

North Berwick Board of Selectmen Minutes March 15, 2016

**NORTH BERWICK BOARD OF SELECTMEN MINUTES
MARCH 15, 2016**

Present: Chairman Glemmo, Selectman Folsom, Selectman Cowan, Selectman Morse, Selectman Johnson, Jr.

Also Present: Dwayne Morin, Dale Hilton, Charles Barto, Shirley Barto, Lorinda Hilton, Laurienne Missud Martin, Laura Shaw, Justin Shaw, Danny Shaw

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

1. Pledge of Allegiance

3. Review and Approve Minutes of March 1, 2016

Selectman Cowan motioned to approve the minutes of March 1, 2016. Selectman Folsom seconded the motion. VOTE: 5-0

2. Public Hearing – Town Meeting Referendum Questions – 6:30 pm

Chairman Glemmo opened the Public Hearing. He read the Legal Notice into the minutes:

Public Hearing

Tuesday, March 15, 2016 6:35 P.M.

Municipal Building Conference Room #212

Referendum Questions for 2016 Annual Town Meeting

The Board of Selectmen will hold a Public Hearing on Tuesday, March 15, 2016 at 6:35 p.m. in the Municipal Building Conference Room #212 pursuant to 30-A MRSA 4352 (9) on the proposed Zoning Ordinance amendment referendum questions proposed for the 2016 Annual Town Meeting. The eight referendum questions to be presented at the Annual Town Meeting are:

Question #1: Shall an ordinance entitled, “An Ordinance Amending the North Berwick Electrical Ordinance” be enacted?

Dwayne Morin suggested to Chairman Glemmo that they should probably go over each question one at a time instead of reading them all at once.

Chairman Glemmo asked if there was any public comments or questions regarding Question #1. Dwayne informed the public that this meeting was a Referendum Public Hearing to just explain the questions that the Town is enacting on. No changes can be made at this time.

Dwayne stated that the intent of Question #1 is to align our Electrical Ordinance with the State Electrical Ordinance. Our current Electrical Ordinance says that we will use the 1999 edition. The State currently uses the 2014 edition. Charles Barto asked if he meant that they would follow the National Standard. Dwayne said that he was talking about the State. Mr. Barto said that the State follows the National Standard anyway. Dwayne said that they did not. He said that the State is usually a year behind.

Dwayne stated that they also added Section #3 to the Ordinance. He said that even though it is mentioned that a permit is needed in Section #1, our attorney felt that we should add Section #3. It basically just states that there is a fee schedule on file with the Town Clerk.

Chairman Galemmo asked if there were any comments or questions from the public. There was none.

Question #2: Shall an ordinance entitled, “An Ordinance Amending Section 5.1.9 of the Zoning Ordinance to state the performance standards and requirement for Explosive Materials” be enacted?

Dwayne stated that this was brought to our attention by some of our citizens. Currently, our requirement for propane tanks which are over 250 gallons and are considered bulk storage need to be 75 feet from your property line. He stated that there has been a lot of conversions of furnaces within the residential areas and 75 feet is an inordinate amount of space for a propane tank. He stated that he went to the State and asked them what we should include in our Ordinance and they basically wrote it for us. It states that we will follow the standards that the Maine Fuel Board has adopted.

Chairman Galemmo asked if there were any comments or questions from the public. There was none.

Question #3: Shall an ordinance entitled, “An Ordinance Amending the Land Use Table 4.3 of the Zoning Ordinance to require a Code Enforcement Officer Permit (CEO) instead of a Conditional Use (CU) Permit for certain uses within the specified Zoning Districts: Shoreland Limited Residential District – Single Family Residence; Shoreland Limited Residential District – Structures Accessory to uses which are similar to permitted uses; Resource Protection District – Structures accessory to permitted uses; Shoreland Stream District – Structures accessory to permitted uses; and Shoreland General District – Structures accessory to permitted uses” be enacted?

Dwayne stated that this was brought forth by the Code Enforcement Officer. Right now if somebody wants to build in the Shoreland Zone, everything has to go to the Planning Board. In order to speed up the process for these applicants, it would allow the CEO to provide the permit if they meet all of the requirements. If there is an issue with the application, it still allows the CEO to send it to the Planning Board under Section 6.9 of the Zoning Ordinance.

Chairman Galemmo asked if there were any comments or questions from the public.

Laurienne Missud Martin asked how come it had to go through the Planning Board. Dwayne stated that he thinks that back when Shoreland Zoning was put in place, which was not something that the town adopted but the State put in place, we just took a template that the State had given and just put it into our existing Ordinance. Dwayne stated that as long as they meet all of the requirements, a permit can be issued. For example, there was an applicant that wanted to build a house and instead of being to get a permit and starting to start the project, he had to go through the Planning Board process. It took him 6 months before he could build. There was another case where somebody wanted to build a garage and it took 3 months to get the permit. By making this change, it will make things easier for the applicants.

Chairman Galemmo asked if there were any comments or questions from the public. There was none.

Question #4: Shall an ordinance entitled, “An Ordinance Amending the Land Use Table 4.3 of the Zoning Ordinance to require a Conditional Use (CU) Permit for Banks and Pharmacies (with or without drive through) in the Village Center District, Shoreland General District, Commercial District, Commercial II District and Industrial District” be enacted?

Dwayne stated that our current Ordinance doesn’t distinguish between banks and pharmacies, especially as it relates to drive throughs. The Planning Board felt that it was important to try and encourage those things in our community. This just specifies that banks and pharmacies would be allowed in the districts that are mentioned. Charles Barto asked if they were currently just allowed in the Village Center. Dwayne stated that it doesn’t specify banks and pharmacies. It only talks about all drive throughs. It just talks about drive-in facilities offering goods and services to customers waiting in parked motor vehicles. Dwayne stated that these were only allowed in the Commercial and Industrial Districts. This new Ordinance would allow them in more districts. Charles Barto asked what the reason was for a change now. Dwayne said that this has been a topic of discussion in the town for quite some time. People want to see a pharmacy and other banks come into town.

Chairman Galemmo asked if there were any comments or questions from the public. There was none.

Question #5: Shall an ordinance entitled, “An Ordinance Amending Section 4.2.j and Land Use Table 4.3 of the Zoning Ordinance to require a Conditional Use (CU) Permit for Uses Bordering Town Lines not currently permitted in the Town of North Berwick meeting the established performance requirements” be enacted?

Dwayne stated that this was brought to the Planning Board by somebody that owns property in our town and in Berwick. He stated that the concern was to allow for a use that is conforming in another town to be allowed in our town if it abuts a border. The Planning Board was in favor of this idea but wanted to restrict how that would happen so they added 4 conditions. They are:

1. The use cannot expand more than 250’ along the existing roadway frontage.
2. The use cannot expand by more than 50%.

3. The use must have a 100' vegetated buffer.
4. The use cannot be closer than 250' from an existing residence.

Charles Barto asked if it was going to be considered Commercial or something else. Dwayne stated that there was no zone designation. If it abuts the town, the applicant would have to go to the Planning Board and they could allow it to come 250' into our town. It is not a change in zones. It just allows that use to be expanded into our town. Charles Barto asked if it would be considered a non-conforming business. Dwayne stated it would be conforming because it would have to go through the Planning Board process and they would need to meet our standards. Chairman Galemmo stated that they did also add something in the Ordinance to protect the Aquifer Protection Zone which would affect the Sanford side of town.

Shirley Barto commented that she doesn't like the idea that this was initiated just for one person. She feels that it sets a precedent.

Chairman Galemmo asked if there were any comments or questions from the public. There was none.

Question #6: Shall an ordinance entitled, "An Ordinance Amending Sections 6.1 and 6.2 of the Zoning Ordinance to require a demolition permit" be enacted?

Dwayne stated that this questions comes from the Board of Selectmen. It really comes from the need to keep our assessing records more accurate. People demolish things off their properties. They currently do not have to let us know and this causes tax issues. They get taxed on the structure and then they have to come to us with proof that they no longer have the structure. We then have to do a tax abatement. Dwayne stated that the idea is to create a very simple permitting process that allows for a demolition permit. It will be a \$5 permit charge. It is to keep our accessing records accurate.

Chairman Galemmo asked if there were any comments or questions from the public. There was none.

Question #7: Shall an ordinance entitled, "An Ordinance Adding a new section 1.5.7 and Amending Sections 3.2, 5.2.6, 6.5.1 and 6.5.2 of the Zoning Ordinance to amend the sign requirements" be enacted?

Dwayne stated that this one is the lengthiest change that we have for a proposal this year. It comes out of a Supreme Court decision known as the Reed case which came out of Texas. It basically states that sign ordinances are not allowed to infringe on people's First Amendment rights. Unfortunately our current Ordinance does infringe on the First Amendment rights. He stated that 99% of the Sign Ordinances in the State of Maine and about 90% of the ones in the nation infringe on the First Amendment rights. He said that they sent our Ordinance to our attorney, who is very knowledgeable about the Reed case, to make our Ordinance compliant. We added Section 1.5.7 which is a Substitution Clause. It states that it is our goal in changing the Sign Ordinance so we don't infringe on anybody's rights and if we did, it was not done on purpose.

The next section that was changed was with our definitions because they weren't clear. Regarding billboards, our definition was in contrast with the State billboard definition, so we made them look the same. We also added a definition for a Traveled Edge because it mentioned in our Ordinance but it was never defined.

The major change comes with the temporary signs. All of the permanent sign section stayed pretty much the same. There were three sections of our Ordinance that dealt with signs and we combined them all into one section. Our temporary signs will now be four things instead of three pages. It states that a temporary sign shall not exceed 24 square feet and total on-premise temporary signage can't be more than 50 feet, maximum height will be 15 feet, can be located within 8 feet of the traveled edge or 5 feet from edge of a sidewalk, and the display time period. There are 2 display time periods – one for commercial speech and one for non-commercial speech. For non-commercial speech, the signs can be displayed for 6 weeks prior and removed 1 week after the event. For commercial speech, the signs can be displayed for 2 weeks prior and removed 1 week after the event. Dwayne stated that we used to distinguish between signs like a real estate sign, yard sale sign, political sign or a construction sign. We can no longer do this.

Lorinda Hilton asked if this would be retroactive in any way. Dwayne stated that if they have an existing sign, it would be grandfathered.

Chairman Galemmo asked if there were any comments or questions from the public. There was none.

Question #8: Shall an ordinance entitled, "Establishment of Planning Board" be enacted?

Dwayne stated that this was a Board of Selectmen initiated Ordinance. Our Planning Board was established back in 1967 and back then the law stated that the Board of Selectmen could create the Planning Board. It did state that if the Selectmen created a Planning Board, the term had to be 5 years. In 1971, the State changed the way that Planning Boards were established. They now state that in order to have a Planning Board, you have to have an Ordinance to establish one. It would state in the Ordinance what the town determined the term limits to be and they can be from 3 to 5 years. They did state that if anyone had created a Planning Board before with the old law, in order to change the terms we need to create a new Ordinance. We have never done this. All of our other Boards are 3 year terms so we want to make it consistent.

Chairman Galemmo read the rest of the legal notice into the minutes:

Copies of the proposed amendment language can be viewed in the Town Clerk's Office during regular scheduled hours or on the Town's website: townofnorthberwick.org.

The Board of Selectmen encourages all interested persons to attend this Public Hearing.

Chairman Galemmo asked if there were any more comments before he closed the Public Hearing. There were not comments.

Chairman Galemmo closed the Public Hearing at 6:58 pm.

4. Public Input:

There was no public comment at this time.

5. Unfinished Business:

A. Budget FY17: Final Budget Committee Recommendations

Dwayne stated that he had included in the packet the final Budget Committee recommendations for the Town Meeting. He stated that for the most part, they were pretty consistent with what the Board of Selectmen had looked at. The end result is a 5.8% increase in the budget. He said that even though we are raising additional taxation money, the anticipated additional revenue that we are going to receive from taxable value should not cause a tax increase. Dwayne stated that the school numbers were released today and SAD #60 is losing \$99,000 from State funding. Chairman Galemmo asked why they were losing so much. Dwayne said that it was due to valuation and student count. Selectman Cowan asked where we ranked with the student count with Lebanon and Berwick. Dwayne said that we have about 650 student, Lebanon has about 1,100 and Berwick has about 2,000. In terms of valuation, Berwick and North Berwick are just about tied and Lebanon is not very far behind us.

B. Code Enforcement: Progress of Replacement and Interim CEO Coverage

Dwayne stated that Jim Marchese's last day was last Friday so we are utilizing the Town of Wells to do our building permits, building application reviews and building inspection reviews. The Town of South Berwick is doing our plumbing reviews. Dwayne is doing all of the zoning reviews and we will be using Southern Maine Planning Commission for the Planning Board meetings. Dwayne stated that all of the applications for the position are due on Monday and he said that he has received some promising applications. Dwayne stated that prior to the last Selectmen's meeting, he had no applications. After the Selectmen decided to raise the salary, he started getting a lot of applications.

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

Dwayne included the packet a copy of the Town newsletter and they will be mailed out on Friday. It will include all of the information as it relates to the Town Meeting. It will include all of the referendum questions, Budget Committee recommendations and all of the information of what we are looking to do at Town Meeting.

Reminders: Next Board of Selectmen's Meeting – April 5, 2016 – 6:30 pm Municipal Building

Town Meeting – April 2, 2016 – 1:30 pm Noble High School

5. New Business:

A. Town Meeting: Sign Warrants, Referendum Questions, Discussion

Dwayne stated that the Selectmen have to sign the Warrants that were discussed at the last 2 meetings. They also need to sign the Referendum questions.

The Board also need to appoint the Ballot Clerks for the Town Meeting. Chris Dudley is recommending Sharon Litvinchyk, Lorinda Hilton, Susan Caler, Cynthia Roy be appointed as Ballot Clerks.

Selectman Cowan motioned to approve Sharon Litvinchyk, Lorinda Hilton, Susan Caler, Cynthia Roy to be Ballot Clerks at the Town Meeting. Selectman Folsom seconded the motion. VOTE: 5-0

7. Other Business:

Dwayne stated that he met with the Water District Trustees regarding the increase in water rates. He stated that they had two proposals that they were looking at and both of them were not very favorable to the town. The first proposal was to do 3% for the first year for water district rates for hydrant rental and all of the water users would increase 1.5%. In year 2, 3, 4 and 5, the residential rates would not increase but the town's hydrant rental would increase by 4.5% for those four years. That would make it about a 22% increase for the town versus 1.5% for the rate holders. The other proposal was to do 3% for both residential and hydrant rentals for year 1. Then there would be no more for the rate users for years 2, 3, 4 and 5 and 3% for the town for hydrant rental for these years. Dwayne asked the Trustees what the reason was for this. They said that their analyst felt that the town hydrant rentals were low and they were trying to generate more revenue for the Trustees. Dwayne stated that he understood this because they pay the analysts to maximize the amount of revenue that they are going to gain. The rationale was that the town was supposed to be paying 30% of the operational costs of the Water District. Dwayne told them that it was that we were supposed to be paying 30% but that we should pay no more than 30%. In all of the years, the town has never paid 30%. We have always hovered around 22% to 26% depending on the year. He asked the Trustees what the rationale was to raise the water hydrant rates for the community because it basically just means that it will raise our taxes. Instead, they have decided to do 3% for both rate users and hydrant rentals for year 1, 1% for rate users for years 2, 3, 4 and 5 and 1.5% for the hydrant rental for these years. It would be a total increase of 10.5% for the town and 7% for the rate users. We are currently hovering around 24%. Selectman Folsom asked what their long range plans were and Dwayne said that they only go 5 years out.

6. New Business:

B. Farewell: Elaine Folsom – April 2007-April 2016

Dwayne presented Selectman Folsom with a plaque for her years of service. Stephen Peasley and some of the officers and the secretary came in to give her flowers and thank her for her support over the years.

8. Review and Approve Warrants and Correspondence:

Warrant: March 8, 2016 - \$ 0.00

Warrant: March 15, 2016 - \$ 550,671.54

Selectman Hall motioned to approve the Warrant of March 15, 2016 for the amount of \$550,671.54. Selectman Johnson, Jr. seconded the motion. VOTE: 5-0

9. Adjournment:

Selectman Cowan motioned to adjourn the meeting at 7:31 pm. Selectman Hall 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