

North Berwick Board of Selectmen's Minutes: January 8, 2013

NORTH BERWICK BOARD OF SELECTMEN MINUTES JANUARY 8, 2013

Present: Chairman Hart, Selectman Galemmo, Selectman Danforth, Selectman Folsom and Selectman Drew.

Also Present: C.R. Stambaugh, Lorinda Hilton, Philip Rowe, Victoria MacKenzie, Evan MacKenzie, Sue Caler, Charles Barto, Shirley Barto, Colleen St. Hilaire, John St. Hilaiare, Laurienne Missud Martin, Steven Connolly and Dwayne Morin.

Chairman Hart opened the Board of Selectmen's Meeting at 6:30 p.m.

1. Pledge of Allegiance

2. Review and Approve Minutes of December 4, 2012

Selectman Galemmo moved to approve the minutes of December 18, 2012, Selectman Folsom seconded a motion. Vote, 4-0 in Favor.

Selectman Danforth Arrived at 6:40 pm.

3. Public Input:

Shirely Barto inquired about what can be done about Time Warner's constant increase in cable and internet fees. Can the town enter into another franchise agreement with another company? Dwayne stated that the franchise agreement does not allow for the Town to establish the cost of cable or internet services. The deregulation of the cable industry by the federal government removed the town's ability to negotiate the cost of cable and any increases. There is nothing preventing another cable company from entering into a franchise agreement with the Town. However, this is highly

unlikely as Time Warner has already installed the infrastructure within the Town and another company would need to install its own infrastructure alongside Time Warner unless Time Warner sold its infrastructure to this company. This makes it highly unlikely that another cable company would want a franchise agreement with the Town of North Berwick, however, there are small sections of North Berwick that are serviced by other cable companies where Time Warner's infrastructure is not present. Another alternative is satellite companies such as Directv and Dish network.

Charles Barto requested that the Town clear the brush around the tracks near Buffum Road as it reduces visibility and is very dangerous. He also stated that the snowbanks have been piled up on the other side of the tracks making it difficult to see when exiting Buffum Road onto Route 4. Dwayne stated that the State is responsible for the Route 4 right of way and the railroad for its right of way but that he will contact them to see what can be done. Dwayne will have the Road Foreman look at the snowbanks, however, Route 4 is maintained by the State.

Colleen St. Hilaire asked what can be done to have Market Basket come to North Berwick instead of Hannaford. Dwayne explained that there is nothing preventing Market Basket from making a proposal to the town to locate a grocery store in North Berwick. At this time only Hannaford has made the proposal to locate in North Berwick.

4. Unfinished Business:

A. FY14: Preliminary Budget Discussions

Dwayne presented the Board with the FY2014 Preliminary Budget for their review. The initial budget requests totaled \$3,954,437.00 or \$40,569.00 more than last year or a 1.04% increase. Dwayne stated that the Department heads worked diligently to prepare a responsible budget. Dwayne and the Board went through the budget by department.

The Board reviewed the Capital Improvement Budget and the following items were determined to be amended from the approved CIP plan: repair the public works one ton instead of replacing the vehicle and reduce municipal building improvements from the scheduled \$25,000.00 to the essential projects of phone system upgrade, sump pump for elevator shaft and windows repairs for \$10,000.00 total. In addition, it was decided to remove the impact fee projects from the CIP budget into an impact fee line item for consideration as these funds are reserved funds and not part of the municipal budget. At this time keep the other CIP projects reserving the option to reduce the project budgets at a later time.

On the operations side of the budget, the Board will not offer salary increases to non-union employees for the upcoming year and the town will switch its health insurance for the non-union employees from the POS-C plan to the PPO 500. The Town is still in negotiations with the Police union so these items cannot be decided at this time.

Dwayne will work to finalize a Town Manager Recommended budget for the Board to Review at the next Selectmen's meeting and any suggestions that Board members might have should be given to Dwayne for inclusion in the recommended budget to be sent to the Budget Committee.

B. Fire Department: Chimney Repair

The Town received three bids for the repair work at the Fire Station:

Aaron Fenderson - \$5450.00
Diversified Masonery - \$6,900.00
S.D. Szetela, LLC - \$7,480.00

Selectman Drew moved to award the bid to Aaron Fenderson with funds coming from Unanticipated fund with Selectman Galemmo seconding the motion. Vote 5-0 in favor.

C. MERC: Discussion of New WHA

Dwayne informed the Board that since our last meeting a new wrinkle has been thrown into the MERC contract issue. Kennebunk's attorney has stated that Kennebunk will need to hold a town meeting vote on the issue. Dwayne discussed it with the Town attorney and it has been agreed that although attorneys may disagree over the authority of the Selectmen to enter into the contract to avoid litigation, if one town goes to town meeting, all should go to town meeting to avoid any potential legal hassles in the future. Casella has agreed to honor the new contract conditionally based on future town meeting approval with the caveat that they retain their right to assert that the 2007 WHA is in force and that their instructions to the Tri-County communities to divert waste to Pine Tree as an Alternate Disposal Facility under the 2007 WHA is effective. Dwayne presented the draft language for the warrant article to be included at the beginning of the annual town meeting that ratifies the contract agreed to by the selectmen. Dwayne also presented the Board with a letter from Attorney Lynn Mistretta on the issue in your packet.

It was moved by Selectman Galemmo and seconded by Selectman Folsom to place a warrant article on the Annual Town Meeting Warrant for the ratification of the negotiated Waste Handling Agreement. Vote 5-0 in favor

Reminders: Next Board of Selectmen's Meeting – January 22, 2013 - 6:30 p.m. Municipal Building

Meeting with Pratt and Whitney on Friday January 11, 2013 at noon at the Pratt facility.

7. New Business:

A. Planning Board: Commercial Zone Opposition, Fernee Resignation

Dwayne stated that he had received a letter from Julie Fernee resigning from the Planning Board after 9 years on the Board. It was moved by Selectman Drew and Seconded by Selectman Galemmo to accept Julie's resignation from the Planning Board with regret. Vote 5-0 in favor.

With Julie's resignation, it would be in order to elevate Alternate Planning Board member Geoffrey Aleva to full voting status. It was moved by Selectman Drew and seconded by Selectman Galemmo to appoint Geoffrey Aleva to full voting status on the Planning Board. Vote 5-0 in favor.

Dwayne stated that another citizen has mentioned that they may apply to become a member of the Planning Board now that the Planning Board is down one member from a full seven person board.

Commercial Zone Opposition

Dwayne stated that the Planning Board created a proposal for the combining of the Limited Commercial Zone, Village Center and Commercial Zone into one zone at their last meeting. Since that time, he has received numerous calls and letters regarding the proposal. In the Board's packet are the three letters that Dwayne had received, which had been previously sent to the Board via email, and the citizens who wrote the letters are here tonight.

Mr. Stambaugh asked the Board to intervene into the Planning Board process and requested five actions for the Board to require the Planning Board to perform. The Board stated that they do not get involved in the Planning Board process until they have completed their deliberations. Mr. Stambaugh stated that pursuant to state law, the Board of Selectmen has to certify the Planning Board's proposal and how can the Board certify the Planning Board's proposal without knowing this information. In his opinion, the Planning Board proposal is in conflict with the Comprehensive Plan and therefore not legal. Dwayne stated that the certification process by the Selectmen is merely allowing for the proposal to go before the voters. Even if the Board does not agree with the proposal, the Board will certify the proposal if it has been carried out in the proper procedure. The Board need not approve of the proposal. Dwayne also stated that due to the concerns raised by citizens as to the proposals consistency with the Comprehensive Plan, he sent the Planning Board's proposal to the Town Attorney for his opinion and the Board has in their packet a 5 page letter from the Town Attorney stating that in his opinion the Planning Board's proposal is consistent with the Comprehensive Plan and the reasons for his opinion. Mr. Stambaugh and Mrs. St. Hilaire requested a copy of the Attorney's letter. Dwayne stated that he will have them available tomorrow.

Dwayne also stated that he had reviewed the Planning Board's proposal and has talked to many people both for and against the proposal and will present to the Planning Board at their next meeting an amendment for the Planning Board to consider. Mr. Stambaugh along with Mrs. Hilton, Mr. and Mrs. Barto stated that they had been told by the Planning Board at the first Hannaford's meeting that they could have input at the Planning Board meeting and they were only allowed to speak after the Planning Board had made their decision on the proposal. Dwayne stated that the time for citizens to make comments on the proposal is at the Public Hearing. The reason Public Hearings are

held is for citizens to comment on the Planning Board's proposal and then the Planning Board takes all the comments into consideration and makes changes to the proposal which they believe to be in the best interest of the town for the voters to vote upon. The Planning Board meeting allows for public comment, however, when the Planning Board is deliberating, the public can watch the deliberations but not be actively involved unless allowed by the Planning Board Chair. Mrs. Hilton stated that in all her years of attending meetings in the Town, the last Planning Board meeting was the rudest she had seen by any Chairman. This was also stated by others in attendance.

Mr. Stambaugh asked why the Town Manager can speak to the Planning Board at their regular meeting but he cannot. Both the Town Manager and the Board of Selectmen stated that he is staff for the town and it is his job to make suggestions to the Planning Board if he feels that they are needed. Dwayne stated that he can only suggest changes and in the past some of his recommendations have been accepted by the Planning Board and some have not been accepted. Out of respect to the Planning Board, Dwayne wants to present some possible changes prior to the Public Hearing for the Planning Board to consider.

The Board members stated that they understood the concerns that the neighborhood that the residents live in will change if the zone is amended and Hannaford locates there and encouraged the residents to continue to make their concerns known. However, the town is faced with needing to expand its tax base and currently there is little to no opportunity within the town due to the current zoning. In addition, the Town has been presented with a proposal and the entire town should have a say as to whether this is something that the town wants. The voters should have an opportunity to vote on a proposal.

Mr. MacKenzie asked why Hannaford is being reviewed at this time. Dwayne stated that Hannaford has presented a proposal to the Planning Board. In order for their proposal to be reviewed, a zoning change is required. The Planning Board had already been working on a zoning change to the commercial zone to allow for additional land areas for commercial use. The Planning Board finalized that proposal at their last meeting. The Hannaford proposal cannot be reviewed at this time unless a zoning change is approved. If the voters deny the change, then Hannaford's will not be considered. If the voters approve the zoning change, then the Planning Board will begin its review of the project. Dwayne also stated that if the proposal does move forward, the property owners should be diligent and attend the Planning board meetings to insure that the proposal complies with the town's regulations and the impacts on abutting properties are limited.

Mr. Stambaugh again asked the Board to request that the Planning Board perform the five actions that he requested. Dwayne stated that he would request that Planning Board prepare a statement of intent as to why the zone changes are being proposed. The new zoning maps have been prepared by the Town's Mapping company. Dwayne has prepared a list of all the properties in the zones and the proposed properties to be in the zones and he can provide that list to Mr. Stambaugh and the Town's Attorney has already stated that the proposal is consistent with the Comprehensive Plan.

Members of the Audience thanked the Board for allowing them the opportunity to discuss their concerns with the Board.

Dwayne reviewed his recommendations with the Board of Selectmen. Dwayne is proposing that the Planning Board abandon the idea of creating one zone and instead increase the three commercial zones in town. Dwayne showed the Board the map changes with expanded zones instead of one commercial zone. In addition, Dwayne will propose that the Planning Board make the following language changes:

- Allowance of Affordable Housing within the Commercial Zone. Housing Policy #1 Action 1 and Housing Policy #2 Action 7
- Prohibit drive-thru franchises and restrict drive-thru restaurants. Land Use Policy #1 Action 1
- Prohibit Large Scale Box Stores over 75,000 sq. ft. – Land Use Policy #1 Action 2
- Drinking Establishments:

Make this a NO in all Zones since Town of North Berwick liquor laws do not allow for taverns/bars.

- Medical Marijuana:

Add a limitation in 5.2.1 that keeps the same area allowed as we currently have in the Village Center Overlay District.

- Adult Businesses:

Add a limitation in 5.2.18 that keeps the same area allowed as we currently have in the Limited Commercial.

The Board reviewed the proposal and concurred with Dwayne's proposal.

B. SAD60: Introduction of Steven Connolly, new Superintendent

Superintendent Connolly introduced himself to the Board and the people in attendance at the meeting and thanked the Board for allowing him the opportunity to meet with the Board. Steve stated that he is making his rounds and meeting with different stakeholder groups throughout the district to meet people, learn about the district and look at what SAD60 does well and not so well.

Superintendent Connolly mentioned that he is in the process of conducting a survey to see what SAD60 does and does not perform well. He stated that he has given the Board of Selectman a survey and wishes that they would individually fill it out and get it back to his office and offered anyone present in the meeting the opportunity to fill out the survey and get it back to him.

He stated that as someone from away, one word that came to mind when one thought of Noble was innovation. He was trying to determine if the innovations at SAD60 are effective.

Superintendent Connolly stated that he is aware of the tax burden concerns of citizens that education has and wants to find a balance of providing the best education opportunities to our children within the financial restraints that exist. He has just begun to look at the budget impacts and has reviewed the audit for last year which showed that SAD 60 actually over expended their budget. In addition, the district has been expending their reserve funds to help offset budget impacts but that has left the district with little reserve funds. Typically the District would have 3% of the budget in reserve and SAD60 has been budgeting less than half a percent. This is concerning when things like the Governor's curtailment in state funding happens. Steve stated that he is committed to providing the best education possibilities to our children with these budgetary concerns in mind and asks citizens and the Selectmen to assist him to this end.

The Board thanked the Superintendent and asked him to keep the line of communications open between the District and Town. They also asked for the District to work with the Town on items of common interest such as bulk purchases. The Superintendent pledged to do so.

C. Community Garden: Citizens interested in a Community Garden

Dwayne reminded the Board that in the fall, he was approached by some master gardeners to see if a community garden concept could be entertained in North Berwick. A Community Garden is a plot of land where gardeners rent an area to produce vegetables and flowers for their use and some of the produce is given to food pantries and the disadvantaged.

Jean Stover, who lives on Beech Ridge Road, was the primary person who was interested in trying to create the Community Garden. Unfortunately Jean's mother is ill and she cannot be here to present to the Board, however, Sue Caler has been working with Jean and would like to speak to the Board.

Sue stated that a few master gardeners would like to create a community garden and wanted to at least discuss the idea with the Board. The Community Garden concept has been in place in many Southern Maine communities and they would like one to be established in North Berwick which would provide an opportunity for someone to rent a plot, typically 4' by 25' to plant flowers and produce. Part of the concept is that some of the produce would be given to food pantries such as the New Covenant Food Pantry or the York County Shelter. They are looking for a parcel of land to hold 20-25 plots. Sue inquired if the Town had any land or knew of any landowners who may have available land. She did state that they are in discussions with one landowner but does not want to disclose his/her name at this time. Dwayne stated that the town summer camp did have a small plot of land at the Community Center that they planted a garden for the campers. It was used one year, but with only a six week program it was not practical to continue as part of camp. That would be available but it is much smaller than what is being sought. There is an area on the Mill Field behind the Fire Station, however, Dwayne would be concerned with vandalism to the plots and that area is slated for the Fire Station expansion in the future.

The Board members mentioned landowners such as Ken Goodwin, Deb-tone farm, Tom Walsh on Lebanon Road, or the Dutch property on Somersworth Road.

Sue thanked the Board and asked that if they have any other ideas to please let her know. Either she or Jean will keep the Board informed as to their progress.

D. Annual Report: Cover and Dedication

Dwayne presented the Board with a two cover concepts for the Town Report. Both had the newly erected sign located on Route 4 describing the Cabbage Hill Historical area. The Board liked the cover with the entire Cabbage Hill area with the sign in the foreground versus just the sign itself and stated that we should have the photo of the sign on the inside cover so citizens can read the sign.

The Board reviewed the list of those citizens that passed during the past year. The Board will make suggestions for a dedication in the coming meetings.

E. Town Manager – Discussion of Contract Renewal

Dwayne presented the Board with the contract that had been negotiated between the Board and himself to extend his contract through June 30, 2017. Dwayne stated that he would like the Board to reconsider the car allowance clause of the contract and reduce the amount that is stated in the draft contract. After discussion, Paul made the recommendation to reduce the car allowance from \$400.00 a month to \$325.00. This was acceptable to Dwayne. As was negotiated, the Town Manager's salary will not increase in the coming fiscal year and the Board will review future salary increases on a yearly basis.

It was moved by Selectman Galemmo and seconded by Selectman Folsom to enter into a contract extension with Town Manager Dwayne Morin through June 30, 2017. Vote 5-0 in favor.

6. Other Business:

Dwayne informed the Board that he had been contacted by Christopher Rosen regarding the possibility of the Town placing an ordinance before the voters entitled the 2nd Amendment Preservation Ordinance. Mr. Rosen will be in to discuss this proposal with the Board at the Board's January 22, meeting. Dwayne gave the Board a copy of the proposed Ordinance and the correspondence between himself and Mr. Rosen.

Dwayne reminded the Board that the County is seeking the Town's decision on the payment option the Town has chosen for payment of the County's FY13 six month transitional budget. The Board discussed the options of paying the entire amount in one year or taking the 5 year option. It was suggested that the five year option, although the town would have to pay interest, would be the best option to keep the tax rate increase to a minimum. The Board asked Dwayne to place this on the agenda for next meeting.

Gregg stated that he would like the Board to consider sending an amendment to the Town Meeting regarding the usage of the Bruce Abbot Park in the winter months. Currently the approved use of the park as determined by the Town Meeting was that the park would be closed from the end of October until April. In the past the Grange had plowed their parking lot and ice fisherman could park at the Grange and then walk onto the lake to fish. The Grange has decided not to plow its parking lot any longer and that limits the ability for ice fisherman to gain access to the lake. Gregg would propose that the town plow the Bruce Abbott Park in the winter to allow for ice fisherman access. The Board will discuss this further at another Board meeting.

Executive Session: 1 MRSA 405(6)(E)

Selectman Galemmo moved to go into Executive Session at 9:22 p.m., Selectman Folsom seconded a motion. Vote, 5-0 in favor.

Selectman Galemmo moved to exit into Executive Session at 9:35 p.m., Selectman Folsom seconded a motion. Vote, 5-0 in favor.

7. Review and Approve Warrants and Correspondence:

Warrant: January 1, 2013 - \$44,558.86

Warrant: January 8, 2013 - \$17,735.06

Selectman Danforth moved to accept the Warrant of January 1, 2013 for \$44,558.86 and the Warrant of January 8, 2013 for \$17,735.06 Selectman Folsom seconded the motion. Vote, 5-0 in favor.

8. Adjournment:

Selectman Drew moved to adjourn at 9:36 p.m., Selectman Galemmo seconded the motion.
Vote, 5-0 in favor.

Respectively Submitted:
Dwayne Morin, Town Manager

Original to Town Clerk

Chairman: Larry Hart

Selectman: Charles Galemmo

Selectman: Paul Danforth

Selectman: Elaine Folsom

Selectman: Gregg Drew