

North Berwick Board of Selectmen's Minutes: September 9, 2014

NORTH BERWICK BOARD OF SELECTMEN MINUTES SEPTEMBER 9, 2014

Present: Chairman Danforth, Selectman Drew, Selectman Folsom, Selectman Galemmo, Selectman Cowan

Also Present: Dwayne Morin, Qiana Qualls, Richard Braly, Sharon Braly, R. Beames, Paul N. Pelletier, Susan M. Denike, Cortney Beamis, Stephen Santos, Kristen Marchant, Jay Boston, Bob Boston, Sandy Cannan, David Cannan, Matthew Qualls, Carole Strynar, Irving Strynar, David Elmore, Erin P. O'Brien, Richard Brunelle, Jr., Karen Mathis, Flint Hutchinson, Kerry Briggs, Peter Kellman, Doris Seavey, Claudy Boy, Rebekah Yonan, Victoria Bradburn

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

1. Pledge of Allegiance

2. Review and Approve Minutes of August 19, 2014

Dwayne Morin stated that he made a couple of minor changes. Under Section D, Animal Control Ordinance in the third paragraph, he changed a couple of phrases. The third sentence read "However this is for a commercial farm and these people have just a homestead farm." It should read, "However this is for a commercial farm and this family have just a homestead farm.". The last sentence in this paragraph currently reads, "These people are just farming for themselves.". It now reads, "This family are just farming for themselves.".

Selectman Galemmo motioned to approve the minutes of August 19, 2014 as amended. Selectman Folsom seconded the motion. VOTE: 3-0 Abstain: 2

3. Public Input

No public input at this time.

Chairman Danforth stated that they would move ahead to Section 5B.

5. New Business

B. Animal Control Ordinance: Discussion on Qualls Proposed Change

Chairman Danforth stated that it was about a proposed change to the Animal Control Ordinance. Dwayne Morin stated that on Page 20 of the packet was a proposal from the Qualls to make an amendment to the North Berwick Animal Control Ordinance. Qiana and Mathew Qualls stepped forward and stated that they live on Ford Quint Road. Mrs. Qualls stated that their neighbor has lodged a complaint about their rooster crowing. She stated that they have made several concessions such as moving the rooster closer to the house. Chairman Danforth asked her how many acres they had. Dwayne stated that they have about 20 acres that are shared between them and her parents, Richard and Sharon Braly. Mrs. Qualls stated that the neighbor that lodged the complaint lives across the street from them. Selectman Folsom asked if the chickens were in an enclosed area. Mrs. Qualls stated that the rooster is in a coop and stays in there until about 8:00 in the morning because of the situation with the neighbor. She stated that the rooster is kept in a fenced in area when let out of the coop.

Mrs. Qualls went through some reasons why they want to have a rooster. She stated that they provide protection for the rest of the flock. They herd the chickens to a safe spot if there is danger in the area. They also provide reproductive services for maintaining their own flock so they don't have to purchase chick every year. She stated that they don't believe that this ordinance was ever intended to stop farmers from having livestock on Farm and Forest zoned land.

Mrs. Qualls also wanted to bring some points of interest to the Board's attention as to why they feel this ordinance is important to the town. She stated that since the time of the Ordinance's creation, several changes have happened in the agricultural world. There is an increase in food insecurity, especially in Maine. She is a volunteer with the Maine Cooperative Extension and she works specifically with Maine Harvest for the Hunger. She goes out to farms and has them provide food to local food shelters. She stated that it is turning into quite an organized effort from larger farms in the area. The food pantries themselves are coming together and helping to pick up the food from the farms.

She stated that there is also increased interests in the future growth of Maine Agricultural Sovereignty. There are several State initiatives that will allow Maine less dependence on interstate commercial produce which is a shared vision of Maine Farm Land Trust, Maine Department of Agriculture, University of Maine Cooperative Extension, MOFGA and several Conservation Trusts. She stated that the term that they are associating with this initiative is to have Maine known as the "Bread Basket of New England". She stated that since Maine has such a large land base and a huge potential for farming, they are hoping to provide 50% of Maine's food consumption as a goal of these initiatives.

She also stated that there is a movement for sustainable agriculture that would allow local farming to increase the number of farming families. Sustainable agriculture means trying to make a good living from the land, but leaving the land in a good or better condition than before. She stated that part of this is using animals to help maintain the quality of the soil of the land to

grow more nutritious food. There is also a trend of young farmers and homesteaders settling in Maine. She stated that the local food movements that show increase in numbers of local Farmers Markets, including our own local Farmer's Market.

She also stated that as fossil fuel prices increase, it will be more economical to keep money in our own community. Mrs. Qualls also said that several people have mentioned to her that the Ordinance is a Farming unfriendly Ordinance. They believe that their proposal can help protect North Berwick's future agricultural growth and support Maine's growing AgEconomy.

Matthew Qualls stated that because of this noise Ordinance, the neighbor has filed complaints. This has required the police to come out multiple times and tell them that they will be fined if the neighbor keeps filing complaints. He stated that they won't even be able to have any animals if the neighbor is going to call the police every time a rooster crows or a cow moos.

Selectman Galembo asked if they were a commercial farm and Mr. Qualls stated that they were not at this time. Mrs. Qualls stated that this is a goal of theirs but it is hard for somebody to jump right in and become a commercial farmer.

Selectman Cowan asked them if this was the first time that they have had an issue with this neighbor. Mrs. Qualls stated that it was a friendly relationship prior to this complaint. Mr. Qualls stated that they had 17 roosters last year and there was no complaint. Mrs. Qualls parents, the Braly's, stated that they even hired him to do some work on their house. Chairman Danforth asked how many roosters they used to have. Mr. Qualls stated that they had 17 last year. At the time of the complaint they had 2 and now they have only one. Selectman Folsom asked if the roosters were the meat supply. Mrs. Qualls stated that they were and the chickens are used for the eggs.

Selectman Cowan asked if they had met with the neighbor to try to discuss the situation and try to find some common ground. Mrs. Qualls stated that when the neighbor initially spoke to the police, he was encouraged to meet with them beforehand, but he refused to do so. Mr. Qualls stated that he went around to all the neighbors to discuss the situation because they didn't know who had filed the complaint at first. When Mr. Qualls did speak to this neighbor, he was told that he hadn't moved there to hear roosters because he didn't like the sound of them. The neighbor stated that their crowing was taking away his right to hear nothing and live peacefully on the mountain.

Somebody (did not state their name) stepped forward and stated that they moved in that area because it was zoned Farm and Forest. She stated that if the neighbor wanted to live some place where there was no sound then the woods would probably have been a better choice.

Kerry Briggs stated that he read the Ordinance and it is clear to him that when it was written 20 years ago, it referred to dogs. In one paragraph alone, it refers to dogs at least six times. He stated that this was probably an issue at the time, but he doesn't feel that it applies anymore. He stated that it becomes an issue of where we draw the line. Is someone going to have a problem with cows or coyotes at night? Chairman Danforth asked Dwayne how much of the town was zoned as Farm and Forest and Dwayne said that it was about 50%.

Selectman Galemmo agreed that when the Ordinance was written it was more for dogs. He stated that if he lived in Farm and Forest, he would expect to hear livestock. Selectman Cowan agreed. Selectman Galemmo asked if the next step was for the Board to accept their proposal and include it on the ballot and Dwayne said that it was. He stated that the Ordinance stays the same until the Town votes on a new proposal. Dwayne stated that there are two ways that the Ordinance can be changed. The Board just takes it and runs with it or they can require a petition to bring it forward. A petition would require 199 signatures to move it to the ballot. He stated that if the Board takes on the change then there would be a couple of public hearings sometime this winter and then the Town would vote on it in April. Selectman Drew stated that it would be easier for the Board to push it forward rather than have them get a petition.

Selectman Drew motioned to accept the proposal and move it forward for a vote. Selectman Galemmo seconded the motion.

Selectman Galemmo stated that they are just adding a change to Section 1.1 which states the following:

Exception: Livestock (including poultry) as permitted in the Farm and Forest Zoning District as designated and defined in the North Berwick Zoning Ordinance.

Selectman Drew asked Dwayne if he had reviewed this proposal and Dwayne stated that he is the one that wrote this exception.

VOTE: 5-0

Dwayne stated that there would be two public hearings. One would probably be in either January or February and the second one would be in March. It would then be voted on at Town Meeting on April 4th.

Someone (they did not give name) asked what the Qualls could do for the time being so they wouldn't get in trouble. Chairman Danforth stated for now they need to follow the current Ordinance. Dwayne stated that they had not had another complaint since the last time but the Qualls stated that there was another one.

Selectman Galemmo stated that they should probably get it going as soon as possible. Dwayne stated that he will see about setting up the first public hearing at the second meeting in October. He will need to see if the Community Center is available. Peter Kellman asked why they would need to do the petition since the Board just voted to move it forward. Selectman Galemmo stated that it is just as a precaution. The Board needs to vote again to actually put it on the ballot. If there is some major issues that come up at the Public hearing that would make the Board vote against putting it forward, than it would give the Qualls some time to get the signatures on a petition and try and put it on the ballot that way.

Rebekah Yonan stated that she would like to see the Board come out and strongly support agriculture in our town. Chairman Danforth stated that he thinks that they have stated this

tonight with their vote. He stated that they have been in strong support of the Farmers Market as well. Selectman Galemme stated that being in the food business, he does try to buy locally and buy fresh food because it is definitely better for you.

Another audience member (they did not give name) stated that Mrs. Qualls is one of the master gardeners at the Elementary School. He stated that when he mentioned to his six year old son that there was this problem, his son asked "What neighbors?". He stated that is a ridiculous notion because they live so far back from the road. It was absurd to a six year old that there could be this kind of complaint. He stated that they farm enough to share their crops with neighbors, friends, food pantries and schools. He stated that these are the type of people that we want in this Town and are an asset to this community.

Several people voiced concerns about any consequences that the Qualls may face if there are further complaints. Peter Kellman stated that they could always hold a special Town Meeting if they are having issues. It could be used as a last resort. Someone asked if somebody from the Board or Dwayne could talk to the Police Chief about the situation and see if they could allow the Qualls some leeway if there are future complaints. Dwayne stated that he would highly discourage that because the Board are not allowed to dissuade the Police Department in any way.

4. Unfinished Business:

A. Canoe Launch: Update on Progress

Dwayne stated that there is nothing new to report at this time. He stated that he was going to go down there tomorrow with Mike to stake it out.

B. Roads: Update on Road Projects

Dwayne stated that they are still working on Beech Ridge Road. They still need to finish the shoulders. He stated that they had a few other issues come up during the summer. When they had a lot of rain, it caused a lot of washouts along the road so they have also been working on these areas. They will then go on to Hartford Lane. He stated that they vastly went over their budget on Beech Ridge Road. He thinks that it is at about \$4,000 over right now but he has not received all the bills yet. The tree cutting was more than they expected and also they had a lot of culverts to replace. He stated that they saved money on gravel. He thought that they were going to spend about \$50,000 on gravel but they actually spent about \$45,000.

C. Mill Field: Gazebo Repairs

Dwayne stated that the gazebo repairs are all done. He stated that they also bought a camera system and he set it up in his office to test it out before installing it in the gazebo. He stated that everything worked fine. They spent 2 hours today installing the cameras and found that the DVR doesn't work. He is now trying to get a replacement DVR. Selectman Cowan asked if there should be a sign stating that there are cameras there but Dwayne stated that they did not need to so they were not going to put any up. He is sure that the word will spread fast.

D. Tax Liens: Release of Day Property

Dwayne stated that back in March, the Board signed an agreement with Mr. Day regarding his property. He stated that Mr. Day has paid off on the agreement so a motion is needed to sign the release deed.

Selectman Galemmo motioned to sign off on the release deed for the Day property. Selectman Folsom seconded the motion. VOTE: 5-0

Reminders: Next Board of Selectmen's Meeting – September 23, 2014 – 6:30 pm Municipal Building

5. New Business:

A. Commitment FY15: Sign County Tax Declaration

Dwayne stated that at the last meeting when the Board did their commitment for the Town, they forgot to sign the County Commitment. The Board signed the paperwork.

C. MPERS: Letter to MPERS Regarding Part Time Employees Benefits

Dwayne stated that since 1992, they were told that when somebody gets hired by the Town of North Berwick and work for more than 16 hours a week over the course of a 52 week year, they will be eligible for Maine State Retirement. Since that time, they have been offering it to all the employees that meet this criteria. When they submitted the paperwork for the recent hire, they said that, according to their records, only full time employees are eligible to collect. Dwayne told them all of the people from our Town that are currently offered this benefit. They told him that they see where there was a box that was unchecked but they have no record of that. Dwayne researched this and found notes back in 1992 that stated that any employee working at least 16 hours a week would be eligible. They are asking for a letter from the Board of Selectman that states that the Town of North Berwick offers retirement to anybody that works over 16 hours. Dwayne drafted a letter and it reads as follows:

It has been the Town of North Berwick policy to offer retirement benefits to any employee who averages 16 hours a week over the course of a 52 week period. This determination was made in 1992 after discussions with the retirement system regarding eligibility. MPERS will note that employees who averaged more than 16 hours have been in the system since this time period and the Town purchased time for employees for whom contributions were not made.

The Town of North Berwick Board of Selectmen requests that this letter be filed to reflect the policy of the Town of North Berwick as MPERS has differing information within their system.

Selectman Cowan motioned to accept the letter to the MPERS as written. Selectman Galemmo seconded the motion. VOTE: 5-0

D. Fire Department: Red Light Authorization for Philip Amato

Dwayne stated that the Fire Chief is requesting for Philip Amato to operate a red light within his personal vehicle.

Selectman Folsom motioned to accept the request for Philip Amato to operate a red light in his personal vehicle. Selectman Cowan seconded the motion. VOTE: 5-0

E. Holiday Flags: Review Proposal

Dwayne stated that last year, the business association decided that the wreaths that were being used during the holiday season were no longer viable. They were asking what could be used for the holiday season this year. Dwayne stated that they have looked into flags but the traditional flags need to be bolted around the pole. The hardware for this is expensive and we would also need to get permission from Central Maine Power to attach them to the poles. He stated that we already have flag pole holders, which CMP has already given permission to use so he said that they are looking at banners that are angled. Kathy Pease has been looking into it and she found a company that makes these angled banners. The other thing that they need to decide on is whether to have single sided banners or double sided banners. The single sided signs are \$44 and the double sided ones are \$92 and the poles are \$14 each. He showed the Board an example of each of them that he received from the company. He stated that the single sided one is very lightweight and thin and he is concerned on how long it would last. Chairman Danforth asked if they would fade and Dwayne stated that the single sided one would fade more quickly. Selectman Cowan stated that she liked the thickness of the double sided banner.

Selectman Galemme asked if there was money in the budget for this and Dwayne stated that they did not have a budget for this. He stated that they would need to take money from a few different sources. Selectman Cowan asked if all of the designs were the same price and Dwayne stated that they were. He stated that they were looking at getting three different designs and alternating them around town. Dwayne stated that they could use some money from Parks and Rec and also take some from undesignated funds. Dwayne stated that he would recommend getting the double sided ones so they would last longer. He stated that he is not looking for a motion now because they need to hear back from Parks and Rec and see how much they can give. Selectman Drew asked if they could have them say Welcome to North Berwick on all of them. Dwayne stated that he thinks it does not cost extra but he will find out. He stated that they would put them out right before Thanksgiving before the Christmas tree lighting and take them down some time after Christmas.

6. Other Business – Executive Session – Poverty Abatement

Selectman Cowan asked Dwayne if there was an update on Hannaford. Dwayne stated that when they spoke with Hannaford about three weeks ago, they had said they were going to start within two weeks. They have until October 13th to start. After that, their permits are no longer valid. Dwayne stated that they also told them that they would come back before the Planning Board because their corporate offices have changed what they want for a building. Dwayne did tell them that if they come back, they will have to meet the criteria for our new zoning requirements.

Selectman Folsom motioned to enter into Executive Session at 7:50 pm. Selectman Cowan seconded the motion. VOTE: 5-0

The Board came out of Executive Session at 8:20 pm.

Selectman Galemme motioned to deny the property abatement numbered 2014 #1 based on failure to meet the poverty requirement. Selectman Folsom seconded the motion. VOTE: 5-0

7. Review and Approve Warrants and Correspondence

Warrant:	August 26, 2014	- \$ 10,149.69
Warrant:	September 2, 2014	- \$ 7,114.07
Warrant:	September 9, 2014	- \$ 57,532.17

Selectman Cowan motioned to accept the Warrant from August 26, 2014 for the amount of \$10,149.69, the Warrant from September 2, 2014 for the amount of \$7,114.07 and the Warrant from September 9, 2014 for the amount of \$57,532.17. Selectman Folsom seconded the motion. VOTE: 5-0

8. Adjournment:

Selectman Drew motioned to adjourn the meeting at 8:30 pm. Selectman Galemmo seconded the motion. VOTE: 5-0

Respectively submitted,
Susan Niehoff, Stenographer

Original to Town Clerk

Chairman: Paul Danforth

Selectman: Charles Galemmo

Selectman: Elaine Folsom

Selectman: Gregg Drew

Selectman: Wendy Cowan