

North Berwick Board of Selectmen's Minutes: July 16, 2013

NORTH BERWICK BOARD OF SELECTMEN MINUTES JULY 16, 2013

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

Absent: Selectman Drew

Also Present: Dwayne Morin, Mike Cote

Chairman Galemmo opened the Board of Selectmen's Meeting at 6:33 pm.

- 1. Pledge of Allegiance**
- 2. Review and Approve Minutes of July 2, 2013**

Selectman Cowan motioned to accept the July 2, 2013 minutes. Selectman Folsom seconded the motion. VOTE: 5-0

- 3. Public Input**

No public input at this time.

- 5. New Business:**

- A. York County:** Meeting with Commissioner Michael Cote

Chairman Galemmo stated that Michael Cote from the York County Commissioners was here to meet with the Board. Dwayne Morin stated that he asked Mike to be here tonight because of the letter that was received from the Budget Committee, which he mentioned at the last meeting. The Budget Committee refused to sign the Ethics Policy that the Commissioners had passed. He invited Mike to come in and give the Board the Commissioners view about their new Ethics Policy. Mr. Cote asked the Board if they had any specific questions and he would try to address them. He also stated that since this would probably be in litigation, he was limited as to what he may be able to answer.

Selectman Cowan asked as to why this request was being made to the Budget Committee. He stated that he needed to give a little history about the issue before answering this question. He said that he just started in this office on January 1st. Prior to his coming on Board, there are a lot of things that had happened between the Budget Committee and the County Commissioners. He said that about a year and a half ago the Commissioners voted to cut off funds to various social services agencies. The Budget Committee tried to bring back the York County Shelter Food Pantry. The Budget Committee put this in their Budget. He states that there were a couple of people on the Budget Committee that the Commissioners felt had issues. One of them was John Sylvester because his wife works at the Shelter. The other one was Joe Hanslip who is Chairman of the Board and President of the Shelter. Mr. Cote stated that he believes that they disclosed that they had these connections, but he thinks that they still voted on it. Dwayne stated that John had not voted on it. The Ethics Policy was adopted by the County Commissioners on October 3, 2012. He stated that he was asked to sign it when he was elected and he did so. He then stated that while he was still running for office, there was some talk that the Commissioners wanted to call a caucus. He states that he disagreed with this. In reading the Statutes, he specifically states that the municipalities will caucus and select their members to the York County Budget Committee. Mr. Cote feels that this is not a County function but a municipal function. He states that it is his personal opinion that County Commissioners have no business being involved in caucuses. He states that he has spoken to the Chairperson, the Manager and at least one other Commissioner, and they all agreed that they are not going to get involved in it.

Regarding the rest of it, the Ethics Policy was formed and the Budget Committee members were asked to fill the disclosures out, sign them and acknowledge it. They didn't do it. The Commissioners had a meeting with them in February and the Commissioners attorney explained to them where it differs from municipal to county, etc. After this, there was still no action taken so the Commissioners voted to get it in motion, which led to a Censure Hearing that was held last Wednesday. If the Budget Committee members do not sign the Ethics Policy, they will be censured. He states that the Attorney says that the Commissioners do have the authority to do this. The Budget Committee's Attorney does not think they have the authority to do this.

Mr. Cote states that prior to the Censure Hearing, he spent a lot of time reviewing the Ethics Policy. It is modeled after the City of Bangor's policy. The one thing that kept coming back to him was the fact that they did not have an Ethics Committee or Board. He feels that the Budget Committee does not trust the Commissioners because they feel that the Commissioners will use this policy to control them. He states that he spoke to the other Commissioners about introducing an Ethics Board. His idea is a five member panel, one from each of the five districts. They should have no connection to municipal or county government. There would be quite an application process for them to go through. He states that they would be a recommending Board, but if someone had an issue, they could bring it up. He states that the way the City of Bangor policy works is that if the majority of the Counsel says that there is something that needs to be looked at, it goes to the Ethics Board. The Ethics Board investigates the complaint and makes the decision.

Mr. Cote stated that he voted not to do the censure. Selectman Danforth asked how the vote had gone and Mr. Cote stated that it was 4-1.

Selectman Folsom asked if the County Commissioners have bylaws that they need to follow and if they have the authority to do this. He states that Title 30A, Section 101, Commissioner's Duties, under Section 6A, Ethics Policy it states: "In their discretion, the County Commissioners can adopt an Ethics Policy governing the conduct of elected and appointed County officials." This was adopted in 1981.

Chairman Galemmo stated that he thought the Budget Committee objected to the Ethics Policy because it stated that if they were found violating it, the Commissioners could then change the vote they had made. Mr. Cote stated that this was correct. Chairman Galemmo then asked how they could create a policy that supercedes State law. He also stated that they can create an Ethics Policy but you cannot rewrite State law in that Ethics Policy. Mr. Cote stated that there is a clause in the policy that says if there is a State law that is different, it would supercede their Ethics Policy.

Dwayne Morin stated that the big issue is lack of trust between the Budget Committee and the Commissioners. Dwayne stated that there is really only one line in the Policy that is a problem. It states: "All votes of conflict of interest questions shall be recorded. The majority vote shall determine the question, but a vote by Committee, may later be reviewed, modified or reversed by the County Commissioners upon the County Commissioners' consideration of the same agenda item." Dwayne feels that if this one line were removed from the Ethics Policy, there would be no issues. He said that Mr. Cote had mentioned that if the Commissioners felt there was some conflict of interest, they would send the issue back to the Budget Committee and have them do another vote without the member that they felt was a conflict. Dwayne does not feel that the sentence he read states this. Selectman Cowan asked if Mr. Cote would support and recommend to the other members about the removal of this sentence from the Policy. He stated that he could certainly discuss it with them. Selectman Cowan also would be curious to see if the Budget Committee members would be receptive to this language change. Mr. Cote did state that the Budget Committee had pointed this language out and that they didn't want the Commissioners to be able to nullify their vote.

Another major concern regarding this conflict that both the Board and Mr. Cote have is that the taxpayers will be footing the bill if this goes to court. It would be best to work things out before it comes to that.

There were some further discussions by the Board and Mr. Cote regarding changing the wording, establishing an Ethics Board and working this out without going to court. Mr. Cote also stated that a Charter needs to be established and this would eliminate these kinds of issues.

4. Unfinished Business:

A. Roads: Update on Road Projects

Dwayne stated that Lebanon Road was all done and was striped last night. Maple Street has been paved. He met with the paver, and unfortunately, the next round of paving can only be done around Labor Day weekend. All the rain has held everybody up. Selectman Cowan asked Dwayne what determines how many of the cruisers need to be there. Dwayne stated that they determine it. He stated that on Lebanon Road they had a cruiser at both ends for safety issues because of all the turns. Typically, in an isolated zone, there will be one officer and one cruiser.

Dwayne also stated that they are hoping to get Carroll down to at least grind Wilmer Chase Road. We also need to take care of some brush clearing along the roads because things are starting to grow in. There are also some culverts that need to be repaired and some high tree limbs that are hitting some of the trucks. Selectman Cowan stated that one of her neighbors, Bruce Thompson, has taken it upon himself to keep the roadside clear all up and down Randall Road. She wondered if there was some way that the Board could acknowledge him. Dwayne stated that he talks to him every year and thanks him.

Dwayne stated that most of the streets that they still need to pave, Turkey Street, Morrells Mills Road, Wilmer Chase Road and Lynn Street will take about two weeks and they will be done for the year. Dwayne stated that we are going to have some additional funds because Lebanon Road came in under in tonnage and Maple Street was within 50 tons. However, our construction numbers will be up higher because of police details. He feels that he will have additional funds and he would like to do Hartford Lane. He states that it is a dirt road by the first 300 feet is paved. It has become very eroded. It is also very steep and so it is a safety issue.

Selectman Danforth asked Dwayne if he could look at doing some shimming on Beech Ridge Road. Dwayne stated that next spring they are digging it all up. They are going to also widen it to 20 feet.

Dwayne also stated we did get our state road money acknowledgment and it is less than what we were expecting. It is about \$2500 less so our road program will be reduced by this amount. He also stated that we saved some money on our paving projects so we can make it work without that money.

B. Area Selectmen Meetings: Revival of the Area Selectmen's Meetings

Dwayne states that there is nothing new to report on this yet.

C. Commitment FY14: Review Draft Tax Rate Calculations

Dwayne stated that he has included in the packet, a draft of the Tax Rate Calculation Form. He states that there are two sheets that look pretty much the same. He stated that our Auditors like us to do gross budgeting and not net budgeting, so under the allowable deductions, under Other Revenues you will see \$1,429,305.00 on Sheet 11. This is different than what we usually would have done. Sheet 13 is more of what we would have done. He stated that with all the new values that we received under the enhanced BETE reimbursement and some new taxable real estate value, if we keep the tax rate at 12.45 we would have an overlay of about \$118,000. He said that they could set the tax rate anywhere between 12.30 and 12.85. Chairman Galemme stated that with the turnout that we had at the Town Meeting supporting the town budget, it would be good to say that we are keeping the tax rate flat this year.

D. Canal Street Park: Update on Skateboard Equipment

Dwayne stated that all the police info has been brought to the District Attorney pending criminal charges. Nobody has been messing with the current equipment that is at the Park.

E. Parks and Rec: Resignation of Denise Patterson

At the last meeting, the resignation of Denise Patterson from the Parks and Recreation Board was approved. The Board asked Dwayne to pen a letter accepting her resignation and thanking her for everything that she did. Dwayne read the letter into the minutes. It states: "It is with regret that the Board of Selectmen accepts your resignation from the North Berwick Parks and Recreation Commission. The Board would like to thank you for your effort to provide Parks and Recreation opportunities to the families in North Berwick, especially the teens of the community. Your assistance with the portable skateboard park and the Canal Street Park were greatly appreciated. The Board of Selectmen wishes you the best in your move to Portsmouth, NH."

F. Arcadia: Images of North Berwick Book Purchase

At the last meeting, the Board authorized the purchase of the books. Since that time, Dwayne has met with the Historical Society and they have purchased 300 books. He stated that we should not be in competition with the Historical Society. They have brought in some books for the Town to sell already. Dwayne asked the Board if we should collect a couple of dollars from each book sold or should we just give it all back to the Historical Society? The Board agreed that we should just let the Historical Society have it. Dwayne stated that the Board now has to reverse the previous vote from the last meeting to buy the books to we will act as an agent for the Historical Society at no cost to the Historical Society.

Selectman Danforth motioned to reverse the last meeting's decision to purchase books to sell and to instead act as an agent for the Historical Society at no cost to the Historical Society. Selectman Cowan seconded the motion. VOTE: 4-0

Reminders: Next Board of Selectmen's Meeting – August 20, 2013 – 6:30 pm Municipal Building

5. New Business:

B. Appointments: Approve Appointments for FY14

Dwayne stated that every year, all the appointments that were not elected, the Board needs to vote to appoint the individual offices. On page 19 of the packet is the list of the appointments that need to be approved.

Selectman Folsom motioned to accept the appointments. Selectman Cowan seconded the motion. VOTE: 4-0

C. Town Meeting FY15: Review Proposed Town Meeting Schedule

Dwayne stated that they received a call from the school about when he wanted to schedule the Town Meeting next year because the auditorium is booking up fast. They stated that there only two Saturdays in April and none in March. They told him that they had reserved April 5th and wanted to know if this was going to be okay.

Selectman Folsom motioned to accept the date of April 5, 2014 for the Town Meeting. Selectman Cowan seconded the motion. VOTE: 4-0

D. Fire Department: Grant Approval for Fire Prevention Trailer (Wells, Ogunquit, Kennebunk and North Berwick)

Dwayne stated that about two years ago, area fire departments got together writing a grant for a fire prevention trailer. They did but were not successful. They tried again this year and this time they were successful. The towns of Wells, Ogunquit, Kennebunk and North Berwick have received the grant for this trailer. He stated that Wells is actually the lead on this project. It will cost us approximately \$1,000.00 and whenever we use it, we need to insure it. Selectman Cowan asked what the goal was for this trailer. Dwayne stated that it was a learning tool to show how to handle themselves in a fire. It will be used at schools and festivals. Also, it can be used as a command center if there is a crisis.

E. Redistricting: Town to be Split in New House Redistricting Plan

Dwayne stated that the state has been redistricted but it doesn't take affect until December, 2014. They wanted to let us know now because it will make a difference in the next round of elections. He said that we are just waiting for the State to send us the official map. He states that many towns were split with this redistricting. He said that they just got two new ballot machines.

F. General Assistance: Establish Public Hearing Date for New Ordinance Appendices

Dwayne stated that the Board needs to set a Public Hearing date for General Assistance for the new Appendices. There are a couple of Appendices, one that actually took place on July 1, 2013 and one that takes affect in October. He is recommending that we hold a Public Hearing on August 20 so we can adopt the new Appendices.

Selectman Cowan motioned to have a Public Hearing on August 20th to adopt the new Appendices. Selectman Danforth seconded the motion. VOTE: 4-0

6. Other Business:

Dwayne stated that he has included some information in their packet from Maine Municipal Association regarding their Annual Election. Dwayne stated that we typically do not participate in this.

Selectman Cowan stated that there was an individual voted onto the School Board from Berwick that is causing some controversy. Apparently this individual has a history with the Berwick Police Department. Some of the other members of the School Board are feeling a little threatened with his presence at the meetings. There is talk about the School Board requesting to have a police presence at the meetings. She wanted to know if we were responsible for providing police presence if they request it. Dwayne stated that it is considered a police detail and the school would reimburse the Town.

Dwayne stated that they received approval for the variance to put in the pump in the elevator pit. He has contacted Alan Gray to have it installed. They are still waiting to have the window repaired in the conference room. He also stated that the phones would be down on Thursday morning so they can do all the phone updates.

7. Review and Approve Warrants and Correspondence:

Warrant:	July 9, 2013	-\$ 9,033.25
Warrant:	July 16, 2013	-\$558,149.85

Selectman Danforth motioned to accept the Warrant of July 9, 2013 for the amount of \$9,033.25 and the Warrant of July 16, 2013 for the amount of \$589,149.85. Selectman Folsom seconded the motion. VOTE: 4-0

8. Adjournment:

Selectman Danforth motioned to adjourn the meeting at 8:15 pm. Selectman Folsom seconded the motion. VOTE: 4-0

Respectively submitted:
Susan Niehoff, Stenographer

Original to Town Clerk

Chairman: Charles Galemmo

Selectman: Paul Danforth

Selectman: Elaine Folsom

Selectman: Gregg Drew

Selectman: Wendy Cowan