

**North Berwick Board of Selectmen Minutes March 1, 2016**

**NORTH BERWICK BOARD OF SELECTMEN MINUTES MARCH 1, 2016**

**Present:** Chairman Galemmo, Selectman Cowan, Selectman Hall, Selectman Johnson, Jr., Selectman Folsom

**Also Present:** Dwayne Morin

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

**1. Pledge of Allegiance**

**2. Review and Approve Minutes of February 2, 2016**

Selectman Cowan motioned to approve the minutes of February 2, 2016. Selectman Johnson, Jr. seconded the motion. VOTE: 4-0 Abstain: 1

**3. Public Input:**

There was not public comment at this time.

**4. Unfinished Business:**

**A. Stub Marsh Road: Continued Discussion**

Dwayne Morin stated that he had given the Selectmen a lot of information regarding Stub Marsh Road. He stated that he posed the 4 questions that the Selectmen had to the Attorney and she has responded to them. Dwayne read them into the minutes:

1. Does a Public Easement require the passage of motor vehicles AND foot traffic or can it be only for foot traffic?
2. Under Title 23 subsection 3028 (3), the law states that the municipal officers “may” have obstructions removed. This indicates that the Selectmen have discretion in ordering the removal of an obstruction and if they do not order the removal, does this place any legal liability on the Town?
3. Can the protection of the natural resource, i.e. Beaver Bog, or the preventing of damage to the public easement provide the selectmen with reason to allow for the obstruction to exist?
4. If the Selectmen order the removal of the obstruction, does this place any legal liability on the town for the potential damage to the natural resource or damage to the public easement?

Dwayne stated that our Attorney did not discuss the Beaver Bog issue because at the last meeting, Mr. Shaw had told the Selectmen to call Chris Coppi and Mr. Coppi would state that they are not allowed to do that. Dwayne stated that he called Chris Coppi. Mr. Coppi told him that this was not true. The Beaver Bog is not protected and in their perspective, it is just backed

up water on a road. Mr. Coppi said that there is no DEP rule that states that a car cannot pass through it because the road takes precedence over the Beaver Bog. Dwayne stated that the Attorney did not address it because DEP had addressed it. Selectman Cowan asked if there was any documentation that showed that this conversation had taken place regarding this specific location. Dwayne said that as soon as he got off the phone with Mr. Coppi, he sent the Selectmen an email. Dwayne stated that Mr. Coppi did not really need to put anything in writing because there are no rules against it. Mr. Coppi also stated that he had not spoken with Mr. Shaw in a very long time.

Selectman Hall asked if they can still keep the obstruction there and allow foot traffic. Dwayne stated that the Board has 100% discretion in having the boulders removed. Selectman Johnson, Jr. asked if any of the complainants had any physical or mental issues that would not allow them to come to a public meeting like this to discuss it with the Board. Dwayne said that they did not. Chairman Galemmo said that the way he sees it is that it is totally up to the Board's discretion to either order them to remove the boulders or do nothing. Dwayne said that this was correct. Dwayne also stated that one of the questions that the Selectmen had asked was if a public easement included vehicular traffic. He said that it does include it. Selectman Cowan asked Dwayne if Mr. Shaw knew about this information yet. Dwayne said that he did not because he thought that he would be at the meeting tonight.

Selectman Hall feels that it is in the Town's best interest to leave the boulders there and allow foot traffic. Selectman Johnson, Jr. said that he went and drove out there from both ends and you can get a fairly good sized ATV through the rocks and you can almost ride a truck through them. It is definitely passable from both ends except for the 100 feet of the bog. Selectman Folsom said that she thought the Game Wardens usually come out in these situations and remove the beavers. Dwayne said that they do but only if you ask them to. Selectman Hall said that part of the discussion that they had with Mr. Shaw was that people were throwing their trash out there. He stated that why should the Selectmen order them to remove the rocks when people still have access by foot. He also said that the complainants can also come in to talk to the Selectmen about it. He has not seen them so he has not heard their side. Selectman Hall also stated that anything that they can do to prevent the people from going mudding and throwing trash out there is a good thing for the town.

Selectmen Johnson, Jr. said that they had asked the Shaw's to take over and maintain the road and now we are going to allow people to destroy it with recreational vehicles. Dwayne said that this is not true. There is a law that states that if anyone ruins that road with their ATV, it is a Class E misdemeanor and the police can cite that person for damaging the road.

Dwayne stated that the Board can do what they want but typically, when there is a public easement it is for the public to enjoy. Dwayne also said that he can also tell the people that complained that they need to come before the Selectmen to speak to them about it if that is what the Board would like him to do. He stated that there were 2 property owners and 1 private citizen that complained to him about it. He did state that whatever the Board's decision is, there will be more that will come forward.

Chairman Galemmo asked Selectman Johnson, Jr. if he was able to get a vehicle through. Selectman Johnson, Jr. said that the only part that you can't get through right now is where the water section is because they have blocked it off. You cannot go through 100%. Selectman Cowan asked if people could still access the gravel pit and Dwayne said the boulders do not stop anybody from going to the gravel pit. Selectman Cowan thought that the reason that they had put the boulders there was to prevent people from getting into the pit. Selectman Folsom asked what the reason was for putting the boulders where they were. Dwayne stated Mr. Shaw had many reasons. The reasons included protecting the beavers, protecting the integrity of the road, and trying to keep some people from going into his gravel pit.

Dwayne stated that one of the complaints was from a man who lives on that road, works on this side of the town and now has to go all the way around to the other side to get to his house. It adds about 8 miles to his route.

Selectman Hall motioned that they do nothing at this time and see if the complainants would like to come in and talk with the Board and tell them their side of the story. Selectman Johnson, Jr. seconded the motion. VOTE: 5-0

**B. Maine Spirit of America: Request for North Berwick to Name an SOA Recipient**

Dwayne stated that, at the last meeting, he had talked about being contacted by the Maine Spirit of America President and their reaching out to York County towns to nominate somebody to receive the Maine Spirit of America Award for our community. He is now looking for a candidate.

Selectman Johnson, Jr. motioned to nominate Mary Craig for the Spirit of America Award for North Berwick. Selectman Cowan seconded the motion. VOTE: 5-0

Dwayne said that if she comes out for the Town Meeting, it would be nice to give her the award there. He is not sure if he can get her there but he knows a few people that can probably get her there.

**C. Budget FY17: Continuing Discussions**

Dwayne stated that the Budget Committee is winding down. They have one meeting left and they only have a couple of Articles to act on. Dwayne has included in the packet a summation of where the Committee is at so far. He said that for the most part, the Budget Committee has been in agreement with the recommendations that the Board has put forward to them to review. He stated that there were some split decisions for the Police Department and on the Library. He stated that they discussed the Library for over an hour at the last meeting. The Library had requested an increase of 8% in their budget and an additional person. Dwayne said that there was a good number of people on the Budget Committee that felt that the Library had asked for too much money. One of the Budget Committee members stated that, with the exception of York Library, ours had the highest budget. Selectman Johnson, Jr. thought that South Berwick would be higher than us. Dwayne said that their budget is \$100,000 per year. The Library staff did have some good comments regarding this. They stated that some of the towns are only open

3-4 days a week but we are open 6 days so this generates more cost. Some of the Budget Committee members would like to see the Library do more fundraising and some yearly campaigns instead of just project campaigns. One of the comments made was that the Town of South Berwick requires their Library to generate 20% of their revenue from donations. There was also talk about the Friends of the Library and how this is defunct and trying to utilize more volunteers instead of paid employees. One of the big concerns was that there was some discrepancy in the numbers. When they submitted their budget, the number that they put for their current year budget was not what was approved. On the Salary line, there was a \$5,000 difference. They were requesting an additional half a person. They wanted to give their employees a 3% raise and hire a part time person. Dwayne stated that if you took the number that they had on their spreadsheet, added the 3% and added the \$7,300 for the part time person, they didn't need the number that they requested. If you took the number that they submitted last year which was \$5,000 higher than what they had on their sheet, then their numbers were all over the place. In the end, the Library Trustees agreed to lower their budget to \$225,000 instead of \$235,000. They were also able to find other cost savings. Their oil price was too high and electricity price was \$2,000 more than what they needed. By correcting these numbers, they think that they will be able to hire a part time person.

Dwayne stated that some of the people thought that the Library should do some more of their own fundraising and asked the Trustees what they currently do for their fundraising efforts. The Trustees stated that they have talked about fundraising, but because they had done a big campaign for their building, they didn't feel like they wanted to go back and start asking for more money. Some of the Budget Committee members said that they think the Library should be asking for more money every year. The Library Trustees stated that they didn't want to step on the toes of the Fire Department, Rescue Department or other agencies that are asking for money. One of the Budget Committee members stated that this is when it becomes a personal priority as to what they are going to fund, but you can't get money if you don't ask for it. Dwayne stated that they have talked about reestablishing the Friends of the Library. The Budget Committee members said that they feel that the Library has to reach out more to the younger generation. The Friends of the Library were typically older people that were involved. The idea should be to try and get the younger families involved. Selectman Johnson, Jr. asked what else besides late fees, generates money for the library. Dwayne stated that they do a book sale every year and they have some people that give donations. He said that they made \$13,400 in donations last year.

Chairman Galemme asked how the Board of Trustees were chosen. Dwayne stated that they volunteer. Dwayne stated that when our Library was created, it was donated to the town by Mary Hurd. At the time, she did not like the Selectmen so she put a caveat in there that stated that as long as the Library existed, the Town would own the building, but the Board of Selectmen would not run the Library. A separate Board of Trustees would run it.

Dwayne stated that they went through the Impact Fee budgets last night and the Budget Committee was unanimously in favor of all of the projects including the Canal Street Program and the Community Center project.

Dwayne said that at there are a few things that the Budget Committee needs to act on at their next meeting. They need to act on the seed money for the Conservation Commission. They need to re-explore the hydrant rental because the Water District is increasing the rates.

Dwayne stated that he is sending the Town Report out next Wednesday to print so he needs to know how the Board wants the Warrants set up. He stated that he would have one recommendation. Since we added an Article at the end because we had split one of the other Articles up, he recommends that we move that Article up near to where the Conservation Commission is. We would move it from #44 and make it the new #30 and renumber all of the ones that follow. Dwayne stated that the setup is the same as what we have had for years and it seems to work well. The Board agreed.

**Reminders: Next Board of Selectmen's Meeting** – March 15, 2016 – 6:30 pm Municipal Building

**Budget Committee Meeting** – Mar. 7, 2016 – 6:30 pm Municipal Building

**5. New Business:**

**A. Code Enforcement:** Resignation of James Marchese

Dwayne stated that James Marchese has resigned as Code Enforcement Officer effective March 12, 2016. In Sunday's Telegram, there was an ad for a new Code Enforcement Officer as well as in the Foster's Daily Democrat. Dwayne met with the Wells CEO on Friday to see if there is something they can do for us in the interim because there is no way that we will be able to hire somebody in 2 weeks. Dwayne stated that he met with Wells not only to see about the short term solution but also about the possibility of a long term solution. They are not interested in a long term solution and they want to charge us for the short term solution. Dwayne asked if it would be possible to get somebody to be in our office a couple of days a week but Wells said that they did not have the ability to provide that. They will pick up the permits on Monday, Wednesday and Fridays, process them and get them back to us so we can issue them. They will do inspections ½ day on Monday and Fridays and would do emergency inspections if needed. They are unable to provide office hours but they will field questions at their office in Wells. All zoning will be handled by Dwayne because Wells will not have the time to get a handle on our zoning. Our plumbing will be handled by our Deputy Plumbing Inspector who is Joe Rouselle of South Berwick. The electrical becomes an issue because Wells does not do electrical inspections. Wells has the State Electrical Inspector do their inspections but they only require an inspection on multi-family dwellings or commercial units. On single family homes, they require the Master Electrician sign off on it. Dwayne stated that in the interim, we could have the permit issued and in order to get occupancy, the Master Electrician would have to sign off on it. He stated that there would be a problem if the homeowner is doing their own electrical. Dwayne's recommendation would be that if the homeowner is doing their own electrical, then we could contact the State Electrical Inspector.

Dwayne stated that based on what the Board decides to do tonight, he will include all of the information in the newsletter.

Selectman Hall motioned that in the interim of hiring a new Code Enforcement Officer, the homeowner has the option of hiring a Master Electrician to sign off on the electrical inspection or having the State Electrical Inspector come and inspect it. Selectman Johnson, Jr. seconded the motion.

Dwayne stated that Wells would charge us \$35.74 per hour. They are estimating that it would be about 6 hours per week so the total would be an estimated \$214.44. Wells stated that they don't think that they would charge us any more than this. Selectman Johnson, Jr. asked if Dwayne was going to have to run the Planning Board meetings now. Dwayne stated that he was going to contact the Southern Maine Planning Commission and he will contact Sue to see if she can get the Agendas out.

Dwayne stated that in order for us to accomplish this assistance, the Board has to deputize the Wells Code Enforcement Officers so that they are covered under our liability insurance. The Board just needs to state that we will deputize them and they will come in and see Chris for this.

Selectman Hall amended his previous motion to also include that we will accept the assistance from the Town of Wells Code Enforcement Officers under the terms of the proposal that they put forth to us. Selectman Johnson, Jr. seconded the motion.

Selectman Cowan stated that we have now lost 2 CEO's in a short period of time. She was wondering if Dwayne knew if there was some kind of issue. Dwayne stated that one of the things that he thinks needs to happen is to raise the salary level. He said that he should probably talk to some other CEO's to try and get a feel for what they do. Dwayne stated that Jim mentioned that one of the main reasons he was leaving was for the commute. Dwayne told him that this was one of the questions that he was specifically asked about in one of his interviews because he had mentioned that he was selling his house. Dwayne asked him if the commute was going to be a problem and Jim told him that it wasn't going to be because he used to travel an hour to work for about 10 years when he worked for the engineering firm. Dwayne stated that when they interviewed him one of the issues that Jim had was with the salary. We did increase it and we were going to give him another bump in a year. Dwayne stated that his new office will be only about 2 miles away from his house. Selectman Cowan asked how his new salary compared to here. Dwayne stated that he is getting paid the same exact thing that we were paying here but he now has less of a commute and doesn't have to pay taxes.

Selectman Johnson, Jr. asked how it had worked when we only had a part time CEO. Dwayne stated that it was very stressful on the rest of the staff and he was doing most of the work. Selectman Johnson, Jr. asked what we were paying Jim and Dwayne said that it was \$59,500. Chairman Galembo asked what some of the other towns are paying their CEO's. Dwayne stated that he spoke with Wells, Kennebunkport and a few other towns and they said that a \$60,000 salary is a good starting salary. They said that we should be prepared to be in the \$65,000 range. Selectman Cowan asked what the salary was for this position right now and Dwayne said that it is \$59,500 because this is what he had in there. Selectman Cowan asked if we had any option of increasing it. Dwayne said that they have not finalized the budget so they are able to add some more money into the budget. Selectman Hall asked if it had been brought up at the Budget Committee meeting. Dwayne just told them that the Code Enforcement Officer had resigned and

we may be revisiting the budget based on what the Selectmen decided tonight. Dwayne stated that the last time they interviewed, they just had 3 applicants that were qualified. He said that Wells did give him a few names of some people that may be interested and they were going to contact them on our behalf. Dwayne has received an email from one of those people.

Chairman Galemmo stated that they needed to vote on the previous motion regarding the choice by the homeowner on using a Master Electrician or a State Electrical Inspector for their home inspection and to accept the assistance from the Town of Wells Code Enforcement Officers under the terms of the proposal that they put forth to us (Page 54 of the packet). VOTE: 5-0

Selectman Cowan motioned to increase the base salary for the Code Enforcement Officer to \$56,500, adding \$1,000 to the Planning Board to make it \$7,000 and keeping it at \$1,000 for ZBA and \$500 for Health Officer for a total salary of \$65,000. Selectman Folsom seconded the motion. VOTE: 5-0

Dwayne stated that Jim said that he is willing to come in and help out the new person when they are hired.

**B. FY14 Commitment: Review Tax Acquired Properties**

Dwayne stated that it has been an interesting year for tax acquired properties. Up until last week, we still had a lot of people that had not paid their taxes. Now that everything is all said and done, we have just one property that has unpaid taxes. The property is a vacant lot on Railroad Avenue and is owned by the Phillips' Heirs. Dwayne said that they signed all of the slips that they received all of the notifications that we sent them but they did not pay the taxes. The Board has a couple of options that they can act on. The first thing that they can do is do nothing and keep going on the way it is. Selectman Hall stated that he thought that it had been said at a previous meeting that it had been a long time since we had acquired property because people had not paid their taxes. Dwayne said that they have acquired property in the past. We have not acquired any houses in a long time but we have acquired property. Dwayne said that typically, what we do when we acquire property, the Board of Selectmen allow the property owner to redeem their property. In order for them to redeem their property, they have to pay all of their taxes up to current year. He stated that they just foreclosed on the FY14 taxes so they would have to pay 2014, 2015 and 2016 taxes in order to redeem their property. Selectman Hall asked if it took 3 years before it becomes eligible for us to acquire it. Dwayne said that after the Board sets commitment, they go 1 year. After 1 year, we apply a lien on the property. Eighteen months after the lien is applied we take the property. They actually have 2 ½ years to pay their taxes before the town takes the property. In this case, the people have received numerous certified mailings.

Another thing that the Board has done in the past is that if they are unable to redeem it in full, we have signed contracts with the owners. It is an installment contract where the town still owns the property and allows the owner to pay off the taxes within a year time frame.

If the property is something that the Town really needs or is desirous, then the Board has kept some of those properties. There has to be a really good reason for the Board to keep it. In this

case it is a 50 x 125 foot lot that is in the downtown area. Chairman Galemmo said that it has been the philosophy of the Board that they are not in the real estate business. Selectman Johnson, Jr. asked if anybody had spoken with the people. Dwayne stated that they live in Florida and we do not have a phone number for them. Chairman Galemmo stated that if they take the property, then they have the right to sell it. Dwayne said that they need to give them the right of redemption first. The way that you give them the right of redemption is to vote to sell it. This will start a 30 day time clock. Dwayne would notify the people and tell them that they need to pay in full in order to redeem the property. If they do not redeem it within that time frame, then we can put it up for sale at a price that the Board selects. Chairman Galemmo asked Dwayne if one of the abutting owners would be interested in it. Dwayne said that they might be.

Dwayne said that the Board can keep it. They can do nothing and sit on it. We are allowed to sit on it for 3 years. After 3 years, it is automatically town owned property and the only way you can get rid of it is to go to Town Meeting. They can vote to sell it and send notifications out to the people in an effort to let them redeem the property.

Selectman Folsom motioned to acquire the property owned by the Heirs of Martin Phillips on Railroad Avenue and sell it. Selectman Cowan seconded the motion. VOTE: 5-0

#### **C. Newsletter/Town Report: Discussion on Newsletter and Town Report**

Dwayne stated that he received the bid for the price of the Town Report. It came in at \$4,586 which is less than what we paid last year. He did get 150 less books this year. He stated that he usually get 1000 books and he still has 250 sitting downstairs. They will put them out at the Transfer Station, Library and Town Office for people to get.

Selectman Folsom motioned to accept the bid from Lincoln Press for \$4,586. Selectman Johnson, Jr. seconded the motion. VOTE: 5-0

Dwayne stated that he also included a draft of the newsletter to show what it will look like. He also included a copy of the Activities Booklet that is being put out by the Parks and Recreation.

#### **6. Other Business:**

Dwayne stated that he included in the packet, a letter from Cynthia Roy. He stated that she is alive because of our Rescue Squad. The letter states that thanks to the paramedic and the on board equipment in the ambulance, they were able to determine that she was having an heart attack and needed to go to a different hospital than what she had originally wanted. She is very grateful for their work.

Selectman Folsom stated that she has had people come up to her and say that having a father and son on a Board is nepotism. She has told them that it wasn't. Dwayne stated that Michael Johnson, Sr. had called him to ask him if being on the Board with his son would be an issue. Dwayne told him that the people make their decision at the ballot box. If they don't have an issue with it then there is no problem. Dwayne stated that if the person was being appointed instead of elected, than that would be a different issue.

Selectman Hall wanted to mention that he read an article about the Town of Sedgewick, Maine, which is doing something that no other town has done. They unanimously passed an Ordinance giving its citizens the right to produce process, sell, purchase and consume local foods of their choosing including raw milk and locally slaughtered meats. He stated that there are 3 other towns that have it on their ballots for their town meetings. Dwayne stated that, unfortunately, you can pass all the town ordinances that you want, but it is not something that is regulated at the local level. It is regulated at the State level and the State will not recognize local Ordinances. The original case was the Farmer Brown case from Unity, Maine.

**7. Review and Approve Warrants and Correspondence:**

Warrant:	February 23, 2016	- \$ 54,418.23
Warrant:	March 1, 2016	- \$ 15,737.62

Selectman Hall motioned to approve the Warrant of February 23, 2016 for the amount of \$54,418.23 and the Warrant of March 1, 2016 for the amount of \$15,737.62. Selectman Folsom seconded the motion. VOTE: 5-0

**8. Adjournment:**

Selectman Folsom motioned to adjourn the meeting at 8:21 pm. Selectman Cowan seconded the motion. VOTE: 5-0

Respectively Submitted,  
Susan Niehoff, Stenographer

Original to Town Clerk

Chairman: Charles Galemmo

Selectman: Wendy Cowan

Selectman: Elaine Folsom

Selectman: Michael Johnson, Jr.

Selectman: Jonathan Hall