

North Berwick Board of Selectmen Minutes July 10, 2018

NORTH BERWICK BOARD OF SELECTMEN MINUTES JULY 10, 2018

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

Also Present: Dwayne Morin, Pat Cluff, Martha Dobyns, David Parker, Rebecca Reed, Mark Reed, Dan Pelkey, Stephen Peasley, Jason Smith, Sofie Larsen, Qiana Qualls

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

1. **Pledge of Allegiance**
2. **Review and Approve Minutes of June 19, 2018**

Selectman Cowan stated that on Page 7, in the 3rd paragraph under Other Business, they should add Brae's last name which is Anderson.

Selectman Glemmo motioned to approve the minutes of June 19, 2018 as amended. Selectman Johnson, Sr. seconded the motion. VOTE: 5-0

3. **Public Input**

There was no public input at this time.

5. **New Business:**

A. Conservation Agricultural Commission: Meeting with Commission Members to Discuss Projects

Sofie Larsen stated that she sent Dwayne a copy of the Food Sovereignty Ordinance that they have been working on. Dwayne stated that it was on Page 14 of their packet. Sofie Larsen said that over 30 towns in Maine have passed Food Sovereignty Ordinances, including our neighbor, Lebanon. She would like our town to follow their example and pass an Ordinance as well. The Ordinance that they have worked on is adjusted as best as they know to include all of the Federal and State laws. Dwayne stated that he has looked it over and there are parts that do not follow the law but he said that our attorneys will fix that. He stated that one of the things that they need to be concerned with is that the act only applies to face to face sales between the producer and the consumer at their production site. Their current Ordinance proposal currently does not state this. It mentions Farmers Markets and things like that but we need to make sure we clarify this.

Selectman Cowan asked Dwayne if he had already forwarded this to the attorney to review. Dwayne stated that he had not yet. He wanted the Board to review it first. Selectman Cowan

said that she supports this initiative. Selectman Galemmo stated that this allows farmers to sell their goods from their farms and Dwayne said that it did. Ms. Larsen said that things that require State inspection like meat and poultry cannot be included in this.

Selectman Cowan motioned to send this proposed Food Sovereignty Ordinance to the attorney for review. Selectman Galemmo seconded the motion. VOTE: 5-0

Dave Parker stated that the plan has been completed for the town forest lot off of Maple Street. Dwayne stated that the parking lot on Route 9 is flagged and should be ready to clear out pretty soon. He said that the one on Maple Street was a little more difficult. They had a tough time determining what the top line was. They had to hire a surveyor to survey to find the line. This has now been completed and flagged to what the survey shows. They will start working on these parking lots within the next month.

Dwayne said that there are few things that need to happen that the Commission is responsible for. They need to do the layout of the trails and meet with our graphic designer to discuss signage and language on the signage. He stated that our graphic designer is Rachel Schumacher out of South Berwick. He said that they were going to do 2 kiosks with one at each parking lot. It was going to state a welcome and state what the rules for the trails are.

Dwayne stated that they will need to get some volunteer organizers to help clear the trails. There is a Boy Scout that wants to do the bog crossing for his Eagle Scout project. The Boy Scout has determined the cost of the project to be \$2,100.00 and would like to know how much the town will contribute towards it. Dwayne stated that they have raised some money for the town to help out with the trails and they have spent a little bit of it. They raised \$5,000.00 and have spent about \$500.00. Dwayne stated that, as an Eagle Scout, he has to raise the funds but the town can be a part of it to help him out. Dwayne stated that the time frame is the end of October so they don't have to go back to the State to get an extension of time.

Sofie Larsen said that she believes that they can get High School volunteers through the Upward Bound program. This will not work in the summer months but in September, trail clearing could definitely be done. They have worked with the Great Works Regional Land Trust. Dwayne stated that once they have done the Route 9 parking lot, the town workers will clear out that right of way to the property. This area will require a little more work with chain saws and equipment. Dwayne said that another good resource for volunteers is the sober house in town. They are always looking for community projects to do. He said that they have done great work for them when the town has used them. He said that they have to do community service as part of their treatment program. He said they can also get the organizations like the Boy Scouts, Girl Scouts, Campfire Girls and any other groups that are out there to help out. Ms. Larsen was wondering if there were any liability concerns with having the volunteers out there and Dwayne said that there wasn't. He said that they are not planning on doing a lot of heavy cutting and stuff but more just clearing a path. Dwayne said that the Forest Management Plan that Dave Parker put together states that they will have subsequent years where we will be doing some tree trimming.

Ms. Larsen stated that Bill Houston, a member of their Committee, had contacted Dwayne about which abandoned roads in town might have public access. Mr. Houston brought this to the

Committee's attention. She thinks that public access could provide a neat way to provide natural landscapes to our citizens. She was wondering if there were any challenges or limitations that they were not aware of regarding utilizing these. She also asked if the Board would be agreeable with making these roads accessible to our citizens to be used as walking trails. Dwayne said that they are actually public easements now anyways. Ms. Larsen said that some of them are overgrown and kind of hard to see so if they were viable as trails, it would be nice to have signs posted or have them cleared out a little bit. Dwayne said that this would be a concern for the town because most of them are abandoned roads. If we do any maintenance on them, we would lose our abandonment status on them. He said that we wouldn't do anything to lose our abandonment status. They would have to evaluate them on a case by case basis. He stated that some of them will probably not be an issue but there are some that would be.

Ms. Larsen said that they have committed some volunteers to be at the Mill Field Festival this year. They would like to be there to provide some education and outreach about bees and hand out seeds. She said that this was very popular when they did it at the Town Meeting. She asked about a cost for being there and Dwayne said that they will not be charged.

Ms. Larsen said that they were present on voting day to provide outreach on pollinator health. They received a lot of feedback from people and they had very strong opinions about it. She said that most of the opinions were in favor of limiting or at least tracking the amount of pesticides and herbicides that are used in town. If someone is using pesticides or herbicides that are not in accordance with the label instructions, it affects you as well as your neighbors. She stated that in Europe, they are finding that herbicides and pesticides that were not supposed to make it to the aquifer are showing up in the drinking water. In her home country of Denmark, they are having to shut down aquifers due to pesticide infiltration. People were wondering if there was something that the town can do to limit the amount of pesticides used. She said that she looked around to see what other towns are doing. Many towns in Maine are actually restricting or tracking what is being used. Lebanon has banned all non-agricultural and aerial application of herbicides. People can do whatever they want with pesticides but you can only use herbicides if you are a registered agricultural user. Most people that run an agricultural business are registered. Ogunquit has one of the most restricted rules in Maine. Pesticides must be organic or exempt from FDA registration. She stated that many towns say no aerial applications and not in Shoreland zones. Many towns avoid spraying by the side of the roads and ask the State to avoid spraying on the side of the roads too. Many towns restrict to organic or say to not spray on town land at all. Many towns will allow anything but you have to tell them what you are using. All of the towns allow for exemptions to be made if someone wants to do something different.

Ms. Larsen said that they are pleased with doing outreach. They would recommend that the town look into restricting or tracking pesticides and herbicides. Selectman Galembo said that if they are going to have a booth at the Mill Field Festival, they could probably have a short questionnaire asking people what they would support. He stated that to accomplish the restricting or tracking will take a lot of educating and selling to people. He said that he has no idea how much herbicides and pesticides are used in town. Chairman Hall said that he has no issue with bringing this to a town vote. He said they may want to try tracking it first and then bringing it to a vote the following year. Selectman Galembo asked Ms. Larsen if the other towns get a lot of response with their tracking. She stated that she didn't know. She stated that

she realizes it is not a matter where the police or Code Enforcement Officer would be responsible for enforcing that the restrictions are being followed. She said that the only way it would come up is if a neighbor called to complain that their bees are being killed because a neighbor used pesticides or herbicides. Having an Ordinance would then give the town some reason to get involved in this case. Selectman Cowan asked about having some kind of identification system in their yard that said they were pesticide free like they had discussed at a previous meeting. Ms. Larsen said that people that they discussed this with thought it was a cute idea but have not taken the Committee up on the offer. Selectman Cowan said it would be a good idea if they had a website so that people could weigh in. They could also include something in the town newsletter about it. Doing this would raise a level of awareness for people that may not be thinking about it. There has also been so much information about what is happening to the bees and she thinks that there is a level of interest.

Selectman Johnson, Jr. asked if there were any known incidents with bees being killed in town. Ms. Larsen said that she doesn't know for sure but 2 of her beehives did not survive last year. She said it is impossible to know why they died. She said that on the original discussion on Facebook that started this whole thing with the pesticides, people were saying things like their neighbors were spraying so they needed to bring their kids inside. They were upset that they were not told about it. Pat Cluff said that people that are hired to come in and spray at people's home or at the town businesses are probably not told that they need to come down to the town and get approval application. Dwayne stated that they spray at the Community Center every year. Selectman Johnson, Sr. asked why they have to spray. Dwayne said that kids have been stung and the town was threatened to be sued. He said that they spray for wasps, hornets and ticks. They also spray for poison ivy because they don't want the kids to get into it. Sofie Larsen asked if they could suggest that they use organic control methods instead of pesticide and herbicides. Dwayne said that he doesn't really know what they use for us. Ms. Larsen said that Ogunquit has made it that the people that they hire to do the town properties have to use organic pesticides. Selectman Galemmo said that we could look into doing this too.

Selectman Galemmo motioned that the Town look into using organic pesticides. Selectman Johnson, Sr. seconded the motion. VOTE: 5-0

Selectman Galemmo said that, regarding the Ordinance issue, they need to look at how far they want to go with it. They can probably get some feedback on that at the Mill Field Festival.

B. Police Department: Discussion on Police Department Accreditation

Stephen Peasley said that he has been thinking about looking into accreditation for the Police Department. He said that this has been difficult because accreditations were mostly suited for the larger departments and not smaller departments. One of the things required for accreditation was that they couldn't have reserve officers. Our department has a number of reserve officers. The State has been working for the past few years on a new accreditation process and they have finally come up with a plan. Chief Peasley said that he and Officer Dan Pelkey attended a meeting in South Portland this past winter. At the meeting, they recommend that you have someone be the manager of the paperwork. Officer Pelkey will be doing this for us with Chief Peasley overseeing the process. When they went to the training, they found that the accreditation

is very attainable now. The manual has about 170 areas that they look at for accreditation. He stated that our department is already doing most of the stuff. The accreditation process makes you prove that you are doing these things. Chief Peasley said that every year they qualify for State standards for their firearms every year. They have to have a form completed in case the State comes to ask. This is something that they had not been doing before so they didn't have the proof that they needed. They will now have this documented. He said that some of the local towns that are currently accredited are York, Kittery and Biddeford.

Chief Peasley stated that Officer Pelkey has put a lot of work into a manual that lists all of the SOP's. Once they have completed the manual, they have evaluators come down. The evaluators go through the manual and look at what they have done. If the department is up to their standards then we would be recommended for accreditation. Chief Peasley said that accreditation shows the citizens of the town that their Police Department is doing things to the best of their ability for the town. It shows that we are doing everything at Federal and State standards and we are not cutting corners. It is a nice guarantee to the town. Selectman Johnson, Sr. asked if it would help with obtaining grants. Chief Peasley stated that they do not say that it will but it is possible. Dwayne stated that the town will save a little money on our insurance. Officer Pelkey said that by saying that we are accredited, it builds a liability shield for the town because we are creating a set of documented standards that have been voted on by third parties and approved. When it comes time to an evaluation misconduct or a lawsuit, you can look back and show what we do and what we follow. The Deputy Chief of Auburn PD was at the presentation for the training and he said that the 10 years prior to their receiving their national accreditation, they had paid out about \$30,000 in settlements to people. Since their accreditation they have paid out about \$1,000. Office Pelkey stated that in this day and age, when everyone is looking for a quick buck, this shows that we are going the extra step to prove that we are doing things on the straight and narrow. Chief Peasley stated that, at the time of a civil suit, if they see that you are accredited and certified, they already know how much work was put into it and how we are handling our business.

Officer Pelkey said that he has already spent about 100 hours on the manual so far and they still need to go through some of it. Selectman Cowan asked how much more needs to be done. Officer Pelkey said that out of the 170 areas that they need to meet, he is confident that they have completed 130 of them without any additional work on their part. Chief Peasley said that they need to come up with some policies for the workflows and some of them are a little more in-depth. For example, we handle very little cash in our department. Most of it is for a parking ticket or a weapons permit. He stated that we have a procedure but it isn't written down. They just walk it next door and give it to the clerks in the Town Office. The clerks give the PD a receipt and they are done. For this accreditation, they want to see a written procedure in place. Officer Pelkey said that some of the procedures are as simple as requiring the officers to wear seat belts. Even though there is a law that states this, they have to have a written policy in place.

Chairman Hall asked what the cost for accreditation was. Chief Peasley said that it costs \$500 per year. He stated that the Maine Chiefs Police Association worked with MMA and they will offer a 15% discount on the liability insurance. Chairman Hall asked about how long after you get accredited do you need to get reaccredited? Chief Peasley said that they have to do it every 3 years. Officer Pelkey said that they have to constantly be updating the manual to make sure they

are up to date on everything. Chairman Hall asked Chief Peasley if he was looking for a stipend for whoever was going to be taking care of updating the manual. Chief Peasley said he was not. Dwayne said that the Board has to review and approve whenever one of the departments wants to do anything like this so that's why the Chief is at the meeting tonight. He stated that he is very much in favor of it.

Selectman Galemmo motioned to approve for the Police Department to move forward to get accreditation. Selectman Cowan seconded the motion. VOTE: 5-0

4. Unfinished Business:

A. Tax Acquired Property: Gordon Donnell Property and Alton Rollinsford, LLC

Dwayne stated that the Donnell property is currently out to bid and we have received 2 or 3 bids. He stated that they have finally closed on the Hilton property so it is no longer under town ownership. He stated that the Donnell bids are due by the end of the month so they can review them at the next meeting.

B. Public Works: Project Updates

Dwayne stated that they finished Church Avenue and Burma Street. They did the shim on Eastern Avenue and did some brush trimming as well. They want to try and get the parking lots done for the trail projects done before they do Quarry Road and Bauneg Beg Road.

Dwayne stated that the garage is pretty much done. They are looking at getting rid of the other building. We were going to use our excavator and loader but we just put new tires on them that cost about \$4,000. We are looking at renting the equipment so he needs to come up with about \$1,000 to pay for it.

C. Code Enforcement: Update on Enforcement Actions

There are no updates at this time.

D. Smoke/Tobacco Free Resolution: Review Amendments to Resolution

Dwayne stated that on Page 9 of their packet was the Tobacco/Smoke-Free Resolution. At the last meeting, the Board had recommended that they add juuling to the verbiage and he has done so. He stated that they will now be able to apply for some grants for Parks and Rec and for our festivals. They will also provide us with free signage for all of our properties.

Selectman Cowan motioned to approve the new Town of North Berwick Tobacco/Smoke-Free Resolution. Selectman Johnson, Jr. seconded the motion. VOTE: 5-0

Reminders: Next Board of Selectmen's Meeting – July 24, 2018 – 6:30 pm Municipal Building

5. New Business:

C. Medical Marijuana Storefronts: Discuss Moratorium on Medical Marijuana Storefront Operations

Dwayne said that with the passage of Recreational Marijuana, the Legislature went through a whole process and came up with rules and regulations that need to be followed. It has now passed and is officially legal with the provision that the towns opt in. At the same time, the Legislature decided that they needed to amend the Medical Marijuana law. From what he can gather from some information that he has read is that they are trying to create similar types of regulatory processes with Medical as they did Recreational. They had a bill that was presented this year and that bill had 3 amendments that were made to it. Unfortunately, when it was passed, it was not passed as emergency legislation. It went to the Governor's desk and he vetoed it last week. As of last night, the veto was overridden by the Legislature so the Medical Marijuana law has passed. It is effective 10/3/18. There were 2 Medical Marijuana laws passed. The one that is regarding edibles passed as an emergency legislation so it is law today.

Dwayne stated that the reason it is causing problems with the omnibus bill and it not being emergency legislation is that it creates a gap. Prior to the previous Medical Marijuana bill that we were operating under, towns had very little regulatory authority. The new bill expands the town's regulatory capabilities significantly. We now have a few months to decide what we want to come up with for regulations as it relates to Medical Marijuana. One part that they did address is Medical Marijuana storefronts. Most attorneys, including ours, believe that Medical Marijuana storefronts are illegal. They say that it is against the spirit of the law and it wasn't specified within the law. There is a lot of concern with a lot of towns about Medical Marijuana because it isn't about walking into a store and buying pot. It was about meeting with a caregiver, discussing your ailments and deciding what strand of marijuana was the best to use to treat them. This is totally different from what a storefront is. With a storefront, you put up a sign and say that you're open for business and anyone with a medical marijuana card can come in and buy pot. During the review of the omnibus bill, all of these things came up and Roger Katz put in an amendment that said, "With this bill, towns will have to opt in regarding storefronts."

The problem is that the bill was not passed as emergency legislation so now we are going to have lots of conflict. Dwayne said that the way the bill is structured is that if you have your storefront established prior to 10/3/18, you will be grandfathered. If you don't then you are out of luck until the town decides on what it will do. He said that they have had 3 come in and make application requests and he is anticipating many more requests. He said that most towns are being inundated because there is a gap in the law. Selectman Glemmo asked if they had to meet our current zoning in respect to where retail businesses are allowed. Dwayne said that they did. Dwayne stated that the Planning Board Chairman asked for our attorney to review an application that was made to the Planning Board. Our attorney believes that under the existing old law, storefronts are illegal. They point to the fact that the Legislation had to make clarification in the current omnibus bill about storefronts so there was a huge gray area. Dwayne stated that they need to know how to treat the applicants that are applying now. He stated that we currently have zero storefronts in our community.

Selectman Cowan asked if they could establish a moratorium. Dwayne said that they could and that is what our attorney is recommending. He said that if it is the town's concern that storefronts will be an issue until we put some regulatory things in play, the attorney said the best way to handle it is to establish a moratorium. Because we are a Town Meeting community, the moratorium becomes a little more tenuous in terms of getting it approved. The Board would need to approve language and schedule a vote. Typically we vote on regular voting days and the next one would be November 6th. We typically do not hold special town meetings. We can also hold a special Town Meeting to bring this to the public for a vote. Chairman Hall asked how costly this would be and Dwayne said it would cost about \$1,500. If we did it at a non-voting Town Meeting where it is just a show of hands it would be less costly because we don't have to have ballots and other things.

Dwayne said that another problem is that it is summer. He said that they need to think of the political aspects of this. Some people might say that we tried to push this through in the summer and it was not the correct way to do it. He stated that unfortunately, the Legislature has put us in a difficult position. He stated that almost all counsel forms of government are passing moratoriums. They are able to do it by vote of the Selectmen so it is a lot easier to establish. Dwayne said that they need to decide as a community, how do they want to treat marijuana in general and also how do we want to treat it specific to recreational or medical. These are questions that will need to be answered in a pretty short amount of time. He said that regarding Recreational, we have more time because the State hasn't written any rules. Those rules will probably not be written until May, 2019. However, Medical Marijuana is different because we basically have until October 3rd. He said that we can continue to do what we are doing. If they are in a commercial zone for a storefront, then it would fall under our retail part of our Ordinance because we have not specified Medical Marijuana retail.

Selectman Galemmo said that 10/3 is 11 weeks away so even if we want to do a Town Meeting we couldn't do it until September. Dwayne said that they could put it all together in about a month. He said that they are allowed to be retroactive with a moratorium so if we only vote on it in September, we are allowed to be retroactive for 45 days. Dwayne stated that he included a draft Moratorium Ordinance in their packet that has been drawn up by our attorney. Selectman Galemmo said that he thinks that people may not want storefronts for Recreational but he is not sure if they would care about the Medical part. Selectman Cowan said that she is not in favor of the storefronts in town. She said that they have done a lot of work regarding zoning to keep the image and character of the town in place and does not want to see this changed.

Dwayne said that the Board would have to vote to move forward and schedule the Town Meeting. The Public Hearing would have to take place within 7 days of the Town Meeting. He stated that he needs to do 2 advertisements at 10 days and 7 days prior to the Public Hearing. It would take a minimum of 3 weeks to schedule the Town Meeting.

Selectman Galemmo motioned to approve the Moratorium for a Town Meeting with a target date of 8/14/18 with a backup date of 8/21/18. Selectman Johnson, Jr. seconded the motion. VOTE: 5-0

Selectman Galemmo stated that he would also like to have a general discussion about what people want to do regarding the Recreational part of it as well. Dwayne said that they will have the Public Hearing at the 8/7 meeting.

6. Other Business:

Dwayne said that there are a few policy items that he will be looking at. They have done their testing for their audit for the past couple of days and there are a couple things that they are struggling with. One thing is uncashed payroll checks. Mostly because some of the payroll checks are very small and they don't always cash them. They are going to put together a policy that states that we will only pay people through direct deposit.

Dwayne stated that they are also looking at changing their pay date from Wednesday to Friday. He said it might make it easier for us to process payroll especially on holiday weeks.

7. Review and Approve Warrants and Correspondence:

Warrant:	June 20, 2018	- \$ 806.63
Warrant:	June 27, 2018	- \$ 70,269.38
Warrant:	July 3, 2018	- \$ 564.40
Warrant:	July 10, 2018	- \$ 71,352.34

Selectman Galemmo motioned to approve the Warrant of June 20, 2018 for the amount of \$806.63, the Warrant of June 27, 2018 for the amount of \$70,269.38, the Warrant of July 3, 2018 for the amount of \$564.40 and the Warrant of July 10, 2018 for the amount of \$71,352.34. Selectman Johnson, Sr. seconded the motion. VOTE: 5-0

8. Adjournment:

Selectman Galemmo motioned to adjourn the meeting at 8:17 pm. Selectman Johnson, Sr. 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 Galemmo

Selectman: Michael Johnson, Sr.