

**Town of North Berwick
Board of Selectmen
AGENDA
June 30, 2009
6:30 P.M.**

**Special Meeting
North Berwick Community Center**

Present: Chairman Folsom, Selectman Danforth, Selectman Bourbon and Selectman MacDougall

Absent: Selectman Drew.

Also Present: Normand Blanchette, Kristin Johnson, Harland Roberts, Barry Chase, Michael Johnson Jr., Barry Abbott, Shirley Barto, Charles Barto, Karen Bolstridge, Dave Bentley, Rebekah Yonan, Michael Johnson Sr., Anita Johnson, Marcia Rowe, Philp Rowe, Lorinda Hilton, Patti Clark, Susan Ruel, David Thomson, Lisa Thomson, Dale Clock, Jeannie Provencher, Bonnie Best, Kevin Blood, Bill Wyman, Lucille Silsby, Jay Boston, Sharon Hilton, Josh Hebert, Sarah Hebert, James McGuire, Betty McGuire, Peggy Curtis, John Curtis, Todd Hoffman, Julie Fernee, and Tschoo Boy.

1. Pledge of Allegiance

2. Public Hearing: 6:35 p.m. Public Hearing on Special Town Meeting Warrant Articles

Chairman Folsom opened the Public Hearing at 6:36 p.m.

Dwayne explains that the Board of Selectmen decided to hold a Special Town Meeting on July 14, 2009 for two primary issues.

Article 2: Shall an Ordinance entitled, “An Ordinance Repealing Section 4.3.f of the Zoning Ordinance and making conforming changes to Table 4.3” be enacted?

Article 3: To see if the Town will vote to authorize the Selectmen, on behalf of the Town, to enter into a ground lease of Town owned property at the Hillside Cemetery with Great Works Crematory for the purpose of developing and operating a crematory, the terms of which ground lease include an initial lease term of 12 years with optional annual renewals in the tenant and annual rent of \$6,000 for the initial term and \$1,000 per renewal year, together with other terms as are contained in the document entitled “Ground Lease Agreement for Development of a Crematory at Hillside Cemetery,” and to make such minor modifications and amendments to said document as the Selectmen find to be in the best interests of the Town.

Zoning Amendment

Article 2: Shall an Ordinance entitled, “An Ordinance Repealing Section 4.3.f of the Zoning Ordinance and making conforming changes to Table 4.3” be enacted?

Dwayne explained that 4.3 f has created a lot of problem in development within the Town primarily for larger lots.

The Currant Language:

4.3 f. A lot abutting a Town way or an interior street within the proposed site shall have a minimum frontage of 100 feet for a 40,000 square foot lot. For every 10,000 sq. ft. of that lot area in excess of 40,000 sq. ft., an additional 10 feet of frontage shall be required.

The Proposed Language:

4.3 f. Reserved for future use

Remove all notes on the Tables 4.3 Dimensional Requirements related to Note f.

Explanation:

If you have a 6 acre lot in Farm and Forest Zone, the minimum frontage requirement is 300 feet, however, when you take into consideration the note f requirement, the property would be required to have 321 feet of frontage. The big problem that came into light after legal counsel review is large tracts of property and the splitting of a parcel off the larger parcel. If you have a 100 acre parcel of land, under the note f. requirement, the parcel would be required to have 4416 feet of frontage. If the lot is a lot of record it would be considered a non-conforming lot. When a parcel is split off the larger parcel, a non-conforming lot is made more non-conforming which is against the Zoning Ordinance. The requirement of note f has made most large lots non-conforming and not possible to split a lot off of these large lots.

Note 4.3 f has basically shut down all development within the Town of North Berwick.

The change the Planning Board is recommending is to eliminate note f.

Questions and comments from the public:

Question: When was this put on the books?

Dwayne answered 1978.

Comment: The obstacle is the key words and part of that is when it enters a public or town road way which changes everything. In other words if you put a road in and once those lots are in and they put driveways off from that, such as a cul-de-sac or what ever they are going to do. Then it becomes a conforming lot. So part of that is that language was left off of that note f. not all of it is in here.

Dwayne answered that is 100% what note f. says.

Question: If they put that road in, we would want it to be town acceptable.

Dwayne answered that is what note f says, a lot abutting a Town way or an interior street within the proposed site.

The problem is right now is we have lots that about town roads. For example: there is a lot on Bauneg Beg Hill Road. The lot is 135 acres in size and has 1200 feet of road frontage. Under our zoning that is a non-conforming lot. You have 135 acres of land and you can't split it. They need 4400 feet of road frontage to begin with and they would have to build a road a minimum of 3400 feet long in order to split their lot.

Chairman Folsom asked are there any more questions from the public

Proposed Crematory Lease

Dwayne explained that in March Michael Johnson Jr. approached the Cemetery Trustees with a proposal to build a Crematory on Hillside Cemetery. The Cemetery Trustees reviewed the proposal and accepted the proposal and brought it to the Board of Selectmen for consideration. After reviewing the proposal and discussing the terms and development plans as well as having legal counsel review the proposal, the Board of Selectmen though it beneficial to the Town to bring forth to the Town's people a proposal to partner with Great Works Crematory, LLC to construct a crematory on Hillside Cemetery.

Dwayne read Article 3 to the public:

Article 3: To see if the Town will vote to authorize the Selectmen, on behalf of the Town, to enter into a ground lease of Town owned property at the Hillside Cemetery with Great Works Crematory for the purpose of developing and operating a crematory, the terms of which ground lease include an initial lease term of 12 years with optional annual renewals in the tenant and annual rent of \$6,000 for the initial term and \$1,000 per renewal year, together with other terms

as are contained in the document entitled “Ground Lease Agreement for Development of a Crematory at Hillside Cemetery,” and to make such minor modifications and amendments to said document as the Selectmen find to be in the best interests of the Town.

A copy of the Lease is available in the Town Clerk’s Office or on the Town’s website: www.townofnorthberwick.org

Dwayne discussed with the public the highlights of the Lease and what the actual proposal is.

In order for a crematory to be built in the State of Maine it must be located on an active cemetery that is at least 20 acres in size. The Hillside Cemetery is 24 acres in size.

The Lease highlights the parties will be the Town of North Berwick and The Great Works Crematory, LLC. and the purpose of the lease will be to develop a Crematory on Hillside Cemetery property pursuant to Maine State Law 13 M.R.S. § 1341.

Dwayne provides a visual presentation to the public of the proposed Great Works Crematory on Hillside Cemetery.

As part of the master planning the Cemetery Trustees went to the citizens of North Berwick to approve the ability for us to sell the property and use the proceeds of that sale to use towards the improvements as we move through our phases of expansion.

The Town voted to approve the sale of the property at Town Meeting in 2006. The property has been for sale for 2 years.

Michael Johnson Jr. has come forward to lease the piece of property that the Town had up for sale.

Questions and comments from the public:

Question: What are we taking for as a lease?

Dwayne answered that the term of the lease is going to be a 12 year lease with an automatic renewals from year to year thereafter unless Great Works Crematory, LLC notifies the Town with 12 months written notice of termination.

The rent will be \$500.00 a month for 12 years which equals \$72,000.00 and then \$1,000.00 per year for automatic lease renewal.

Currently we have a storage Tomb that is in the front of the Cemetery and it is anticipated that we will spend \$25,000.00 in rebuilding that Tomb because it is collapsing.

The Great Works Crematory has offered that when they build their building to build a storage Tomb so that we can actually eliminate the need for the storage Tomb that is existing. We can tear that Tomb down and create more plots in that area.

The granting at Town Meeting of signing the Lease does not automatically mean that Great Works can start breaking ground and build a crematory. They still need to go through all the governmental reviews that are required.

Great Works Crematory will have to go through the Planning Board for Conditional Use Permit. A Site Plan through the DEP and other State required permits.

The Town vote will say that we will enter into a Lease Agreement that allows Great Works Crematory to legally apply for those permits.

Great Works Crematory, LLC is allowed to mortgage its interest in the lease subject to the conditions in the lease agreement.

They can also assign or sublet lease, however they cannot assign or sublet lease without the Board of Selectmen's prior approval.

Question: How much were you trying to sell that piece of land for?

Dwayne answered the land is for sale at \$65,000.00. We have pulled the property sale off the market.

Great Works Crematory LLC must indemnify the Town as well provide insurance in the amount of \$1 million/\$3 million/\$1 million with the Town named as an additional insured.

Expiration or Termination clause within the lease: The contract will terminate should The Great Works Crematory default in the performance of the lease agreement. The expiration termination or they can voluntarily terminate the lease with 12 months written notice to the Town. If Great Works Crematory terminates the Town has the option to purchase that building and all the improvements based on fair market value and the purchase can be paid over a 10 year period in equal yearly payments. If the Town opts not to purchase the improvements, Great Works Crematory, LLC will be required to restore the property back to its pre-construction condition.

The Great Works Crematory proposed site plan would have access off of Staples Drive. The Crematory building would be on the back section of the property.

Question: Isn't Staples Drive a private road? Is Great Works Crematory planning on helping keep the road up?

Dwayne answered that will be part of the Planning Board process.

Comment: It is a private way.

Dwayne answered it is a private way. The property has access on that private way.

Question: Where is the septic and well?

Dwayne pointed on the site plan where the septic and well would be located.

Dwayne answered that the well has to be 100 feet from the septic system which meets all the rules and regulation of the Town of North Berwick.

Question: What are the issues on the wetlands on this property and a stream?

Dwayne answered that all the wetlands are mapped.

Selectman Danforth commented that there is a drainage point that runs down through, but there would be no reason why you couldn't put a culvert in there and fill what you need to for a driveway.

Dwayne replied that is not a regulated stream.

Comment: We maintain the road; we have asked the Town to help us maintain the road.

Dwayne replied that we are actually not allowed to put any work on that road. It is not an accepted Town road. We cannot spend public money on a private road.

Comment: But you're saying you want to put in a crematory that will be accessible to the public.

Dwayne replied remember the Town is not putting the crematory in. A private developer is putting the crematory in. The Town would have approved the sale of the land, but it would be no difference than if some body would build a house when we decided to sell the property. They would have access on Staple Drive to access that property.

Comment: That would be residential, this is commercial.

Dwayne replied that would be part of Planning Board approval. Part of Planning Board review would be looking at all traffic.

Question: Is this going to be for just North Berwick or are other towns going to use the crematory.

Mike Johnson Jr. answered a crematory is not a public business. There may be two cars a day at the most.

Comment: This map shows a cul-de-sac which does not exist and it was never finished.

Dwayne replied you can see the dotted lines on this plan. The dark lines inside the dotted line that is the actual road that is the legal boundary of that road are those dotted lines.

Even though the cul-de-sac isn't built it is still approved by the Town as part of the subdivision and still exists as part of the right-of-way.

Question: There is a crypt there for storage so there is a possibility of a funeral procession coming down that road.

Dwayne answered that a storage Tomb is only used in the winter months. The Funeral Director brings it to the storage and takes it out of storage for funerals. There are no processions going down to the storage Tomb. It is all done through the Funeral Home. Johnson's Funeral is the only one that go into the crypt.

Comment: That road is a very bumpy road.

Dwayne replied that Michael Johnson Jr. plans to improve the condition of that road. That would be part of the Planning Board process is they would have to show how they are going to handle traffic.

Question: Why not come off of Route 4.

Dwayne answered there is no way to get there.

Question: Why not put it on the other piece of property.

Dwayne answered there is no location on that property that is suitable.

Question: How are they going to get on it to build for a funeral if you can't build a road?

Dwayne answered on the site plan you can see the internal road structure that is within the existing cemetery and you can see where the cemetery will actually connect to the existing road structure. Everything will interconnect but you have to remember this plan is a 300 year master plan.

Dwayne explained in detail the master plan for the Hillside Cemetery to the public.

Question: Emissions control?

Michael Johnson Jr. explained that a crematory has fewer emissions than a school bus. There is no smell at all.

Question: What is the fuel source?

Michael Johnson Jr. answered propane. You cannot get a permit from DEP unless it is natural gas.

Question: Have you looked at the land on the North side of the cemetery on Route 4.

Dwayne answered that the crematory has to be part of an active cemetery. To get a permit from the State of Maine the crematory has to actually sit on an active 20 acre cemetery.

Question: Why are we bringing this to a Special Town Meeting instead of having it in November? This cost the Town quite a bit of money to run these Special Town Meetings. In these economic times do you think we should be spending the money?

Dwayne answered we are not spending a dime. Great Works Crematory is paying all the cost for the Special Town Meeting.

Chairman Folsom spoke that the Planning Board will also hold a Public Hearing. So you will all have a chance to go to the Planning Board if this passes. By law they have to hold a Public Hearing before the Conditional Use is granted. Any other further concerns that you have on the road etc. could be addressed then by the public at the Public Hearings. The Public Hearings are all posted on the Bulletin Board at the Municipal Building and on the Town's website.

Question: Will the abutters be notified?

Dwayne answered that abutters will be notified by certified mail. I guarantee if this goes to Planning Board I will personally make sure that the abutters get notification, just like I sent out the abutter's notification for today. Everyone will be notified.

Chairman Folsom asked are there any more questions from the public.

Chairman Folsom closed the Public Hearing at 7:24 p.m.

Budget Committee Meeting June 30, 2009 at 7:26 p.m. – Community Center

Dwayne explained because it is a Special Town Meeting according to the Budget Committee Ordinance the Town has. The Budget Committee must act on every Article that is on Town Meeting rather it be Special Town Meeting or regular Town Meeting Warrant Article.

The Budget Committee must give a recommendation if it has to be published on the Warrant.

The Selectmen's plan is to finalize the Warrant today.

3. New Business:

A. Special Town Meeting: Approve Warrant

Selectman MacDougall moved to approve the Warrant for Special Town Meeting on July 14, 2009, Selectman Bourbon seconded a motion. Vote, 4-0

The Board of Selectmen signed the Warrant Article.

4. Other Business:

Board of Selectmen's Meeting July 7, 2009

Special Town Meeting July 14, 2009 – Community Center

Bill Bourbon will be the moderator at the Special Town Meeting.

5. Adjournment:

Selectman MacDougall moved to adjourn at 8:00 p.m., Selectman Bourbon seconded a motion.
Vote, 4-0