

**BOARD OF SELECTMEN/BOARD OF ASSESSORS
MEETING MINUTES
October 21, 2014**

I. CALL TO ORDER: 6:30 p.m.

ROLL CALL: Chairman O'Connor, Selectman Crichton, Selectman Ganlere, Selectman Pendergast, Selectman Wright

OTHERS PRESENT: Town Manager Patrick Venne, Town Clerk Jo Anne Lepley, Town Attorney Bryan Dench

PLEDGE OF ALLEGIANCE

II. Public Hearings

- a. **November 4, 2014 Town Meeting Warrant & Secret Ballot Referenda**
Chairman O'Connor read the Warrant Articles.
The Public Hearing was opened at 6:37 p.m.

Kevin Gray – Does Article 4 give the BOS the right to not agree to the contract if it is not the right fit for the Town?

Frank Underwood – Mr. Underwood presented a list of questions/concerns after reading the draft agreement.

1. Lot 4 discrepancies; is it included or not included.
2. Are there outstanding items of substance?
3. EPA grant application timelines. The Town must have title before filing for the grant.
4. Forgiveness of debt?
5. Verification/Justification.
6. Is Berwick Sewer District pursuing a separate agreement and would there be a benefit to linking with the Town.
7. Selling the property or forcing the re-acquisition.
8. The stay from the bankruptcy court.
9. If the Town takes the title, is there a certificate that states the "cleaning" of the property is final?

Mr. Underwood stated that he thinks the bankruptcy court has been cooperative and he supports the Town voting in favor of the agreement.

Eleanor Murphy – Ms. Murphy stated that a copy of the agreement needs to be available for everyone to read. Ms. Murphy also asked about the seven subdivisions that were applied for.

Jeanette LeMay – Ms. LeMay had questions regarding unresolved Workers Compensation claims and other possible Tort claims against Prime Tanning and whether the Town would become responsible for them if the Town forecloses for back taxes and whether the title to the property would be "free and clear." Ms. LeMay would also like to know FOJ's net investment in the property and Prime Tanning.

The Public Hearing was closed at 6:51 p.m.

Chairman O'Connor stated that the questions from the Hearing would be taken in turn and the Town's Attorney and Town Manager would assist in answering the questions.

Question 1 – Kevin Gray

Town Manager -The wording in the document gives the BOS/Town Manager the "opportunity" to enter into an agreement. It authorizes them to enter into an agreement but they do not have to.

Attorney Dench – The Town will be authorized to enter into the agreement.

Question 2 – Frank Underwood: Lot 34

Town Manager – There has not been any changes in a specific lot.

Question 3 – Frank Underwood: Grant Deadline

Attorney Dench – Mr. Dench did not see any issues with meeting the grant deadline. The bankruptcy court has been cooperative and should give permission to move forward with the tax lien foreclosure. Fund of Jupiter (FOJ) will cooperate. The court is cooperating and will lift the "stay" for forward movement that will lead to resolution of the bankruptcy.

Question 4 – Frank Underwood: Sewer District

Attorney Dench – Due to ongoing negotiations he would only state that currently they are separate but cooperative discussions.

Question 5 – Frank Underwood: Selling it back/forcing reacquisition

Attorney Dench – If the FOJ does not purchase, they must pay the Town the back taxes owed to the Town and any costs incurred and the Town could force it to acquire the property.

Question 6 – Frank Underwood: Stay imposed by the bankruptcy court

Attorney Dench – The court is on "friendly" terms and if this will move the process forward, Mr. Dench does not see any reason for the stay not to be lifted.

Question 7 – Frank Underwood: Certificate that the site is "clean" and chain of ownership

Attorney Dench – The Town will not warrant or claim anything regarding the site. The Town is not responsible for anything.

Question 8 – Eleanor Murphy: First Draft of Agreement and seven lot subdivision

Town Manager – Copies of the First Draft of the proposed Agreement are available for the public. The FOJ's subdividing the property into 7 lots is to maximize grant funding.

Question 9 – Jeannette LeMay: The Town's Liability for outstanding legal claims and unpaid loans/mortgages

Attorney Dench – Under the Tax Lien Foreclosure law, the Town would not be responsible for any claims against Prime Tanning. He stated that he was 99% sure. The tax foreclosure would take priority, but the Town would not inherit the liabilities.

Town Manager – The net investment is a question that would need to be asked of FOJ itself.

b. Amendment of GA Ordinances Appendices B & C on Food & Housing Maximums

Chairman O'Connor opened the Hearing at 7:21 p.m.

No one from the public stepped up for comment. Selectman Pendergast asked about the monthly amount and the number of recipients and whether anyone had recently become employed. The Town Clerk answered his questions.

Motion: It was moved by Chairman O'Connor and seconded by Selectman Wright to adopt the General Assistance Annual Maximums Appendices B & C, Food and Housing.

The motion carried on a vote of 4 – 1. (Pendergast)

III. Approval & Signature of Minutes

a. October 7, 2014 Regular Meeting

Motion: It was moved by Selectman Ganiere and seconded by Selectman Wright to approve the October 7, 2014 Minutes as presented.

The motion carried unanimously; 4 – 0. (Pendergast was absent at that meeting)

IV. FIRST PUBLIC COMMENT

Paul Boisvert – Mr. Boisvert stated that he was a member of the Planning Board and that the Board had approved the 7 lot subdivision. His concerns stem from the fact the attorney for FOJ stated that the plans for the property will be "market driven" and not necessarily by the conceptual plan derived through the downtown vision process.

Selectman Wright stated that development of any kind is "market driven," and a Town cannot dictate what an owner would like to do.

The Town Manager stated that the proposed agreement was not a development agreement; it is meant to get the property cleaned so that it can be ready for future development.

There was a two topic of conversation that ensued regarding the draft agreement and what the Town can do to realize its conceptual plans for the Prime Tanning property. Attorney Dench broke down the three basic objectives of the agreement:

1. Grant funding.
2. Get the taxes owed to the Town paid
3. Give the property back after clean-up.

The draft agreement is available to the public.

The Planning Board is working on the adoption of Form Based Codes. Once they are adopted, they will be used for any future development in Berwick. This will help ensure the compliance of future developers to the downtown vision plan.

Frank Underwood – Mr. Underwood stated that he had walked the Penny Pond Trail with his family and that he that it was great. They found a trash receptacle and picnic table in the pond.

Pat Boisvert – Ms. Boisvert stated that she would really like to have the agreement prior to voting on it. She suggested a follow-up public forum.

The BOS consensus was to hold a public meeting at the next BOS meeting on November 12th before executing the agreement.

Jeannette LeMay – Ms. LeMay stated that she did not feel that would be enough and suggested an informational session before the vote so that residents can make an informed decision.

Motion: It was moved by Selectman Crichton and seconded by Selectman Ganlere to hold a Special Meeting on October 29th at 6:30 p.m.

The motion carried unanimously; 5 – 0.

V. REPORTS OF COMMITTEES

- a. BCTV Committee - NONE
- b. Rec Committee Update -NONE
- c. Envision Berwick

Dave Andreesen –Mr. Andreesen reported for the Trails Sub-Committee. The proposed Penny Pond Trail extension to Logan Street has met with concerns submitted by six abutters. The abutters' main concern is privacy due to the width of the existing right-of-way.

The BOS consensus was to hear from the abutters. The BOS directed the Town Manager to put this matter on a future agenda.

1. Mr. Andreesen noted that the Envision Berwick Committee discussed the use of Form Based Codes and an Urban Overlay expansion.
2. Mr. Andreesen explained the reason behind the Envision Berwick Committee's pulling back from attending an event at the Links at Outlook Golf Club.
3. Mr. Andreesen spoke about the Foster's Daily Democrat column he will be writing regarding Berwick news. He stated that it will be upbeat.

Frank Underwood – Mr. Underwood was there to represent the Economic Development Committee.

1. The Committee is preparing a slide presentation for BCTV and Informational notices to go home with the children in MSAD #60.

2. They have arranged for a tour of the blue-side building owned by Prime Tanning on Monday, October 27, 2014 at 8 a.m.

3. The Christmas tree donation is moving forward. A group will go and pick the tree and make sure the vehicle can get it out without getting stuck in early December.

4. There is a slide presentation available for viewing with proper noticing for the public.

V. APPOINTMENTS/PRESENTATIONS/OTHER GUESTS

- a. **Town Attorney Bryan Dench – Potential Executive Session RE: Economic Development Motion:** It was moved by Chairman O'Connor and seconded by Selectman Wright to enter executive session pursuant to 1 MRS 405(6)(C) for the purpose of discussing economic development and the legal rights and duties of the Town pertaining to the so-called Prime Tanning site.

The motion carried unanimously; 5 – 0.

The BOS entered into Executive Session at 8:20 p.m.

At 9:08 p.m., Chairman O'Connor announced the end of the Executive Session. No action was taken as a result of the Executive Session.

- b. **Town Negotiator David Barrett – Potential Executive Session RE: Police Union Contract**

Motion: It was moved by Chairman O'Connor and seconded by Selectman Ganlere to enter executive session pursuant to MRS 405 (6)(D) to discuss with the Town's labor contract negotiator David Barrett ongoing union negotiations and potential settlement options with the Maine Association of Police.

The motion carried unanimously; 5 – 0.

The BOS entered into Executive Session at 9:09 p.m.

At 10:12, Chairman O'Connor announced the end of the Executive Session. No action was taken as a result of the Executive Session.

Chairman O'Connor with consensus suspended the rules and continued with agenda beyond 9:00 PM.

VI. COMMUNICATIONS

- a. **Recent Meeting with Maine DOT RE: Hubbard Road Closure & Route 4 Safety**
1. There does not appear to be any Public Safety concerns due to mutual aid.
 2. There will be formal detours used.
 3. Four properties are involved in Eminent Domain
 4. There will be a Public Hearing set up by MDOT at a later date.

The installation of turning lanes on Route 4 will not be done unless the Town or private developer pays for them. The state is unwilling to lower the speed limit due to safety.

Motion: It was moved by Selectman Pendergast and seconded by Selectman Crichton to direct the Town Manager to direct the Police Chief to position patrol cars on Route 4 during the times of 6:30 a.m. – 8:30 a.m. and 3:30 p.m. – 5:15 p.m.

The motion failed on a vote of 2 – 3 (Ganlere, O'Connor, Wright)

After a quick discussion of the role of the Town Manager and Board of Selectman in personnel, it was the consensus of the BOS to allow the Town Manager to handle this matter and continue to look at options.

- b. **Update on Downtown Parking Study Progress**
There will be a meeting on October 28, 2014, at a time to be determined. The meeting will be open to the public.
- c. **Year to Date Legal Expenses Update & Near-term Forecast**
Before tonight's meeting, there was \$7,644 left in the legal.
- d. **Annual Hazardous Waste Day Recap & Ideas for Improvement**
Due to the unprecedented volume of Berwick vehicles using the Annual Hazardous Waste Day, the funding provided by the Town only lasted for 1 ½ hours. The Town Manager is looking into possible storage for the residents who were turned away and whether there would be an option to hold a second day later in the budget year.
- e. **American Ambulance Scholarship Provision**
At the time the contract was signed with American Ambulance last year, the scholarship program was already underway. The president of American Ambulance will be reaching out to the School District in the spring.
- f. **Town Hall Boiler Project Status**
Mr. Nichols of AEC Engineering reviewed the boiler installation project performed by Mechanical Services, Inc. There are a few minor items associated with the project to be completed, but overall the project was well done.

VIII. APPROVAL OF ACCOUNTS PAYABLE WARRANTS

A/P WARRANT	1515	\$53,247.64
WATER WARRANT	W1515	\$2,408.91
PAYROLL WARRANT	1516	\$40,129.77
A/P WARRANT	1516	\$628,192.23
WATER WARRANT	W1516	\$207.59
PAYROLL WARRANT	1517	\$39,556.86

Motion: It was moved by Chairman O'Connor and seconded by Selectman Ganlere to accept the Accounts Payable Warrants as presented.

The motion carried unanimously; 5 – 0.

IX. Unfinished Business

- a. **Postponement of Public Hearing Date and Rate Increase Case to PUC for Water Service**
The Water Department's potential rate increase has been postponed by one quarter until April 1st due to timing issues arising from the Town's audited financial statements release and scheduling of the public hearing(s). The Public Hearing date will likely be rescheduled to occur sometime in December or January.

x. **New Business**

a. **Potential Town Office Closure November 4th**

Motion: It was moved by Chairman O'Connor and seconded by Selectman Ganlere to allow the Town Manager the flexibility to close the Town Office on November 4th if necessary.

The motion carried on a vote of 3 – 2 (Crichton, Pendergast)

b. **Appointment of Alternate Selectman to Envision Berwick Committee**

Motion: It was moved by Chairman O'Connor and seconded by Selectman Wright to have Selectman Wright replace Chairman O'Connor on the Envision Berwick Committee.

The motion carried unanimously; 5 – 0.

XI. **Second Public Comment - None**

XII. **Other Business/Non-Agenda Items - None**

XIII. **Adjournment**

Motion: It was moved by Selectman Crichton and seconded by Selectman Pendergast to adjourn.

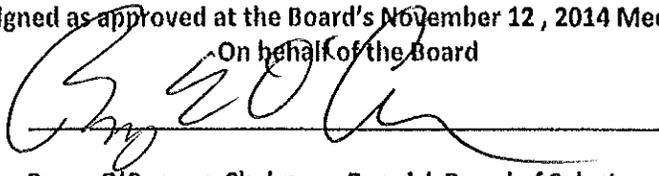
The motion carried unanimously; 5 – 0.

The meeting adjourned at 10:49 p.m.

The October 21, 2014 BOS Meeting Minutes

Signed as approved at the Board's November 12, 2014 Meeting

On behalf of the Board

A handwritten signature in black ink, appearing to read "Bryan O'Connor", is written over a horizontal line.

Bryan O'Connor, Chairman, Berwick Board of Selectmen