 8 feet beyond the white line, that they can be X number of square feet in size and they have to be removed within a reasonable time after the event is done but no more than X number of days. Selectman Cowan asked if we could limit the total number. We can limit the number of signs by overall square footage. He said that we can say that they can't have more than so many and a distance.

Selectman Cowan asked when we are going to be specifically addressing this. Dwayne said that the attorney will have a memo that he can present to the Planning Board on Thursday night. Dwayne thinks that the easiest thing to do is call it whatever square footage they want, that it meets all of the setbacks that we already have in our Ordinance and that they have to be removed within a certain amount of days after the event. Chairman Galemme said that he would like to see the time after the event be shorter rather than longer. Dwayne said that the attorney would rather state that the sign can be up for a certain amount of days instead of specifying that they need to be down a certain number of days after the event. The attorney's concern is who determines the date.

**7. Review and Approve Warrants and Correspondence:**

Warrant:	December 8, 2015	- \$	0.0
Warrant:	December 17, 2015	- \$	615,287.18

Selectman Hall motioned to approve the Warrant of December 17, 2015 for the amount of \$615,287.18. Selectman Folsom seconded the motion. VOTE: 5-0

**8. Adjournment:**

Selectman Folsom motioned to adjourn the meeting at 8:25 pm. Selectman Johnson, Jr. 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