

North Berwick Board of Selectmen Minutes July 19, 2016

NORTH BERWICK BOARD OF SELECTMEN MINUTES JULY 19, 2016

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

Also Present: Dwayne Morin, Brian Gosselin

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

1. Pledge of Allegiance

2. Review and Approve Minutes of June 21, 2016 & June 29, 2016

They first reviewed the minutes of June 21, 2016. Dwayne Morin stated that on Page 5 the last sentence of the first paragraph currently reads, "...labor to cut their trees down.". It now reads, "...labor to cut the trees down.".

Selectman Cowan stated that on Page 4 in the first large paragraph the sentence that reads, "He stated that our SRT Officer, the Main Staff and Officer Varney at the High School because he covers 3 different jurisdictions." is missing something. We will add at the end of the sentence, "will be deputized".

Regarding the July 29, 2016 minutes, Selectman Cowan stated that the minutes should be kept consistent. These minutes had the Selectmen's first names instead of "Selectman" and their last names.

Selectman Hall motioned to approve the minutes from June 21, 2016 and June 29, 2016 as amended. Selectman Johnson, Sr. seconded the motion. VOTE: 5-0

3. Public Input

There was no public input at this time.

4. Unfinished Business:

C. Fire Department: Update on Substation

Dwayne stated that Orkin has been there and set up traps. He stated that it has been 1 month and in that time we have caught one mouse. He said that the one good thing about catching this mouse, is that they thought they had patched up all of the holes, but they found this mouse coming out of a hole that was missed. The location was actually in the section where the door is that we are removing. Dwayne said that he is still waiting on the pricing for the repairs. He received one late this afternoon and is waiting on a couple more. He stated that the remote

control has been fixed and the seals on the doors have been fixed. He hopes to have some quotes for the Board to approve at the next meeting.

Selectman Cowan asked if the doors were now being shut when they go out on a call. Dwayne said that since they have fixed the remotes, the doors are being closed. He has not received any more complaints from anyone.

A. Public Works: Update on Projects

Dwayne stated the Canal Street project is looking good. The basketball court is due to be painted prior to the first week of August and the basketball net will be put up after this. Along the chain link fence, they are going to put a black covering on it so kids will not hurt themselves on it. Once the grass is growing, they will put the picnic tables and trash cans out there. He stated that Kristie wants to do a grand opening for everyone to come out and see it. The goal was to open it before the Mill Field Festival and we are well on our way to achieving that.

Dwayne said that they are working on Hammond Road right now and they should be finished by the end of this week or beginning of next week. They will then do the 500 foot section on Randall Road. Selectman Cowan said that she was surprised that more trees were not removed. Dwayne said that they just took the ones that were concerning to us. They will then replace a culvert on Beech Ridge Road and get this paved.

The next project would be to work on Diamond Hill Road. They have two proposals for the tree cutting on this road. Brown Industrial Group gave us a quote of \$8,050 and Abbott Hill Tree Service gave us an estimate of \$16,000.

Selectman Cowan motioned to approve the quote from Brown Industrial Group for \$8,050 for tree cutting. Selectman Johnson, Jr. seconded the motion. VOTE: 5-0

B. Stub Marsh Road: Update on Site Walk and August 9 Meeting

Dwayne stated that he was contacted by the Maine DEP and we had moved the site walk so we could meet his schedule, but he has been called away and won't be able to make it. He told Dwayne that he would have a letter for us with the DEP's position for that meeting. Dwayne said that someone from Inland Fisheries and Wildlife will be there. He also is anticipating a significant amount of citizens to be there. He will be asking for some police officers to be present just in case because it is really not a discussion but just a site walk. It should not be a hollering match. Dwayne said that they should tell people that they are just there for the site walk and there will be no discussion at this time. If anyone has anything they want to discuss, they can do so at the August 9th meeting. Selectman Cowan agreed that parameters need to be set ahead of time for everyone present. Dwayne said that they can ask questions to the DEP and IFW representatives that are present because it is for information gathering for the Board.

Selectman Hall asked if they were going to go in from both sides of Stub Marsh Road to take a look at it. Dwayne said that they could if they wanted to. He did state that if they come in from the Bauneg Beg Road side, they will need to do a lot of walking. They would have to go about a

mile to get to where the water is. Selectman Cowan asked if they could get a sense of what this side would look like when they are on the other side. Dwayne said that they really couldn't because both sides of the road are two different roads. He stated that up to the pit and into the bog, the road is really nice and well maintained. On the other side, it is well maintained up to the Bridge's house. He said that for about $\frac{3}{4}$ of a mile, it is really rough. It is like an ATV trail. Selectman Johnson, Jr. stated that it is nice on the other side because the Shaw's have maintained it so they can get gravel out.

Selectman Johnson, Sr. stated that it was mentioned at a previous meeting about asking the Fire Chief if it can be used as a fire road. Brian Gosselin stated that they would like to have access from both sides. If there is a fire that is closer to the blocked off side, then they need to go around and this allows the fire to do more damage. Selectman Johnson, Sr. asked him if they could go through the water with their equipment. Mr. Gosselin said that he hasn't been up there in quite some time so he is not really sure. Dwayne stated that if the beavers were not present, you could get through.

Dwayne stated that for the people that want the road opened, it is not a matter of whether they would, should or could get through. The point is that it should be their decision to do it whether they want to do it or not. Selectman Johnson, Sr. wondered why it fell to the Selectman to decide this. Dwayne stated that under State Law, when we abandoned the road, we had to make the decision to make it a public easement or not. The Board of Selectmen at that time back in 1997, decided to have a public easement on that road. Until a judge says something different, that is the law of the land. Under the Law, when somebody blocks a public easement, it comes to the Board of Selectmen. The law says that the Board may ask the people to remove the obstruction. Selectman Johnson, Sr. stated that it sounds like even though the Selectmen vote to leave the obstruction, the judge will say for them to open it. Dwayne stated that it is his opinion, that if this goes to court, the judge will order the rocks to be removed. He said that if you read our Attorney's memo, she is very clear. She says that Case Law tells you judges have been very proactive on public easements and do not want to see obstructions on them. Selectman Johnson, Sr. asked that if they choose to not do anything and leave the rocks there, the other abutters could sue the town to open it and if they choose to remove them, could the Shaw's then sue the town. Dwayne said that if the Board chooses to leave the rocks, he believes that someone will sue and the courts will be made to decide. He stated that if they choose to remove the rocks, the only thing that the Shaw's can do is to go to court and prove that there is no public easement on that road.

Dwayne stated that even if the judge said there was no public easement on that road, he believes that there are prescriptive rights because he knows for a fact that the Huston's have been using that road for years with motorcycles and horses. He said that he used to use it for his son's go-cart as well. Even with no public easement, there are still prescriptive easements rights. He said that the question as to whether people should cross the beaver bog seems to be the one thing that is driving the people to keep the rocks there. Dwayne said that the people feel that the town should not make the decision for them and that they should be able to decide if they can drive it or not themselves.

Selectman Cowan asked if the decision of it being a public easement could ever be revisited. Dwayne said that it is the law so unless the law changes, they can't do anything about it. Selectman Johnson, Sr. asked what the difference was between abandoning a road and discontinuing it. Dwayne said that discontinuing it is a Town Meeting action and abandonment is a Board of Selectmen action. Selectman Johnson, Sr. stated that if they really want to change it, they could probably bring it before the next Town Meeting. Dwayne said that he would not allow the town to discontinue a road without a public easement because we cannot afford to do it. When you discontinue a road and the public easement, you must pay damages to everybody on that road. This would mean that they would need to hire appraisers to go out and determine the loss of value. They would take the loss of value and multiply it by the number of years which is infinity. Selectman Johnson, Sr. asked what kind of loss of value. Dwayne said that if you abandon a public easement, they do not have access to their property anymore so you have to pay damages. He stated that our attorney would say that if we discontinue a road, we maintain the public easement. The maintenance of a public easement has no cost to the town and it is an asset to the property owners because it allows them to access their property.

Selectman Johnson, Sr. asked about them going back and having the town own the road again. Dwayne said that it was voted by the Selectmen to abandon it and that decision stands as law. Chairman Galemme stated that if they wanted the road back they would have to buy the rights back through eminent domain.

Selectman Hall stated that if they decide to remove the rocks but the people don't do it what can happen. Dwayne said that by law, we can go and remove them. Selectman Hall said that if we decide to do nothing and the abutters take this to court, would we be witness to that. Dwayne stated that he believes that we will be an active participant. Selectman Hall asked in what way. Dwayne said that they would name the town in a suit and we would have to defend ourselves. He does not see any way that we would not be part of the suit. Selectman Johnson, Jr. asked if the residents that owned that road would be liable if someone got hurt trying to go through the water on the road. Dwayne said that if they purposely did something to hurt somebody then they would be. Otherwise it is an assumption of risk. If you make the decision to go through it and get hurt then it is not the liability of the property owners.

D. Code Enforcement Officer: Update

Dwayne stated that they have received some resumes for the position. He said that they have some good ones to select from. We had about 12 applications and 5 of them are certified CEO's. They will be doing interviews next Monday night. Dwayne stated that Jim will still be here until August 15th on Monday, Wednesday and Fridays. He will be considered an Alfred employee and we will be reimbursing Alfred \$750 per week for the next 4 weeks.

Reminders: Next Board of Selectmen's Meeting – August 9, 2016-6:30 pm Municipal Building

Note: August meetings will be held on the second (August 9) and fourth (August 23) Tuesdays with meetings returning to the regular first and third Tuesday schedule in September.

5. New Business:

A. Supplementals: Supplemental Request for Graziani Tree Growth

Dwayne stated that they have a Supplemental request for Tree Growth for the Graziani property located on Meeting House Road. The Board has already done one supplemental on this property. Dwayne stated that when property is placed in Tree Growth and they fail to update their Tree Growth Plan, we need to notify them. After the first set of notifications, we assess a \$500 fine. Then we need to do a number of other notifications and if they still don't respond to the request, we assess another \$500 fine. This is followed by another set of notifications and if they still haven't made an effort to update the plan then it is an automatic withdrawal from the program. They are then assessed a major penalty. Selectman Johnson, Sr. wondered if the taxes were paid but they just hadn't updated the Tree Growth Plan. Dwayne said that in this case the taxes haven't been paid on the property.

Dwayne stated that we have done one fine and it is now time to do the second one because there has been no response. He stated that the memo from Craig showed all of the letters that were sent. He said that they are now sending them both through Certified mail and First Class mail. They are not claiming the Certified mail which means they have tried to give it to them and they are refusing to accept it. Dwayne stated that Craig sent another letter out to them today stating that the next deadline is December. If they don't tell us by December or give a new Tree Growth Plan, they will be subject to an \$8,000 plus fine. Craig told them that they can actually move the land from Tree Growth to Open Space without any penalty. All they have to do is write a letter and we will move it. Selectman Cowan asked how long it had been since they paid the taxes. Dwayne stated that it had been since 2014. They have until March to pay their 2014 taxes. If they don't pay, the town can take the property. He stated that it is a very nice piece of land. It is about 100 acres or so. Chairman Galemme asked what the value of the land was. Dwayne said that it is currently valued at \$300,000 but this is with it being in Tree Growth.

Selectman Hall motioned to approve Supplemental #5 for the Henry Louis Graziani Irrevocable Trust for the amount of \$500. Selectman Johnson, Jr. seconded the motion. VOTE: 5-0

B. Abatements: Request for Interest Abatement-Fortier and Sons & DQ Concrete

Dwayne stated that they had two abatements to look at that came as a result of the letters sent out requesting payment on past property taxes that are owed. One of the abatements is for Fortier & Sons, which the Board had talked about at a previous meeting. Dwayne said that we sent them a letter stating that they owed taxes in the amount of \$2,024.89. They called Dwayne and said that the tax bill that we have been sending them has been going to the wrong address for years so they never received them. We had stopped taxing them in 2002 but we will begin taxing them again this year because we found out that they still have property in town. Fortier & Son would like the Board to consider letting them pay the taxes but to not pay the interest because they were never notified of the tax bill. They have no problem paying the \$727.29 taxes because they know they should have paid it and they will be continuing to be a tax payer.

Selectman Cowan motioned to abate all interest and fees for the past taxes for Fortier and Sons. Selectman Johnson, Sr. seconded the motion. VOTE: 5-0

Dwayne stated that the next abatement was for DQ Concrete. Darren Quint used to have a concrete company in town. He wrote a letter stating that he would like to have the years 2011, 2012, 2013 and 2014 abated. He is willing to pay the 2010 taxes. However, in going back through his file they found a letter showing that he was storing his forms on his father's property in 2011. The letter is dated 4/18/11 and the date of taxation is 4/1 so he is actually responsible for the 2010, 2011 and 2012 taxes. Dwayne spoke with Mr. Quint today and he is willing to pay the amount which is \$455.00. An abatement would be in order for 2013 and 2014.

Selectman Hall motioned to approve the abatement for DQ Concrete for the taxes owed for 2013 and 2014. Selectman Johnson, Jr. seconded the motion. VOTE: 5-0

C. Fee Schedule: Updated Fee Schedule for FY17

Dwayne stated that the updated fee schedule that was approved at the last meeting needed to be signed.

D. Personnel Policy: Approve Proposed Changes

Dwayne stated that a couple meetings ago, they proposed some personnel policy changes. He said that they had to give a 15 day comment period to the employees so they could make any comments if they wanted to. He didn't receive any comments on them. There were a couple administrative changes to change some of the wording. One was to change Maine State Retirement to Maine PERS. There was one to eliminate Rescue as it relates to Social Media. The big change was to allow regularly scheduled part-time employees averaging twenty hours per week over a fifty week period to be eligible for sick pay.

Selectman Johnson, Jr. motioned to finalize and approve the proposed changes to the Personnel Policy. Selectman Cowan seconded the motion. VOTE: 5-0

E. Tax Rate: Discussions

Dwayne has given the Board a draft of our Tax Rate Calculation form for their review. It is scheduled for the Board to set the tax rate on August 23rd. He believes that they are able to hold the current tax rate of \$12.60. This would still give us a \$260,000 overlay which is a good buffer. Chairman Galembo stated that this means that they could probably keep the tax flat next year as well. Dwayne said that this was the goal. He said that by doing this it is a decrease in the amount of tax for everyone that owns a home in town that has a Homestead Exemption because the Homestead Exemption went up. It is a \$63 decrease to everyone in town that has a home. For those that don't have homes, it is a no increase.

F. Property on Corner:

Dwayne said that at the last meeting, Selectman Cowan had asked him to look to see what the price was for the property on the corner. They have lowered the price to \$125,000. Selectman Cowan asked if he had approached the owner about it. Dwayne said that he has not. He said that when he gets back from his August vacation, he will call the realtor to see if it is negotiable.

6. Other Business:

Chairman Galemmo stated that he has put together a resolution for the Board to consider regarding Ballot measure #2 regarding a 3% surcharge on income over \$200,000 which would impact about 2% of Maine's households. The money is to be earmarked for K-12 education and it would get the State to its commitment of 55%. Chairman Galemmo thinks that it is a good thing because it will help out our schools and it will help in keeping our taxes down. He stated that the State needs to do something about development. We need an educated skilled work force which means that it needs to put money into education. By going through the property tax system to do it will only make it tougher because we also have one of the oldest populations in the country that are on fixed incomes. An increase in property taxes really hurts this population. He believes that this is a good way to do it.

Selectman Johnson, Jr. asked why did they pick that group which is 2% of the population instead of applying it to 100% of the population. He stated that they could add .5 to everyone and that would make more than what this proposal is. Chairman Galemmo stated that these people would be the ones that it would hurt the least. Selectman Johnson, Jr. stated that they are already paying 47% of all taxes in the country. Selectman Hall stated that it goes back to why we started income tax in the first place. We taxed less than 1% of the population back in 1913 and now it is just the opposite. Historically it brings us back to our roots more than the current system. Selectman Johnson, Jr. said that they could do something like a cell phone tax because everyone has a cell phone. He stated that not everybody has a child in the public school system. Chairman Galemmo said that the people with incomes over \$200,000 pay far less in taxes than the people that make less than that. He believes that this makes the tax rate fair. Selectman Johnson, Jr. stated that he would like to see something more like a luxury tax such as on prepared foods or meals. He said that he personally would not support this because he couldn't approve a tax on someone else that he couldn't approve on himself.

Selectman Hall motioned to approve the resolution to regarding Ballot Measure #2. Selectman Cowan seconded the motion.

Selectman Johnson, Sr. stated that he feels that it is an unfair tax for the people that make more money. He said that if they can prove that their taxes are already reduced less than ours then he may reconsider. He would like to see the statistics that show that people who make under \$200,000 pay more in taxes than those that make over. Selectman Cowan stated that this was a valid point. She stated that before we vote on it, maybe Chairman Galemmo can show them some graphics, charts and statistics that show these facts. Chairman Galemmo said that they could table this until next time and he will bring them some information for them to review. The Board agreed to table it for another meeting.

7. Review and Approve Warrants and Correspondence:

Warrant:	June 28, 2016	- \$ 54,421.46
Warrant:	June 30, 2016	- \$ 17,258.47
Warrant:	July 12, 2016	- \$ 22,826.80
Warrant:	July 19, 2016	- \$ 613,050.82

Selectman Hall motioned to approve the Warrant of June 28, 2016 for the amount of \$54,421.46, the Warrant of June 30, 2016 for the amount of \$17,258.47, the Warrant of July 12, 2016 for the amount of \$22,826.80 and the Warrant of July 19, 2016 for the amount of \$613,050.82. Selectman Cowan seconded the motion. VOTE: 5-0

8. Adjournment:

Selectman Cowan motioned to adjourn the meeting at 7:52 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: Michael Johnson, Jr.

Selectman: Jonathan Hall

Selectman: Michael Johnson, Sr.