

NORTH BERWICK BOARD OF SELECTMEN MINUTES DECEMBER 6, 2022

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

Also Present: Dwayne Morin, Lenny Daigle, Amanda Daigle, Roberta Powell, Cheryl Wentworth, Kathy Paradis, Skip Powell, Wendy Guptill, Steve Guptill, Matt LeConte, Anne Whitten, Jon Morse, Justin Perry

Chairman Galemmo opened the meeting at 6:30 pm.

1. PLEDGE OF ALLEGIANCE

2. REVIEW AND APPROVE MINUTES OF NOVEMBER 15, 2022

Selectman Cowan motioned to approve the minutes of November 15, 2022, as written. Selectman Johnson, Sr. seconded the motion. VOTE: 5-0

3. PUBLIC INPUT

Kathy Paradis stated she lives on Randall Road and is concerned about stray bullets and noise coming from the Gun Range which is located in Berwick. She has safety concerns and wants to know what North Berwick can do to help keep the residents on Randall Road safe. She feels that there should be some collaboration between Berwick and North Berwick to keep everyone safe.

Lenny Daigle stated he lives at 165 Randall Road and indicated that a bullet hit their home two years ago and nothing has been done about it. He stated this past July, a neighbor's house had a bullet hit their window in a car. He is concerned about safety and does not want to have to wait until a tragedy before anything is done.

Selectman Johnson, Jr. stated that an investigation was done this summer by the North Berwick Police Department and they indicated that there was no way for a bullet to leave the range if patrons are shooting correctly.

Roberta Powell stated she lives at 175 Randall Road and she bought her property in 1998. She indicated she had to go in front of the Town with a proposal of what she was going to do with the land. She stated that the Town told her she could only have two horses and other restrictions. They abide by all of those restrictions. In 2022, when the farm was completed and she brought her horse home, she stated she felt a whizzing go past her head and realized it was a bullet and believes it came from the shooting range. She now says it is becoming more populated on Randall Road and it now sounds like a war zone coming from the range. She described the

sounds as cannons going off and it is all the time. She is concerned about safety, not only for her family but her horses as well, and does not feel comfortable going outside in her own yard.

Selectman Cowan indicated she also resides on Randall Road and this is an issue that she has raised to the Board previously. She stated it has been an ongoing concern of hers and there have been discussions about this and that Dwayne has initiated contact with the Berwick Town Manager recently. She did confirm that the noise is constant and starts early in the morning and also believes that the noise is a legitimate concern. She is not interested in shutting down the gun range but she feels there does need to be parameters of some sort and would love to see solutions but the Town of North Berwick do have limitations in this regard.

Dwayne reiterated that the shooting range is in fact in the Town of Berwick and that the Town of North Berwick has zero control over anything that happens in the Town of Berwick. North Berwick rules do not apply to the Town of Berwick and every town has their own rules. Dwayne stated that the change has to come from the Town of Berwick. Dwayne stated that over the past 28 years, this issue has been a consistent problem. He contacted the previous Berwick Town Manager a few years ago and he did not initially receive a friendly reaction. He stated up until this spring, every time that they broached the subject with Berwick, which were many, they advised that North Berwick had no authority. Last summer he talked to Berwick's new Town Manager and provided everyone with his entire e-mail chain for their reference. It was Dwayne's understanding that the gun range was going to look into changing the hours, especially for Sundays, but believes they opted not to do that. Dwayne stated again that North Berwick has reached out and voiced their concerns but at the end of the day, North Berwick has zero authority as related to the gun range in Berwick.

Selectman Cowan reminded everyone that the gun range in Berwick is not owned by Berwick but rather it is owned by the Sanford/Springvale Fish & Game Club. Dwayne stated there is a state law in the books that grandfathered shooting ranges and that law was passed in 2016. He indicated that if the Town of Berwick were to put a noise ordinance in place, it would not apply to that range, due to the fact that they are grandfathered. Dwayne did provide Kathy Paradis a copy of that law.

Cheryl Wentworth inquired about the zoning and Dwayne stated that Berwick does not have any ordinances like the town of North Berwick does. He stated that they need to find out what Berwick's ordinances are. Cheryl stated they have tried but have not been sent anything. Dwayne advised them that the ordinances should be on-line. Cheryl stated they asked for copies of permits but have not been provided those. Dwayne indicated if he could fix this issue, he would, but he does not have the authority to do so. Cheryl asked if the State could oversee the range. Dwayne indicated that there is no oversight from the state of any range in Maine.

Chairman Galemme indicated the chance of finding anything criminal that North Berwick's police could act upon is going to be extremely difficult. He suggested asking our attorneys if there is anything we could do. Dwayne stated they have asked and again, North Berwick has zero authority over what Berwick is doing. Chairman Galemme asked that maybe asking again now that it is a public safety concerns regarding stray bullets.

Selectman Hall motioned that Steve and Wendy Guptill, who reside in Berwick, be allowed to speak during this public input session. Selectman Johnson, Jr. seconded the motion. VOTE: 5-0

Selectman Hall referenced a line in the law, and stated that since four separate incidents wherein bullets have crossed the boundaries of the range, is there anyway that could be looked into. Selectman Cowan indicated that the difficulty is the amount of woods in between. Dwayne stated that there is .41 miles and that he measured it today. Selectman Cowan stated it has to be legally proven that bullets are coming from the range and hitting people's houses and that is the difficulty.

Jon Morse stated he has been a gun owner for years and he has a federal firearms permit which means he can own a fully automatic weapon and that one has to have that permit to own an automatic weapon. He believes that some of the guns going off in the Berwick range are fully automatic weapons. Perhaps when the neighbors hear a fully automatic weapon being shot, they could go contact the Berwick police or the state police to go to the range and look into whether or not that person has a federal firearms permit and if not, their guns would be confiscated.

Dwayne advised that it is his understanding that there are 800 members that belong to the Berwick range. Dwayne suggested that the North Berwick Board of Selectman could write a letter to the Berwick Board of Selectman explaining their concerns and see if they would respond. Selectman Cowan felt that should absolutely be done and also reach out to local legislators as well. Selectman Hall indicated that each Board member shares the public's concerns and have talked about this subject on multiple occasions but that North Berwick's hands are tied essentially as to what they can do.

Wendy Guptill stated she is right over the Town of North Berwick and they have talked to the Town Manager of Berwick and he is sympathetic and is trying to work with them. She did meet with the President and treasurer of the Springvale-Sanford Fish & Game Club and they heard first-hand the shooting noise at their property and were surprised at the level of noise. She also spoke to game wardens to voice concerns. She stated she was going to put up no trespassing signs on her property. She is concerned that nothing will be done until something tragic happens and feels they do have to stand up and be persistent.

Selectman Hall motioned that Dwayne draft a letter to be sent to the Berwick Selectman as well as the Sanford/Springvale Fish & Game. Selectman Cowan seconded the motion. VOTE: 5-0

4. UNFINISHED BUSINESS:

A. COMMUNICATION TOWER: Update on Project

Dwayne stated there is nothing more to mention on this project until the spring. The shed has been ordered and is under construction and the Foundation contract has been awarded to Morse Foundations per the board's vote.

B. BUDGET FY24: Budget Considerations

Dwayne indicated again that he is keeping budget considerations open on the agenda as a standing item through budget season for open discussion.

C. PHONE SYSTEM: Update on New System

Dwayne stated that we did receive \$2,700 from our insurance company. He indicated the phone system is ordered.

D. PERSONNEL POLICY: Approve Change to Holiday Section of Policy

Dwayne stated that the town employees have been given the proposed change and the 15-day comment period has expired. He indicated he needed a motion to put that in place permanently.

Selectman Cowan motioned that the changes to the holiday section of the personnel policy be put into place. Selectman Johnson, Sr. seconded the motion. VOTE: 5-0

**Reminders: Next Board of Selectman's Meeting – January 10, 2023 - 6:30 P.M.
Labor Committee – December 13, 2022 – 6:30 P.M. – Room 212**

5. NEW BUSINESS:

A. PLANNING BOARD: Meeting with Board to Discuss Potential Ordinance Changes

Dwayne stated that there are members from the North Berwick Planning Board who are present tonight to discuss potential changes to the Town's Ordinances. He stated there are seven potential ordinance changes. Those changes are as follows:

- Amend Subdivision submittals to eliminate mylars and state a format acceptable to the York County Registry of Deeds.

Dwayne indicated that the Registry of Deeds stopped requiring mylars and in fact, they do not want mylars anymore but our Ordinance still says that the developer has to provide mylars. They would like to change the ordinance to read "a format acceptable to the York County Registry of Deeds" so in the future, if they change their format, our ordinance is covered.

- Possible Amendment to the Zoning Ordinance on the use of RVs as housing – possible permit so that the 120-day criteria can be tracked.

Dwayne indicated that currently they have been having issues with people living in RV's and over the past couple years it has become somewhat overwhelming as to the amount of people in our community living in RV's. Right now, our ordinance states a person is allowed to live 90

days consecutive in an RV and 120 days over the course of the year. Right now, the problem is that we do not know when that date starts and are relying on neighbors essentially tattle-telling on other neighbors and us having to prove that they have exceeded the time period. Dwayne said one way to track this is to require permits for a nominal fee. That way, we will know when the date starts. Selectman Hall asked if a charge was really necessary and was concerned about people living in RV's not being able to pay that fee. Selectman Hall stated he did not want to discourage someone who is homeless and living in an RV from getting a permit because they could not afford the permit fee. Dwayne stated that the Board always has the right to waive fees. The 120-day policy is similar across the board in the State of Maine and basically the summer months (June, July and August). Selectman Hall suggested making the ordinance confirm with area towns as far as the summer months and that way, people are not living in RV's during the cold winter months. Anne Whitten stated that she felt they should not regulate the 120-day period and decide they can only live in them in the summer months.

- Possible amendment for Solar Projects.

Jon Morse and Anne Whitten spoke to how Gray and Sanford were the only towns that had a specific solar ordinance. Dwayne stated that the Planning Board would like to put performance standards in the Town's Ordinance for solar projects. Jon Morse advised that the concern was a person coming to Town, buying 1,000 acres in farm in forest and clear cutting it and putting a solar farm in. They do not want that to happen and feels there needs to language stating that. Anne Whitten spoke as to how they obtained a copy of Sanford's Solar Ordinance and adapted it to fit North Berwick, taking out or adding language as needed. Selectman Hall stated he would not like to see residential solar systems regulated. Anne Whitten stated they are not, but just referenced. Dwayne indicated that right now, solar farms fall under utility definition and we would need to pull solar out and define the solar project and define what zones they would be allowed in. Jon Morse stated another concern is when the Planning Board approves a solar project and they need to concentrate heavily on a buffer to completely close off to public. Selectman Hall stated he would like to see residential up to 100 kw per day on any residential home for personal use.

- Amend shoreland setback from 100' to 75' to be consistent with State DEP Laws.

Dwayne stated that the current shoreland setback is 100 feet and that was established when the state setback was 100 feet. The state has now reduced their shoreland setback to 75. He indicated we have never reduced our shoreland setback and we should update our ordinance to be consistent with the State. This only affects building setbacks and nothing to do with cutting.

- Amend the Buffer Language in Article 5.18 – Performance Standards

Dwayne stated that the Planning Board has been talking about buffer language but nothing has been done yet and that may not happen this year but the Board is talking about putting in specific buffering language in our ordinance. It will give Planning Board more guidance when it comes to buffering. Dwayne indicated that currently has no specific language so that when a developer comes in, there will already be standards in place. Anne Whitten stated they are still working on the specifics on this.

- Change the Zoning District in the Company Woods Road Area from Industrial to Residential I.

Dwayne indicated that the Planning Board is still reviewing this request, but a resident has come in and is trying to get his property and his son's property changed from industrial to residential. The two properties are divided by the power line and his son would like to build a house on the lot on the other side of the power line and he cannot do that in an industrial zone. The properties all around him are residential zone except his property. Company Woods Road is off from Dennett Road. Dwayne stated there are still a few questions and it is still in front of the Planning Board.

- Amendments to bring the Town in compliance with LD2003 – New Maine Housing Law.

Dwayne stated he is holding off drafting the LD2003 amendments as requested by the Board until it is determined what the legislature may change in this next session. He indicated that the only change that Rep. Roberts mentioned to him was just a change in the date of enactment as she stated there seems to be very little appetite to make any substantive changes to the bill. Dwayne is aware that MMA is working on a draft bill and he will see that at the LPC meeting tomorrow. Dwayne indicated there is a bill being submitted that will push the LD2003 timeframe from July 1, 2023 to July 1, 2024. He stated they are not changing the law, just the date.

B. PLANNING BOARD: Scott Carpenter Application for Renewal Membership

Dwayne stated Scott Carpenter's term is up in December and he has submitted his application for another three-year term.

Selectman Hall motioned that the Board approve Scott Carpenter for another three years on the North Berwick Planning Board. Selectman Johnson, Sr. VOTE: 5-0

C. ZBA: Louis Thibodeau and Greg Drew Application for Renewal Application

Dwayne stated Louis Thibodeau's term is up in December and he has submitted his application for another three-year term. Dwayne indicated the same for Greg Drew

Selectman Hall motioned that the Board appoint Louis Thibodeau and Greg Drew for another three years on the North Berwick ZBA. Selectman Johnson, Jr. seconded the motion. VOTE: 5-0

D. BUDGET COMMITTEE: Charles Noble Committee Membership Application

Dwayne stated they are down two members in the Budget Committee. Charles Noble has indicated a desire to be on the Committee and submitted his application.

Selectman Johnson, Sr. motioned that the Board appoint Charles Noble to the North Berwick Budget Committee. Selectman Cowan seconded the motion. VOTE: 5-0

E. CIP: Review Road CIP for 2024-2034

Dwayne indicated he and the Public Works crew have completed the DRAFT Road CIP for the next ten years and provided a copy to the Board. He indicated he has been working on this for about a year now. Dwayne noted that in the CIP, he has included a contingency every year as an attempt to have funds available for increases in the per ton cost of paving. He also left the 10th year vacant in case of project overruns through the Plan and the ability to slide roads around from year to year to accomplish the Capital Plan. He noted that he has placed a ribbon in the plan to start planning the next bond in FY2034. He indicated that the plan is aggressive, however, he thinks that our crew is up to the task to keep our roads in the best possible shape that the budget will afford. He stated there is an increase to the road budget of \$100,000.00 a year with the new \$1M bond issue. He stated he could back that off to \$450,000.00 and that would fill the entire 10-year schedule.

F. SELECTMAN'S MEETING: December 20th Meeting

Dwayne stated that in regards to the December 20th meeting, he will be returning from a family vacation and although he anticipates being back for the meeting, he was wondering if the Board should look at postponing meeting or moving it to another day prior to the end of the month. Dwayne also wants to look at the January schedule as the meetings are slated for January 3 and 17, however, there are 5 weeks in January and felt the Board could move them to the 10th and 24th.

Selectman Cowan motioned that the meeting on December 20th be cancelled and the meetings in January be adjusted to the 10th and 24th. Selectman Johnson, Sr. seconded the motion. VOTE: 5-0

G. LETTER FROM SANFORD POLICE DEPARTMENT

Dwayne stated the N.B. Police Dept. received a letter from the Town of Sanford for their response to the hoax school shooting and were very appreciate of the Department's help.

H. LETTER FROM NORTH BERWICK ELEMENTARY SCHOOL

Selectman Hall stated he received an email from the Elementary School who received the draft ordinance and the students were pleased that their voice will make a difference regarding the littering in North Berwick.

6. OTHER BUSINESS: EXECUTIVE SESSION - Labor

Selectman Cowan motioned to go into Executive Session at 8:53 and come out of Executive Session at 9:15 p.m.

7. REVIEW AND APPROVE WARRANTS AND CORRESPONDENCE:

Warrant:	November 22, 2022	- \$ 0.00
Warrant:	November 29, 2022	- \$ 27,560.30
Warrant:	December 6, 2022	- \$ 92,028.64

Selectman Hall motioned to approve the warrant for November 29, 2022 in the amount of \$27,560.30 and the warrant for December 6, 2022 in the amount of \$92,028.64. Selectman Johnson, Sr. seconded the motion. VOTE: 5-0

8. Adjournment:

Selectman Cowan motioned to adjourn the meeting at 9:15 pm. Selectman Johnson, Jr. seconded the motion. VOTE: 5-0

Respectively Submitted,
Jennifer Berard, Stenographer

Original to Town Clerk

Chairman: Charles Galemmo

Selectman: Jonathan Hall

Selectman: Michael Johnson, Jr.

Selectman: Wendy Cowan

Selectman: Michael Johnson, Sr.