

North Berwick Board of Selectmen Minutes June 7, 2016

NORTH BERWICK BOARD OF SELECTMEN MINUTES JUNE 7, 2016

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

Absent: Chairman Galemmo

Also Present: Dwayne Morin, Dale Clock, William Houston, Jason Langelier, Cathy Babcock, David Babcock, Donna Rand, John Hughes, Paul Boisvert, Laura Shaw, Danny Shaw, Justin Shaw

Vice Chairman Hall will be the Acting Chairman for tonight. He called the meeting to order at 6:30 pm.

- 1. Pledge of Allegiance**
- 2. Review and Approve Minutes of May 17, 2016**

Selectman Cowan motioned to approve the minutes of May 17, 2016 as written. Selectman Johnson, Sr. seconded the motion. VOTE: 4-0

3. Public Input

William Houston stated that he would like to discuss the issue regarding Stub Marsh Road. He stated that he lives at the opposite side of Stub Marsh Road. He stated that it has been blocked half way. He said that it is a public access and he is asking as a longtime resident of North Berwick, that the Selectmen have the boulders that are blocking the road be removed to maintain the public access. Mr. Houston stated that on the other side, there are also some No Trespassing signs that inhibit the public from accessing it because it looks like it is private property. He also introduced Dale Clock who is also a property owner on Stub Marsh Road. Dale Clock stated that he owns 1,151 feet of it. Mr. Houston stated that it could be a problem with fire safety as well. If there was a brush fire and they came in from one side, the fire trucks could not get through because of the road being blocked. He said that he has also spoken to Wayne Bridges who lives there as well. Mr. Bridges told him that he has also asked to have the boulders removed. Selectman Cowan asked Dwayne if this road could be utilized by the Fire Department if there was a fire that they needed to get to. Dwayne stated that it could be used. Right now, we couldn't go through. He stated that we couldn't go through it before anyway because it is pretty rough. He stated that there is probably about a quarter mile section of the road that it would be unwise for us to have our trucks use. Selectman Cowan asked if we would typically use that road. Dwayne stated that he really couldn't answer that. He would have to defer this question to our Fire Chief.

Dale Clock stated that it was a road that nobody used for a long time. In 1977 the Legislature came up with a way for towns to discontinue old roads without having to pay damages. He said that the Stub Marsh Road was abandoned but the town kept the right to egress and ingress. This was the only right that they did keep. Mr. Clock stated that he has owned that end of the road for about 32 years and he has always been told that he could not block it even before there were houses on it. Selectman Cowan asked who had told him that. Mr. Clock said that there were 3 Selectmen back then and they are the ones that told him that. He stated that Mr. Houston, who lives across from him, had always wanted to block it but he was never able to do it either. Selectman Cowan asked Dwayne to pull up a map so she can see where this road is located.

Dwayne did state that the Board has had several discussions regarding this matter. Acting Chairman Hall stated that the person that put the boulders is concerned about trash and vandalism up there. He stated that the Board had decided to leave the boulders until they heard from some of the other people in the area. Mr. Houston stated that since that discussion, the Shaw's have added even more boulders blocking the road even more. Mr. Houston stated that regarding the trash, that is an unfortunate thing but they do have a Police Department to handle those situations. Dwayne stated that the Police do not patrol that road. Mr. Houston stated that if somebody is damaging their property, there are ways to pursue this without stopping the public from having access to that road.

Dwayne was still trying to get the computer and projector going so Acting Chairman Hall asked if anybody had any other public input. Jason Langelier stated that he had a safety and health concern that he wanted to address regarding a rodent issue at the Memorial substation. He stated that it has recently been brought to his attention that there are 2 exterminator quotes to address the rodent issue there and he thanked the Board for that. However, he does have a few concerns. He stated that a proper extermination plan should include prevention of entry into the work place. He asked when the known entry points were going to be sealed. He distributed photos of some of the issues at the substation to the Selectmen. One of the issues is the Engine 3 bay door on the lower right hand side. There is a seal missing. The next one is the all exit door on the left hand side of the building, where there are acorns piled up by the door and this door is rotting. The back door has a hole that you can see straight through. He has included three pictures of each of the doors and stated that they were taken on June 4, 2016.

Dwayne stated that for the past 21 years that he has been here, the substation has had mice issues. It is a garage in the middle of the woods. He stated that they have been able to control the mice issues by using various methods such as traps. Around October or November, they found a pretty good infestation of mice so they set up traps. He stated that the Fire Chief worked diligently to get rid of the mice and they did get rid of quite a few of them. Dwayne stated that they went through three months where they didn't catch one mouse. Starting about a month or so ago, they found some more mice and found some in one of the trucks. Dwayne stated that they also had put some weather stripping on all of the doors and other things around the building to see if they could fill up any holes that the mice may be getting through. Dwayne said that when they got into the truck, he authorized the Fire Chief to go out and get an exterminator. He stated that he just signed the contract signed today. Part of the exterminating includes a multitude of things. It not only looks at the ingress and egress but also how to keep the mice away from the apparatus. It is a one year contract, which will include a monthly visit along with

a bunch of different things. At the same time, there are some rotted door frames that they will be addressing. He stated that they have 3 contractors that are in the process of getting us quotes. He stated that there are 2 doors that they will need to replace. There are also some electrical conduit holes that need to be filled from the old addition into the new addition that were found. They found a location in the back corner where there appears to be some rotting sheathing that they are going to replace. This area is adjacent to the mechanical room where the heaviest infestation of the mice seems to be located. Dwayne stated that the exterminator will be starting their process either at the end of this week or beginning of next week.

Selectman Cowan stated that she had spoken with Mr. Langelier about his concerns and she did speak with Dwayne about it. She asked Mr. Langelier if this adequately addresses the concerns that he had. Mr. Langelier said that he is glad that it is being taken care of but is wondering why it is taking 8-9 months to put forth an effective plan. Dwayne stated that one of the reasons is that they did not find any mice for a period of 3 months. Mr. Langelier stated that the doors had been like that all winter. Dwayne stated that finding a contractor to do little jobs like this is very difficult. Mr. Langelier stated that Dwayne had told him that the Town Attorney would state that this would not be considered a health and safety concern. He asked Dwayne if this is how he felt about the situation. Dwayne stated that he did not consider this a health and safety concern. Cathy Babcock stated that she has family members that work for the Fire Department. When the mice get into the equipment and chew on the wires and the firemen go out on a call, their equipment may not function. She feels that this is a safety concern. Dwayne stated that the context of the question about health and safety was regarding mice poop and not the mice getting into equipment. Dwayne stated that they have not taken this lightly. They have done a lot of stuff to try and solve the problem. Cathy Babcock asked why it was only this station that got mice. Selectman Cowan stated that the primary reason is most likely the location.

Dwayne stated that they have hired Orkin to go up there and set traps or do whatever needs to be done as part of their process. They also need to replace a couple of the door jams. He did state that they actually cannot just replace the door jams because it is a whole unit. They will need to replace doors. He will also bring these other issues brought forth tonight to the exterminator so they can figure out the best way to handle it. Selectman Cowan stated that it looks like they are taking steps in solving the problem and that we need to give it some time to see how it is all going to work. She stated that she would be interested in getting a report back at a later date to see how it is going. Dwayne stated that our insurance company walked through all of our department buildings today to look at ways that we can improve. One of those things was regarding the mouse infestation.

Jason Langelier stated that he still had an issue regarding it being a health and safety concern. He stated that under 29 CFR, 19.10.141.85, it requires employers to instruct, equip and maintain their work places to prevent rodents and insects from entering the workplace. If discovered, an extermination program must be implemented. Dwayne stated that they are doing that.

Donna Rand stated that she was on the Fire Department for a number of years and she helped build that substation. The one thing that she has noticed is that when the firemen go out on a call, they leave the overhead doors open. They need to remember to push the button to shut the doors. This is another way that these animals can get in. Dwayne stated that Orkin did state that

this is one of the main reasons that the mice are getting in. Donna Rand stated that the 10 years that she was in that substation, she does not ever remember a mouse being in there. Donna Rand stated that one of the things that she has used in the past is pure peppermint oil. It is non-invasive to the ground and to humans. Mr. Langelier asked Dwayne if they could get a door opener for Tank 1. Dwayne stated that he will check with the Fire Chief on why it is not working.

Mr. Langelier asked if there was another health and safety concern that would arise in the future, would it take as long to get a resolution. Selectman Cowan stated that her assumption is that there is a protocol to follow if there are issues that are concerning or are in violation of any Ordinances or policies. She stated that there should be a protocol established within the departments. Mr. Langelier stated that he did go to all of the Officers and then to the Town Manager and now to the Selectmen. He doesn't feel that he should have had to go to the Town Manager or to the Selectmen. He would hope that he would be able to go to the Chief but he is not sure. Dwayne stated that he can definitely go to the Chief with any issues.

David Babcock asked why this building is in this kind of condition. Dwayne stated that the rotting is 3 inches and it is right up against the concrete. It is not that significant and it is not the main door but the side door. Cathy Babcock stated that it is still a main door. Donna Rand stated that she was there when the place was built. One of the issues that was brought up right from the beginning was the two doors into the mechanic's room. She stated that it was specified by the Chief at that time, as well as by the contractor, that those two doors need to be cleared of snow because snow will rot it quicker than rain. Dwayne stated that the places where there is rot, it is against the concrete. Selectman Cowan asked what they can do to prevent this from happening again. Will they replace it with pressure treated lumber to make it more resistant to moisture? Dwayne stated that they are looking at various options and he is waiting on estimates from contractors.

Acting Chairman Hall stated that they will table this discussion for tonight as long as Mr. Langelier is satisfied with the plan that is going forward. They will discuss at a future meeting to get an update.

Acting Chairman Hall stated that they will now go back to the Stub Marsh Road issue. Dwayne showed everyone on the projector where the road was located as well as where the boulders were placed. He also showed where William Houston and Dale Clock's properties were located. Selectman Cowan asked them if they access their property primarily through Bauneg Beg Road and they both said that they did. Dwayne stated that Stub Marsh Road was abandoned in 1967, in 1977 and again in 1997. In 1997, they had to determine whether or not the road had a public easement and it was determined that Stub Marsh Road would have a public easement on it. Dwayne stated that part of the public easement law says that if somebody blocks the road, the Board of Selectmen can be petitioned to remove that gate or barrier. This past year, the Board had determined to not have the boulders removed until they heard from others as to why they should be removed. Dwayne stated that Danny Shaw was concerned about the environmentally sensitive area, the beaver dam backing up over the road and the concern of damage to the road. Dwayne stated that over the past few weeks, he has had numerous people contact him regarding the blocking of the road.

Selectman Cowan asked William Houston if he would mind reiterating his concerns with the blocking of the road because Danny Shaw was not here when he first stated them. Mr. Houston stated that it is a public easement and he would like to have it opened up and have it maintained as a public access not just for him for Dale Clock, Wayne Bridges and the general public at large. He stated that the townspeople should have the right to pass through there if they so choose. Mr. Houston stated that it is currently being blocked and there are No Trespassing signs that imply that it is not open to the public. He would like those removed as well. Laura Shaw stated that she believes the signs say No Gun Shooting to try and keep people out of the pit. She stated that the only reason that someone would be able to access the other end of the road is to go through the beaver bog, which is not passable by a regular vehicle. She stated that the only reason that people would be accessing that end of the road would be to get to Steve Brown's property or the Shaw property. Neither Steve Brown nor the Shaw's have given permission to anybody to access trails on either end. There is no stopping anyone from getting to any of their properties. They just cannot go through the beaver bog. Mr. Houston stated that he was just addressing the easement.

Laura Shaw said that when they discussed it at a previous meeting, the question was whether it was a public easement or a public way and whether it is with motorized vehicles. She does not believe that there was a final decision on this. Dwayne stated that the Town Attorney did address this and it was determined that it was with motorized vehicles. Laura Shaw stated that there is a big debate regarding this in the whole State. It is a very confusing law. She stated that they have not stopped anyone for accessing it on foot and there is no blockage to anybody's property. The only thing that you could do on that part of the road with permission would be to go from Abbott Road down to the boulders and back.

Danny Shaw stated that Cory Stearns, a biologist with the State of Maine was there about a week ago, DEP has been out there and Mike Joy from the Game Warden Service has determined that it is impassable because of the beaver bog. They all agree that you can drive through the beaver flowage because that is not against the law. However, when you stir up sediment and other things, you can get fined. He stated that the only thing that they did with the boulders is block it off to stop people from going through the beaver flowage. He suggests that all of the Selectmen go up there to look at the beaver flowage. It is about 500 feet long and the beavers are still there. The water is running over the road in Justin Shaw's pit.

Selectman Cowan asked William Houston and Dale Clock what it is that he feels he needs to do that he feels that he can't do because of the boulders. She is wondering how he is accessing that part of the road. Mr. Houston stated that for years, it wasn't an issue with the beaver bog and the road had been passable. He feels that the beaver bog is incidental to the public easement and being able to have access to use that road. Selectman Cowan asked how often he would need to use it and if this was a road that he had to use. Mr. Houston stated that he does not have to use it but he should be able to if he wanted because it is a public easement.

Selectman Cowan asked Dwayne if there was any way to reevaluate the status of that road to determine if it should be passable. Dwayne stated that the law is very clear relating to public easements. If there is a public easement, it allows for all traffic to use it. To determine if it

should have a public easement or not is simply a matter of a date. If it was abandoned after a certain date, then it has a public access. He stated that until a judge determines that there is no public easement, the Board of Selectmen's decision of 1997 stands as law.

Dwayne stated that when he spoke with Chris Coppi from DEP he was told something different from what Danny Shaw was told. Mr. Coppi told Dwayne that from his perspective, it was just backed up water from the beaver. Because the road was there first, he would still consider it a roadway but it would just be a flooded roadway. Laura Shaw stated that she has a letter from Mr. Coppi stating that he didn't really understand the whole situation. She stated that he told her that if it was a sediment issue, then it would be a problem.

Acting Chairman Hall suggested that we put this discussion on the agenda for the next meeting that that we will have a full Board. Dwayne stated that this would be the first meeting in August. Selectman Cowan thinks that the Board should go out and see the property before they discuss at the next meeting. Danny Shaw recommended that the Biologist, DEP and a Game Warden be present when the Selectmen go to see the site. Dwayne stated that he will try to get some of them out there. He believes that they should be able to get DEP out there for sure.

They will discuss this again at the August 9, 2016 and try to meet at the site sometime at the end of July.

4. Unfinished Business:

A. Tax Acquired Property: Sign Deed to Brian Kennedy, Deed to MacDonald's

Dwayne stated that the Board had signed a deed to Brian Kennedy at the last meeting but there was an incorrect date on the deed. They just need to sign the new updated one.

The next one is regarding Michael and Wendy MacDonald. The Board had discussed with the MacDonald's the opportunity for them to purchase a tax acquired property that the town took over this year because of unpaid taxes. The property is not buildable. There was some discussion about splitting the property between the MacDonald's and the other neighbor. The other abutter decided that they did not want it, but the MacDonald's would still like to purchase it. Dwayne stated that a price of \$2,200 was set on this property. The Selectmen need to sign this one as well.

Dwayne stated that he has another one that came to him today. It is for the Estate of Bradford Dutch. The Bradford Dutch house is being sold. It is located on Somersworth Road near the High School. They found a 1940 tax lien that was never discharged. The total was about \$3.12. He is not able to discharge it. Because it is so old, the only way to do it is for the Selectmen to sign the deed back and state that this lien does not exist.

Selectman Cowan motioned to sign the deed back and that there was no existing tax lien. Selectman Johnson, Jr. seconded the motion. VOTE: 4-0

B. Public Works: Update on One Ton, Projects

Dwayne stated that they did get the new one ton and it is over at Fairfield being set up. They hope to have it back in 3 weeks to have it ready to use by July. The final price will be about \$78,000.

Dwayne stated that the one ton and the fire truck are out for sale right now. All sealed bids are due back by June 16th so the Board can act on it at the next meeting. Dwayne stated that the Board had also discussed selling the police cruiser but they have decided to hold on to it. He stated that the code car actually needs some parts and if we buy the parts new, it is worth more than what we could get for the cruiser that is sitting there with all those parts. We are going to use the cruiser to fix the code car.

Dwayne stated that they started working on the Canal Street Project. They will be working there for the next week or so. They have removed all of the pavement and the materials. They will be stripping about 6 inches of material off and bringing in material for the basketball court and a 6 inch pad. The playground is scheduled to be installed on 6/29 & 6/30.

Dwayne stated that they will then finish up on Hammond Road. They have also sent out all of the letters to the abutters on Diamond Hill Road to find out if they want to keep the wood or not. Once they determine who wants the wood and who doesn't, then they will get bids for the tree removal. The letters are due back by the 15th of June. If someone doesn't respond, then it is assumed that we are getting rid of the wood for them. Dwayne stated that they have also marked the trees on Randall Road.

Reminders: Next Board of Selectmen's Meeting – June 21, 2016 – 6:30 pm Municipal Building

5. New Business:

A. Abatements: Abatement Request for Past Personal Property Accounts

Dwayne stated that we have been holding a lot of uncollectable personal property taxes because either the people have died, moved out of town or the businesses have closed. Selectman Cowan stated that Fortier & Sons is still an existing business. Dwayne stated that they may do business in town but they do not exist in town. He said that the only way they can collect personal property is with a UCC filing. With a UCC filing, we need to be able to attach the property that we taxed. We cannot do this with these listed because the property no longer exists in the Town of North Berwick. Selectman Johnson, Jr. asked what kind of property Eastern Propane and Fortier & Sons owned in Town. Dwayne stated that it was propane tanks. Selectman Cowan stated that since Fortier & Sons are still in business, we could probably send them a letter to let them know that they owe us money. Dwayne said that he could do that if the Board would like him to do that.

Dwayne stated that the abatements are listed in the packet starting on Page 11 by year. They are then listed by Account to show the total that a company owes for all years. The first one is for

Fortier & Sons, Inc. He stated that if the Board wants them to send a letter, he will do so. The next one is for Donovan and Donovan. They used to be the food company at Pratt & Whitney. Dwayne said that they ceased to exist in 2002. They declared bankruptcy. He stated that we actually went through the bankruptcy proceedings to try and collect. We are considered a primary collector so we would get first dibs on any payment. We had a signed agreement with Donovan and Donovan to pay us. However, the owner of Donovan and Donovan owed the Federal Government a lot of money because he never paid his payroll taxes. This caused the dissolution of the company.

The next one is David and Janice Brooks. This was David Brooks' law firm and he has been dead since 2000. The next one is for Maria Driscoll. She was a doctor and she is also deceased. The next one is Anthony Olbres. He used to own the mill. He ran a cabinet shop out of the mill but it no longer exists. The next one is for J. Linehan, LLC which was a leasing company. He has looked everywhere to try and locate them but can't find anything on them.

Another one is for Citicorp Vendor Finance for \$.44. This is for interest because they paid the bill a couple of days late. The next one is Custom Banner & Graphics. They had a business in in the facility on Buffum Road. They no longer exist. Another one is Eastern Propane Gas which is also for some unpaid interest.

The next account is for all of the businesses that were located where Bubba Frye's is currently located. It started off as Lumpy's Pizza, then became Amiccis, JD's Pizza and finally Jim's Pizza. The next one is for Pitney Bowes. We had abated their taxes but had abated the wrong amount leaving a balance of \$2.17. The next one is the Old Mill Store which was located at the old North Berwick Lumber building for about 6 months. The last one is for Holly Berries. This business is closed and the property is up for sale.

Dwayne stated that if the Board agrees with all of these abatements, it would be for a total of about \$7,300. He said that on Page 27 of the packet, it shows a list of vendors that were sent letters to let them know that they owe us money. These are all still current companies operating in the town. Most of these are associated as subcontractors with Pratt & Whitney.

Selectman Johnson, Jr. motioned to approve the abatements for Donovan & Donovan for \$3,069.43, David & Janice Brooks for \$259.88, Maria Driscoll for \$43.93, Anthony Olbres for \$675.50, J. Linehan, LLC for \$152.56, Citicorp Vendor Finance, Inc. for \$.44, Custom Banner & Graphics for \$1,882.46, Eastern Propane Gas Inc. for \$.53, Lumpy's Pizza and Sub, Amiccis, JD'S Pizza and Jim's Pizza for \$337.31, Pitney Bowes Global Financial for \$2.17, Old Mill Store for \$14.17 and Holly Berries for \$78.30. Selectman Cowan seconded the motion. VOTE: 4-0

B. William Hill Firefighters Assoc: Donation to the Fire Department

Dwayne stated that the William Hill Firefighters Association has purchased a GoLight Search Light to mount on the Forestry 2 truck valued at \$146.94. They would like to gift it to the town.

Selectman Johnson, Jr. motioned to accept the gift of the GoLight Search Light from the William Hill Firefighters Association in the amount of \$146.94. Selectman Cowan seconded the motion.

VOTE: 4-0

C. Primary: Ballot Clerks

Dwayne stated that the primary is next Tuesday, June 14th and Christine Dudley is proposing Kathleen Pease and Sharon Litvinchyk as the Democrats, Lorinda Hilton as the Republican and Rebecca Carter as the Unenrolled to be the Ballot Clerks.

Selectman Cowan motioned to appoint Kathleen Pease, Sharon Litvinchyk, Lorinda Hilton and Rebecca Carter as the Election Clerks for the June 14, 2016 primary. Selectman Johnson, Jr. seconded the motion. VOTE: 4-0

6. Other Business:

Dwayne wanted to let them know that Hannaford is starting up the petition for liquor sales. They are seeking it for the November election. They need about 317 signatures.

7. Review and Approve Warrants and Correspondence:

Warrant:	May 24, 2016	- \$	0.00
Warrant:	May 31, 2016	- \$	0.00
Warrant:	June 7, 2016	- \$	137,372.84

Selectman Johnson, Jr. motioned to approve the Warrant of June 7, 2016 for the amount of \$137,372.84. Selectman Johnson, Sr. seconded the motion. VOTE: 4-0

8. Adjournment:

Selectman Cowan motioned to go into Executive Session at 8:23 pm, come out of Executive Session at 8:38 pm and adjourn the meeting at 8:39 pm. Selectman Johnson, Sr. seconded the motion. VOTE: 4-0

Respectively Submitted,
Susan Niehoff, Stenographer

Original to Town Clerk

Chairman: Charles Galemmo

Selectman: Wendy Cowan

Selectman: Michael Johnson, Jr.

Selectman: Jonathan Hall

Selectman: Michael Johnson, Sr.