

**North Berwick Board of Selectmen Minutes December 17, 2019**

**NORTH BERWICK BOARD OF SELECTMEN MINUTES  
DECEMBER 17, 2019**

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

**Also Present:** Dwayne Morin, Scott Strynar, Peter Kenyan, Jon Morse, Roger Frechette, Ben Nutt, David Ballard

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

**1. Pledge of Allegiance**

**2. Review and Approve Minutes of December 3, 2019**

Selectman Johnson, Jr. motioned to approve the minutes of December 3, 2019 as written. Selectman Galemmo seconded the motion. VOTE: 4-0

**3. Public Input**

There was no public input at this time.

**5. New Business:**

**A. Planning Board:** Discuss Proposed Zoning Changes for 2020

Dwayne stated that he had invited the Planning Board in tonight to discuss things that are going on and what they are contemplating on for changes. He stated that, because of the new Law, the time frame is much shorter in terms of when we have to have stuff available for a Public Hearing. He stated that there are 3 things that they are going to talk about. One of the items is one that he and Roger Frechette initiated with the Board. Dwayne stated that under our Ordinance, we have something that says, "rear setbacks when abutting a Residential Use". When looking at all of our old zoning stuff, it appears that it was put in place for when a commercial or industrial establishment is put next to a residential use. However, it doesn't say that when a residential is next to a residential, it creates an additional setback, which doesn't make any sense. He stated that they would like to change this to state that this setback only applies when there is a commercial or industrial use next to a residential one. Dwayne stated that the way they have been handling it now is if the residential use is within the existing setback, then we make them set back. If they meet the setback than we don't. Jon Morse stated that it makes it difficult for people to get a building footprint.

Dwayne stated that they have had many inquiries about wedding event centers within our community. Selectman Galemmo asked if this meant something like a banquet hall. Dwayne

stated that it was for that as well as people who have a barn and want to use it for this purpose. He stated that our Ordinance is silent on this which means that it is not allowed. We need to look to see where it would be a good place to allow us to have these in our community. Selectman Galemmo asked if it was for people who had a barn and just wanted to do a 1 time event or is it for people that want to actually have a business. Dwayne said it is for a business to hold events. He stated that if someone wanted to have a 1 time thing on their property, they could go ahead and do that. Chairman Cowan asked if they are allowed to have alcohol. Dwayne said that if it is their own property and they use a caterer then they can have alcohol. If it is not your property and holding a wedding, you cannot have alcohol. Dwayne said that we don't allow alcohol outside of Class A restaurants anyway. Jon Morse said that these type of events are becoming very popular. Selectman Johnson, Jr. asked if they would be licensed as a restaurant. Dwayne said they would not. They would be licensed as an event hall. If they were a restaurant, they would actually have to be a restaurant.

Selectman Hall asked if it would have to be a dry venue. Dwayne said that it would be unless we changed our liquor ordinance. Selectman Hall asked if they would have to change it for everything or limit it to certain things. Selectman Galemmo thought that they could just do it for a specific thing like the event hall. Dwayne stated that they could not limit it because there are 2 sets of ordinances to deal with. There is our Zoning Ordinance and our Liquor Ordinance. Our Liquor Ordinance states that liquor can only be served in Class A restaurants or at your own catered event. Chairman Cowan asked what the distinction was for a Class A designation. Dwayne said that it is defined by how you cook and serve your food. It has to be a commercial kitchen. They have to serve courses for meals. There are many other requirements that are designated by the State. If we would want to change that than we would have to change the liquor side of our ordinance. This would mean going to the townspeople to get permission to do so. Selectman Galemmo said that if he was going to open up an event hall it would have a commercial kitchen with it. There is a catering license that you can get. Dwayne said that there is but catering is not allowed within our community. Selectman Galemmo said that these type of facilities are becoming a big thing so it is something that should be looked at. Chairman Cowan feels that it is something that they should look into if they are making it specific to an event situation. She does not want to throw open the doors to everything. Selectman Galemmo said that he had no problems with looking into changing the Zoning Ordinance. However, if they are going to allow these event halls than they should look at the Liquor one as well. He stated that it would be hard for these event halls to make money with these events if they cannot serve alcohol. Selectman Hall asked how they would go about changing the Liquor Ordinance. Dwayne said that there are specific questions that need to be asked and they set how the questions are. He would need to look it up and see how we would have to phrase the question.

Dwayne stated that the third thing to look at for a change is a request from Hussey to make all of their property Industrial. They want to extend the Industrial Zone to encompass all of Hussey's property. Selectman Hall asked about changing the zoning along Route 4 towards Sanford. Dwayne said that the Planning Board has had some discussions regarding this but we probably won't have the time to do it this year. Selectman Johnson, Jr. said that he has had a few people approach him about having commercial property added along Route 4. Selectman Galemmo said that the only part he would be concerned with is protecting the Water District. Selectman Hall said that if they stopped at Quarry Road than they shouldn't have any problems.

Chairman Cowan asked the Planning Board members if they had anything else that they would like to discuss. Jon Morse said that it has been a pretty good year. They have done quite a bit. The most recent thing is adding a new storage unit across from Pratt. Selectman Johnson, Jr. asked if everything had been working out well since they increased the permits last year. Roger Frechette stated that they haven't maxed out yet. Dwayne said that there may be a couple of subdivisions coming up for them to review at some point. He stated that he has spoken with some engineers and other real estate developers and there is a huge lack of available land within our community to build upon. The necessity for subdivisions would be a good thing for our community. He said that he looked yesterday and saw that we only have 38 houses for sale in North Berwick. We have 2,000 houses in North Berwick and 38 are for sale which is less than 1%.

**B. Peter Kenyon: Requesting a Refund on Building Permits**

Dwayne stated that Mr. Kenyon was in the process of purchasing a piece of property within our community and he applied for the building permits. He pulled the permits prior to owning the property which is allowed with a Purchase and Sales Agreement per our Ordinance. The sale fell through and he is requesting a refund on his building permits. Dwayne said that the policy of the town has been that building permits are not refundable. He said that he is the one that personally gave Mr. Kenyon the permits and told him that the permits were non-refundable. All of our town permits are non-refundable. Dwayne said that Mr. Kenyon has a unique situation but nonetheless this is our policy. He said that the staff does have concerns about refunds. They are concerned about setting a precedent.

Chairman Cowan asked Mr. Kenyon if he had anything he wanted to say. Mr. Kenyon stated that he did state everything in the letter that the Selectmen received. There is a lot of personal information in it. He stated that he was 100% into building but because of the circumstances, he was not able to complete the project. They were days away from closing and he had to have the building permit to be able to get to this point. The bank required this. He tried to go into different directions to try and make things work but every option went nowhere. The sellers decided to back out and now the land is under contract so it is no longer an option for him. Mr. Kenyon stated that they were doing a land purchase build construction loan all in one. Jason Fitzgerald from Norway Savings Bank required this to get the clear to close and unfortunately, it unraveled days before.

Chairman Cowan asked Dwayne what options they have in this matter. Dwayne said that one of the things they could do is that if this property does in fact sell and someone comes in to get a permit for that property, whatever they paid for their permit, we could give to Mr. Kenyon. Dwayne stated that it might not be what he actually had paid but it could be something. Chairman Cowan is also concerned about setting a precedent. She asked if there was a way to avoid this by narrowing it to just this type of scenario. Dwayne said that his overall concern is opening the barn door. He stated that if we refund, then he thinks that we will see other people try for a refund. Selectman Hall asked how common it was for banks to do this. Dwayne said that he has never had a bank require a building permit ever. The banks usually call us and we tell them that permits are available. Roger Frechette stated that he gets calls from banks all of

the time and they usually just want to know if it is a buildable lot. Mr. Kenyon stated that what set his apart is that it was a self GC project and Norway Savings is one of the only banks that does it and their rules are a lot more stringent. He had to get higher insurances and stuff like that to get this project approved.

Selectman Johnson, Jr. asked Mr. Kenyon if he was still planning on building in North Berwick. Mr. Kenyon said that he would probably do it eventually but it wouldn't be for a bit. Selectman Johnson, Jr. said that if he was going to build here, they could probably apply this payment towards what he would need to pay for the new one. Dwayne said that this could be another option to keep it as a credit. Chairman Cowan likes the idea of keeping it as a credit for him to use at a future date. Selectman Hall agreed and added that they should put a time limit on it. He asked Mr. Kenyon how he felt about this. Mr. Kenyon said that he just doesn't know when he will be able to build again. He said that if a new owner comes in and pays for a permit that they would then reimburse to him, this would probably be preferable. Dwayne said that this would still be a refund of a permit. Selectman Hall said that he does feel though that this way would still prevent developers from coming in and turning in their permits.

Selectman Galemmo asked if permits were transferrable and Dwayne said they were not. Dwayne said that it actually states in our Ordinance regarding Growth Management Permits. He stated that we can rename them. For example, on a septic system you can assign it to somebody else. They cannot go and sell the permits to somebody else. Dwayne stated that the likelihood of someone building his exact house is highly unlikely.

Dwayne stated that one thing that the Board could also consider is that the impact fee has been paid but there is no house on it so there is no impact. We could do a credit on building and reimburse the impact fee. Chairman Cowan asked how much the impact fee was. Dwayne said that it was \$1,500.00. Dwayne said that this would be the refund but they could probably couple it with a building permit credit with a sunset clause up to the remaining amount of \$2,400.00. Dwayne stated that the driveway permit has been issued and is good now so we really can't reimburse that. If anyone ever buys it the driveway permit is valid. Once a permit is issued it is valid. The same thing applies to the septic system. We had to pay the State so we shouldn't have to reimburse this part of it. Dwayne said that if they want to do the credit, then he would recommend that they do not include the driveway permit, the septic permit and the growth permit. He said that the growth permit is very clear in our Ordinance that it is non-refundable. The amounts are \$265.00 for the septic, \$15.00 for the driveway and \$50.00 for the growth for a total of \$330.00. This would leave him a credit of \$2,105.00.

Selectman Hall motioned to refund Peter Kenyon \$1,500.00 for the impact fee and if he decides to pull a building permit within the next 10 years in North Berwick, we would credit him \$2,105.00 towards a new building permit. Selectman Galemmo seconded the motion. VOTE: 5-0

#### **4. Unfinished Business:**

##### **A. Linscott Road: Intersection Realignment**

Dwayne stated that the appraisal has come in at \$180,000.00. The Weaver's stated that they thought that was about what it was going to be. Dwayne said that the property with the State is becoming more troublesome because of timeframes. He has asked for it to be expedited. Selectman Hall asked what is holding things up with the State. Dwayne said that the State has to go through a process which takes about 6 to 9 months. They had originally told Dwayne that it was going to be a 4 week process and it has now changed to 6 to 9 months. They have to go do an appraisal on it and then we need to settle out with them. They figure that they will have the appraisal done by March and do the transfer in the summer time. Dwayne said that he needs to put all of this together before that so he has asked them to expedite it. He still has not heard from them.

Dwayne said that our engineers will have a design to him by Friday. They needed to go back and do some more surveying. They did not originally go far enough up Linscott Road so they can figure out how to get the sweep in. We will have to have a semi super elevated curve in order to make everything flow there.

Selectman Hall asked Dwayne if he had spoken to the Weavers about any details with what they want built. Dwayne said that they have been looking at properties. He asked them to send him everything that they are looking at so he can provide them with a proposal. They are currently in town so he will try to meet with them while they are here. They need to let him know what they are looking for such as a house with a cellar or on a slab, 1 story or 2 story and other things. He already has numbers for water and sewer.

##### **B. Streetlight Project: Update**

Dwayne stated that they started installing the new lights yesterday and got about 15 done. They hope to be done by the end of this week. These lights have better light spread than the halogen ones. The halogen lights are basically a beam because incandescent lights shine straight down. The LED lights have more of a shed of light.

##### **C. Boston Post Cane: Award to New Recipient**

Dwayne heard back today that the lady will accept the cane. He will try to set something up for the 1<sup>st</sup> or 2<sup>nd</sup> week of January. She lives at the mill apartments so they will use the community room located there. Her son is going to get a cake. Dwayne said that she thought she had to be 100 years old to receive it. Chairman Cowan asked if we usually do a little biography or something about the recipient. Dwayne said that they usually take some pictures and the Sentinel newspaper usually does a story. They will have someone come out or ask him to write something up and submit it to them.

**D. Budget FY21: Discuss Budget Items for Consideration FY21**

Dwayne said that he is still working on all of the budgets. He did get the Rescue budget and it is not too bad. He is still waiting on the final Police budget and the Fire budget. He has talked to Kristie so he knows what the Parks and Rec budget is coming in at. He has already done Highway, Transfer Station and Town Office. He has received about 75% of the budget. They are all due by December 30<sup>th</sup>.

Dwayne said that one of the things that is not good is the cost of the Police Cruiser. He stated that they can get one without the electric hybrid. Last year, they paid \$30,000 for the car and they usually have about an \$8,000 to \$9,000 setup cost. This year, just the car is coming in at about \$36,000 to \$37,000. If we go hybrid, it is \$40,000. Selectman Johnson, Jr. asked if any other departments in Maine had a hybrid. Dwayne said that there wasn't yet. This would be the first year. He stated that we would not be going hybrid yet.

Dwayne said that he did have some good news regarding the copiers. Our copy company has given us a copier for our Police Department at no charge. They are working on a deal right now for our Town Office one. Dwayne asked the company about the 2 for 1 sale. They told Dwayne that they could do that but he proposed something else. They said that the machine they put in the Police Department only has 124,000 copies on it and they will give it to us for free as a direct replacement. Dwayne said that the copier is basically the same mode of what they had but is newer. It is only 3 years old. Dwayne said that both of the copiers that we are getting from the company are copiers that are coming out of Tyler Technologies. Every 3 years regardless of how many copies are on the copier, Tyler Technologies gets rid of all of them. There is a copier that is the same as what we have in the Town Office that has 30,000 copies on it and will sell it to us for about \$3,400 to \$3,500 as long as we continue with our current copy contract which is \$.07 per copy. It will not come out until the beginning of the year.

Selectman Johnson, Jr. asked what the expected copy life was for these machines. Dwayne said that they are good for millions of copies. We always age out our machines. He stated that the Police Department machine is a 35,000 copy machine per month and we don't put in that much in a year. The Town Office copier is a 50,000 copy per month copier and we put on about 75,000 per year. The Police Department copier that they just got rid of was also used when they first got it. It had about 100,000 copies on it and right now it has about 888,000 copies. We get about 10 years out of them.

Dwayne said that this would be a great deal for us. Not a lot of copier companies would be willing to do this. Dwayne stated that he does want to tweak our contract because we have overages. He said that we get a set number of copies per month for the \$.07 and then if you go over that number, then you pay an overage charge. He wants to up the number of copies we get per month. He stated that 5,000 per month is our base for the Police Department and we have been doing about 6,000 to 7,000 per month. He stated that when you go over you pay double the base charge. It would be better to pay a little more by upping the base copy than to pay for all of the overage charges.

**Reminders: Next Board of Selectmen's Meeting** – Jan. 7, 2020 – 6:30 pm Municipal Building  
**Labor Negotiations** – Dec. 23, 2019 – 5:30 pm Municipal Building

**5. New Business:**

**C. Flora Murray:** Letter Regarding Mill Field Festival Vendors

Dwayne stated that Flora Murray has written a letter to the Board of Selectmen because she is not happy with the explanation that both Kristie and Dwayne gave her. He stated that both he and Kristie gave her the same explanation. She feels that she was discriminated against. Dwayne has drafted a letter with the same explanation that he gave Ms. Murray over the phone. He stated that she got very upset with him over the phone and he told her that he didn't know what else he could tell her.

Chairman Cowan said that we could tell her that if she want to exclusively sell one item like the babka that she wanted to sell, she could do that. Dwayne stated that actually babka is really just a bread and the church was already selling breads.

Selectman Galemmo motioned to sign the letter to Flora Murray. Selectman Johnson, Sr. seconded the motion. VOTE: 5-0

**7. Review and Approve Warrants and Correspondence:**

Warrant:	December 10, 2019	- \$	0.00
Warrant:	December 17, 2019	- \$	712,635.58

Selectman Galemmo motioned to approve the Warrant of December 17, 2019 for the amount of \$712,635.58. Selectman Johnson, Jr. seconded the motion. VOTE: 5-0

**6. Other Business – Executive Session – Legal**

Selectman Galemmo motioned to go into Executive Session at 7:54 pm and come out of Executive Session at 8:10 pm. Selectman Johnson, Sr. seconded the motion. VOTE: 5-0

**8. Adjournment:**

Selectman Glemmo motioned to adjourn the meeting at 8:11 pm. Selectman Johnson, Sr. seconded the motion. VOTE: 5-0

Respectively Submitted,  
Susan Niehoff, Stenographer

Original to Town Clerk

Chairman: Wendy Cowan

Selectman: Jonathan Hall

Selectman: Michael Johnson, Jr.

Selectman: Charles Glemmo

Selectman: Michael Johnson, Sr.