

North Berwick Board of Selectmen Minutes October 17, 2017

**NORTH BERWICK BOARD OF SELECTMEN MINUTES
OCTOBER 17, 2017**

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

Also Present: Dwayne Morin

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

1. Pledge of Allegiance

3. Review and Approve Minutes of October 3, 2017

Chairman Hall stated that the on Page 3, the first paragraph under the section Board Membership Application, the first sentence currently reads, "...Planning Board and want to run for the Budget Committee.". It should read, "...Planning Board and wants to run for the Budget Committee.". Also, third sentence in the same paragraph currently reads, "This is her first interest in the Town politics and elections.". It should read, "This is her first interest in Town politics and elections.". Also, the last sentence in this paragraph currently reads, "She has worked a lot with the Town of Sanford and Springvale...". It should read, "She has worked a lot with the Town of Sanford/Springvale...". Chairman Hall stated that in the 2nd Paragraph under this same section, the 6th sentence currently reads, "She is concerned in some of these properties...". It should read, "She is concerned with some of these properties...".

Selectman Cowan motioned to approve the minutes of October 3, 2017 as amended. Selectman Galemmo seconded the motion. VOTE: 5-0

4. Public Input:

There was no public input at this time.

5. Unfinished Business:

A. Parks and Rec: Update on Trail Project

Dwayne stated that they hope to install the wood signs next week and the brochure and maps come out tomorrow. The plaque for the trail map holder came in today but will be picked up this weekend. Parks and Rec will have a little ribbon cutting ceremony so the Blaisdell family can attend. This should complete the trail project.

B. Road Projects: Update on Projects for FY18

Dwayne stated that he was hoping to have all the numbers prior to the meeting so he could let the Board know how they did. Unfortunately, a lot of the bills are on this week's warrants that have not been posted in our system yet. He will be able to give them a good idea of what they had for surplus at the next meeting. He stated that there is a big pine tree where Diamond Hill Road hits Governor Goodwin Road that blocks the vision. They will be removing this tree and it has been approved by the property owner.

2. Public Hearing – November Referendum Questions – 6:35 pm

Chairman Hall read the Legal Notice into the minutes:

Town of North Berwick
Public Hearing
Tuesday, October 17, 2017 6:35 P.M.
Municipal Building Conference Room #212

Referendum Questions for 2017 November Referendum

The North Berwick Board of Selectmen will hold a Public Hearing on Tuesday, October 17, 2017 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 2017 November Referendum. The two referendum questions to be presented at the Annual Town Meeting are:

Question #1: Shall an ordinance entitled, "Moratorium Ordinance on Retail Marijuana Establishments and Retail Marijuana Stores and Retail Marijuana Social Clubs" be enacted?

Question #2: Shall the town ratify the land swap between the Town of North Berwick and Viola Fogg to provide access to the Maple Street Town Forest?

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.

Dwayne stated that the first question is to enact a moratorium regarding retail marijuana. This is regarding the moratorium that the Selectmen voted on at a previous meeting. It will allow the town to write rules and regulations once the State is done with their recreational marijuana rules and regulations. Selectman Galemmo asked Dwayne when the Legislature was due back to review this. Dwayne said that it was October 24th. Dwayne said that he is doubtful that the Legislature will act on it or get anything done. The original 70 page document is being amended. Dwayne said that there is one good thing for the town. The way the Law was written is that it is basically an "Opt Out Law". This means that the towns are in unless they opt out by passing zoning changes and ordinance amendments.

Dwayne stated that the 2nd question is regarding the ratified land swap between the Town and Viola Fogg. He said that they exchanged deeds on the preliminary swap 2 weeks ago. If it passes in November, they will do another round of deeds to complete the transaction.

Chairman Hall closed the Public Hearing at 6:39 pm.

5. Unfinished Business:

C. Public Works: Garage Addition

Dwayne stated that they are moving along pretty good on this project. The footings and the foundation are all done. Morse Foundation did a great job and did it rather quickly. They have moved on to doing winter sand while the foundation sets. He stated that they hope to start working on the building within the next couple of weeks. The trusses are due to be delivered on November 10th and as soon as we give Lowe's the okay, they will deliver all of the materials that we need.

D. FY2019: Preliminary Budget Discussions

Dwayne stated that he is just keeping this on the Agenda so if the Selectmen have anything they want to bring up about the Budget, they can do so.

E. Conservation Commission: Fogg Land Swap

As Dwayne mentioned before, they have exchanged deeds and are just waiting for the vote in November.

Dwayne stated that he checked to see when our grant expired and it doesn't expire until October 30, 2018. We will not have to extend it like he previously thought. They should have everything done in the spring.

Reminders: Next Board of Selectmen's Meeting – Nov. 7, 2017 – 6:30 pm Municipal Building

6. New Business:

A. November Election: Ballot Clerks, Sign Referendum Warrants

Dwayne stated that they need Ballot Clerks for next month's election. The Town Clerk is recommending Susan Caler, Cindy Matthews, Kathy Pease, Linda Pederson and Sue Ouellette.

Selectman Galemмо motioned to approve Susan Caler, Cindy Matthews, Kathy Pease, Linda Pederson and Sue Ouellette to be the Ballot Clerks at the November 7th election. Selectman Johnson, Jr. seconded the motion. VOTE: 5-0

Dwayne stated that the Board needs to vote to accept the Warrant for our Special Town Meeting and vote to sign the Referendum Warrants.

Selectman Cowan motioned to accept the Warrant for the special Town Meeting and to approve the signature of the Referendum Warrants. Selectman Galemmo seconded the motion. VOTE: 5-0

7. Other Business:

Selectman Galemmo asked why the Planning Board was not using SMPDC and setting up escrow accounts as if it were town policy. Dwayne stated that it always has been and this is why he wrote the memo. Selectman Cowan stated that his memo was very well done and very appropriate. She stated that she was quite surprised because some of the people on the Board that work in the industry should be well versed in policy and the Ordinances. Dwayne stated that he knew what they were trying to do. Selectman Cowan stated that it looked like they are trying to circumvent our policies and Ordinances. Dwayne doesn't feel that this is what the Planning Board was doing. He said that they were thinking of it as a 3 unit subdivision and that it is not a big project.

Selectman Johnson, Sr. asked what the issue was with the project. Dwayne stated that there is a process that they go by which has been developed over time as they ran into problems. We always establish an escrow account at the beginning of every review. This is done because the town has been stiffed in the past. We have had people that have gone partially through the process and then decide not to complete the project. The town has already spent the money and then we can't recoup the money because the applicants don't have it. We established a policy stating that we don't start a review until an escrow has been established and paid. The escrow money covers the costs for the Public Hearing and subdivision review. Before every subdivision, Dwayne makes a recommendation to the Planning Board of what he believes the escrow should be. He looks at what the cost for the review, mailings, legal notices and anything else that is needed for the Public Hearing. He usually will round up the number to the nearest \$500. In this case, the numbers came up to \$2,230 and he recommend \$2,500 for the escrow. The extra is just in case something comes up and they need to spend more money. Dwayne said that he lets Roger know what the escrow should be and Roger lets the Planning Board know. Selectman Cowan stated that if Dwayne told Roger that the escrow should be \$2,500 then the Planning Board decided to just do \$500, it is just a slap in the face to Dwayne. She is not very happy about it. Dwayne stated that he knows that they were just trying to keep the cost down for the developer. He said that he told the Planning Board in the memo that our goal is to protect the town and not to protect the developer. We protect the town by making sure that all of the town costs are covered.

Dwayne stated that the other policy is that all large conditional use projects and all subdivisions get sent to Southern Maine Planning and Development Corporation for review. One of the reasons they do this is because we need to create a Findings of Fact on the project. Dwayne said that, until about 15 years ago, a project would come before the Planning Board and the Chairman would assign it to one of the 7 members. The person would have to go over all of the checklist, make sure that everything was done properly and report back to the Planning Board. This

member's name would then go to the bottom of the list so the next time there was a project it would be assigned to one of the other members. Dwayne stated that not all Planning Board members are as enthusiastic as some of the other members. When they started to review the project as a Board, they would find mistakes. That is why for the past 15 years, they have had SMPDC review the projects for us. They create the Findings of Fact and do more research on the project. This also allows for things to happen behind the scenes. We don't have to wait for a Planning Board meeting every time.

Dwayne stated that there are 2 tiers of subdivisions-major and minor. The minor subdivision is a 2 part review and the major subdivision is a 3 part review. These parts may take many meetings. Both of the subdivisions start with a sketch plan. The Planning Board takes a look at it and if they like the concept, they move forward to the next phase. At sketch plan approval, they set up a site walk and establish what they want to see for contours on the plan. On a minor subdivision, they go on to the next phase which is basically called the preliminary final. The applicant has to develop a whole list of stuff that goes to the Planning Board. Once this stuff is received then the Planning Board deems the application complete and they set up a Public Hearing date. In this case, the Planning Board established a Public Hearing that night. Dwayne stated that the plan was about 85% done but it was not complete so no hearing should have been set.

Selectman Cowan asked Dwayne about how many times he has gone over the process with the Planning Board. Dwayne said that in the past couple of years, they have only had about 3 or 4 subdivisions, but the process has not changed. Selectman Galemmo asked if the part about the escrow is actually a written policy. Dwayne said that the Ordinance states for the Planning Board to establish an escrow account. Selectman Galemmo asked if the Selectmen could mandate that an escrow amount has to be the estimated cost plus 10%. Dwayne said that the Ordinance actually states that it should be 2% of development costs but that is almost impossible to ascertain. What he does, is add up the actual costs of review.

Dwayne stated that the Planning Board can opt not use SMPDC. This idea is for trying to save the developer money and making the project go quicker. However it will actually bring it to a stop or slow it down. Selectman Cowan stated that it also opens up the town to liability. If you have somebody that doesn't really know the legalities of the process and the parameters of this kind of project, mistakes can be made. Dwayne stated that some of the developers are not too enthralled with SMPDC but that is not his concern. The town had decided to not hire a full time planner so the town would not end up paying for the entire cost. Instead, we use a planner when it is necessary and it becomes a user fee. Selectman Galemmo asked if the Board of Selectman could make it a requirement for the Planning Board to use SMPDC for these types of projects. Dwayne said that they couldn't. It would have to be an Ordinance change.

Selectman Johnson, Jr. stated that because there is no set amount or formula that needs to be done for an escrow account, the Planning Board did fulfill their requirement. They only have to establish an escrow. They did establish one but just changed the amount that was recommended to them. Dwayne stated that the problem is that the policy states we do not move forward unless we have the money. Right now, Dwayne cannot authorize Roger to hold a Public Hearing because the costs for the Public Hearing is more than what was approved.

Selectman Galemmo said that the thing that bothers him about all of this is that the Planning Board was looking to make it cheap for the developer. In doing that, they expose the taxpayers to harm. He stated that we are not here to use tax payer money to finance the applicant's development.

Selectman Johnson, Sr. asked if the Planning Board had the same list that Dwayne showed them regarding the costs and Dwayne said that they did. Dwayne stated though that the Planning Board does have the option to not use SMPDC so that consisted of a lot of the cost. The other thing that the Planning Board was not aware of was that when they do a conditional use public hearing, we only have to advertise it once but subdivisions need to be advertised twice in the paper. When they considered the amount they wanted to establish, they considered the advertising cost to be for one time at the cost of about \$250.00 and the mailings to be about \$160.00. They figured that \$500.00 would be plenty. Selectman Cowan asked Dwayne if we should expect the Planning Board, whose responsibility is to plan effectively, should be expected to know that with subdivisions, you have to put notices in twice. Dwayne stated that they would not know that and Roger is new to this so he may not be totally aware of that either. He relies on Dwayne to give him that information.

Selectman Johnson, Sr. asked if they could go back and change this now or was it too late. Dwayne stated that everything is fixable but he does have a few issues with this situation. Dwayne stated that because the Planning Board voted for \$500, he cannot go to the applicant and ask for more money and he cannot move forward with the Public Hearing because there is not enough money to cover all of the costs. He will need to wait until the Planning Board meets again to vote on more money so we are basically at a standstill. He told the Chairman of the Planning Board that this is why he set the escrow amount at \$2500 so that it would cover everything.

The other issue is that, if the Planning Board is not going to use SMPDC for the review, who is going to be responsible to make sure that all of the checklists have been done and that the plan is recordable.

Selectman Cowan stated that if the Planning Board had an issue or questions regarding the escrow amount, they should have had a discussion with Dwayne to verify the amounts. This would allow Dwayne to share some of his institutional knowledge with them. She stated that in the absence of that, we should do an Ordinance change to require them to involve the Commission when looking at subdivisions. Selectman Galemmo asked Dwayne if he thought that the Planning Board would make a correction at their next meeting. Dwayne stated that he only spoke with 2 of the members and he believes that they will probably increase the escrow amount but he doesn't know if they will increase it to include the review by SMPDC. Selectman Cowan asked if the Selectmen should have a discussion with the Planning Board. Dwayne is hoping that his explanation to them as to why we do things the way that we do things will change their minds about using SMPDC.

Selectman Johnson, Jr. stated that the applicant would probably do better if he sold one lot, wait 5 years and sell another one. Dwayne stated that they recommended that he wait 5 years and he could sell both lots because he has an exemption on his property.

Selectman Cowan asked Dwayne if, before the Planning Board makes a final determination, the Selectmen would like to meet with them. Dwayne said that they are meeting before the Selectmen meet again and if they delay voting on this issue, they are just making the applicant wait even longer.

Chairman Hall asked what the process would be to changing the Ordinance. Dwayne stated that the Selectmen can propose a new Ordinance and the Planning Board would need to vote on whether they agree with it or not. Even if they don't agree with it, the Selectmen can still put it to the voters. Dwayne stated that they have a bunch of subdivisions that are coming before the Board so he wants to make sure this gets clarified so there is not another issue. Chairman Hall stated that they probably do not have the power to do anything about the Planning Board members. Dwayne said that the Selectmen appoint Planning Board members so the Selectmen could remove any one of the current members. Dwayne stated that he did not recommend that and Selectman Cowan said that she is not looking to that either. She just wants them to understand that she is very unhappy because they have totally disregarded Dwayne's recommendation. She stated that if, after the letter that Dwayne sent the Planning Board, they do not approve the amount that he is recommending, she will be very concerned about that. Selectman Galemmo said that hopefully they will take everything into consideration and approve Dwayne's recommendation.

Chairman Hall asked Dwayne to draft an Ordinance for them to review regarding changing some of these policies. Dwayne stated that he would work on it. Chairman Hall also stated that they need to set up a meeting with the Planning Board. Dwayne stated that he has also offered the Planning Board to meet with them and have a workshop to review policies and procedures. Selectman Cowan asked if the Selectmen can insist that this workshop happens and Dwayne said that they could. Selectman Cowan recommended that Dwayne meet with the Planning Board and that it is not an optional activity for them. She feels that this is very important.

Selectman Cowan motioned to have Dwayne hold a workshop with the Planning Board to review policies and procedures and that it not be optional. Selectman Galemmo seconded the motion.
VOTE: 5-0

Dwayne said that he would set up the Planning Board to meet with the Selectmen at the 2nd meeting in November.

6. New Business:

B. Newsletter:

Dwayne stated that he is picking them up from the printer tomorrow and they will be mailed out by Friday. It basically looks like the draft that they saw at a previous meeting. He did add a section regarding the Marijuana Public Hearing to be held on December 5th at the Community Center.

C. Purchasing New Vehicle for Code Enforcement:

Dwayne stated that the way we have always had a vehicle for Code Enforcement is usually the police car that we are getting rid of. The car that we currently have does not make any sense to put any more money into it. Since May, the car has spent more time in the shop than it has on the road. The list of things that need to be done to it will cost thousands of dollars and the car is not worth it. Dwayne said that the police cruiser that they replaced this year was actually in worst shape than what the CEO had. Dwayne thinks that what would be better for us is to pick up a second hand pickup truck with 60,000 to 100,000 miles on it and spend \$15,000 to \$20,000 on it. The CEO puts about 7,500 miles per year so this vehicle would last us a while. It should have four wheel drive.

Dwayne stated that he looked at some of our local used car dealers to see what was available for pickup trucks. Auto Barn has a couple that range from \$14,000 to \$22,000. North Berwick Auto had one at \$13,900. Village Auto has 3 Chevy Silverado's right now priced from \$13,000 to \$15,000. The others had some in the price range of \$18,000 and above. Right now, we have been paying Roger for mileage for using his own vehicle. Selectman Galemмо asked where the money would come from. Dwayne said that it would come from our Emergency Equipment Fund and it currently has \$40,000 in it. Selectman Cowan asked how often we use money out of this fund and Dwayne said that it is used sporadically. Last year, we used it for something minor and the year before we used it for some fire equipment that broke and wasn't budgeted for. He stated that the most that we every used out of it was the year that they crashed 2 police cruisers. We spent \$25,000 because we had to make up the difference from what our insurance paid.

Selectman Cowan motioned to approve the purchase of a used truck for the Code Enforcement Officer for no more than \$20,000. Selectman Galemмо seconded the motion. VOTE: 5-0

8. Review and Approve Warrants and Correspondence:

Warrant:	October 10, 2017	- \$	0.00
Warrant:	October 17, 2017	- \$	1,109,063.54

Selectman Galemмо motioned to approve the Warrant of October 17, 2017 for the amount of \$1,109,063.54. Selectman Johnson, Jr. seconded the motion. VOTE: 5-0

9. Adjournment:

Selectman Glemmo motioned to adjourn the meeting at 7:47 pm. Selectman Johnson, Jr. seconded the motion. VOTE: 5-0

Respectively Submitted,
Susan Niehoff, Stenographer

Original to Town Clerk

Chairman: Jonathan Hall

Selectman: Wendy Cowan

Selectman: Michael Johnson, Jr.

Selectman: Charles Glemmo

Selectman: Michael Johnson, Sr.