

BOARD OF SELECTMEN/ASSESSORS  
Town of Berwick  
December 18, 2012  
APPROVED MINUTES

**Roll Call:** Chairman Haley, Selectwoman Murphy, Selectman Crichton, Selectman O'Connor and Selectman Ganiere in attendance.

**Others Present:** Interim Town Manager, Gary Stenhouse, Town Clerk, Melissa Albert and 10 other members of the public.

**Pledge of Allegiance:** Chairman Haley led those present in the Pledge of Allegiance

**Approval of Minutes:** *Selectwoman Murphy moved to accept the minutes of November 27th, 2012 as written second by Selectman Ganiere. 5/0 motion passed*

*Discussion: Selectman O'Connor noticed a spelling error on page 3 change omission to emissions. Town Clerk will correct the spelling errors. Motion still passed with corrections.*

**Selectman O'Connor moved to accept the minutes of December 4<sup>th</sup>, 2012 meeting as written second by Selectwoman Murphy. 5/0 motion passes.**

**Public Comment:**

Andrea Gould- 4 Shelley Lane Thanked the Board for allowing the Holiday Tree and Andrea also wanted to Thank Kim Taylor and Nelson Begin for donating the tree.

Mr. Willey- Stated that he has problem and it's being investigated and would like to leave it for now. And handle the situation later. Interim Manager noted that he has talked with Mr. Willey about his problem and shared with Mr. Willey what he will be doing. Interim Manager will share with the Board and Mr. Willey what he will do to rectify the problem but will not share with members of the public that may contact the Interim Manager for information.

Ron Long- Commented that Berwick lost a fine citizen Mr. Ronald Turcotte he served our country the town of Berwick and would like the Board to hold a moment of silence for his honor. Chairman Haley stated without objection from the Board they will pause for a moment of silence for Mr. Turcotte.

**Communications:**

Chair Haley gave the Board and audience an update of hiring a new Town Manager. Dave Barrett from MMA has collected resumes. The time allotted for resume submittal has now expired. Mr. Barrett will be reviewing resumes and sending them to the Board for review and Chair Haley said that they would discuss the process at the next Board meeting.

Chair Haley has contacted Atty. Rachin who conducted the Independent Review for the Sullivan School project. Attorney Rachin is willing to come in and meet with Board for approximately sixty minutes before the regularly scheduled meeting of January 22<sup>nd</sup>, 2013. Chair suggested going into Executive Session at 6:00P.M. with Attorney Rachin and start public session meeting at 7:00P.M. Town Manager will advertise time appropriately.

**A. Presentation of Girl Scouting Award to Deanna Rochefort:**

Ms. Rochefort was in attendance to receive her plaque from the Board of Selectmen. Chairman Haley stated to Ms. Rochefort the following:

*On the behalf of the Town of Berwick, congratulations Deanna on achieving Girl Scout's highest and most prestigious award. Your accomplishment has distinguished you as a leader amongst your peers and your project successfully made a mark on our community that created a lasting impact on the lives of others. The Board of Selectman wishes to give you this plaque to commemorate your achievement.*

*The plaque read: The Gold award for Girl Scouting signifies your dedication and commitment to others.* Interim Manager noted that the Town Office has a Girl Scout plaque with members names that have achieved this award, Deanna's name will be added to this plaque as well. Mike Reid took a picture of the Board and Deanna together.

**B. Rochester Street Speed Limits:**

Interim Manager gave the Board a memorandum from the State that the speed limit on Rochester Street is being reduced by five miles per hour.

**C. Meet State Representative Plante:**

Mr. Plante was not at the meeting when this agenda item came up. Mr. Plante informed Interim Manager that he may be late due to a similar meeting in the town of Lebanon that he planned to attend the same night. When he arrives the Board will accommodate Mr. Plante with time. Mr. Plante arrived and came to the podium and explained what is taking place in the State House regarding budget short fall of thirty-five million. Chairman Haley asked Mr. Plante if he could participate in the Downtown Vision Committee meetings and the meetings for the Berwick/Somersworth Bridge. Selectwoman Murphy noted that she spent 18 years in the State House and voted always for the better of Berwick and always had an answer to the people as to why she voted the way she did. Board thanked Mr. Plante coming in.

Interim Manager informed the Board that he is projecting the legal cost to be around \$85,000-\$100,000. The Board with due diligence fought the Bateman project but this cost money to be successful. The following are the amounts that have been paid out for legal services to firms.

- \*\$ 24,000 Shepard & Reed
- \*\$ 20,809 Bergan & Parkinson (Leah Rachin, Bateman)
- \*\$6900.00 Woodman & Edmund (FOA request)
- \*\$26,265 Skelton& Trainor (In addition to what Bateman was required to re-pay the Town.)

Town Manager projects that normal legal counsel with Shepard & Reed runs about \$1000/mo. Town Manager is projecting legal services for the Town to be on the low side \$86,000 but more like \$100,000. Because of the way the Town Budgets legal fees under general cost, it's all fixed cost i.e. workman's comp, street lights etc.; Town Manager told Board they will need to seek additional appropriations in the amount of \$60,000. TM noted that the town's fund balance has over two million. Board needs to discuss to have a Special Town Meeting or wait until the Annual Town Meeting for a referendum vote for these over expenditures. Town Manager noted that the Town at the end FY 12 the town was in the positive of \$500,000 under budget. Chairman Haley noted that if the Board waited until the May election that it would be closer the end of the fiscal year and how much is needed to cover cost. Chairman Haley stated that it is not option to not defend the Town, the Town has to spend the money and the Board needs the voters to approve the expenditures when the warrant articles comes out either

by Special Town Meeting or the Annual Town Meeting voters need to vote yes to transfer the money from the General Fund to the Legal Expense account. Board has spent this money judiciously and generated positive outcomes for the town of Berwick.

Town Manager read an application from Terry Wright to join the Berwick Community Television Committee. The Board appointed three members at the last BOS meeting and one of those members Brian Cincotta no longer wants to be a member. Selectman Crichton asked if Terry Wright could be appointed tonight. Chairman Haley stated that the Board has not approved the new policy stating that the committee is now a 5 member board not 3, and Brian Cincotta has not turned in his resignation so that would be over the limit of members.

**Approval of Accounts Payable Warrants:**

TW 1323 \$670,803.64

PR 1323 \$61,148.27

W 1323 \$13,756.87

TW1324\$156,604.85

PR1324 \$38,074.59

\*\* Payroll warrant 1323 amount is included in Town warrant 1323.

\*\*Payroll warrant 1324 amount is included in Town warrant 1324.

***Selectwoman Murphy moved to accept the warrants as presented, second by Selectman Ganiere 5/0 motion passes.***

**Reports of Committees: NONE**

**Unfinished Business:**

**A. BCTV Policies and Procedures-**

Interim Manager recommended that the Board table this agenda item until the next regular meeting. *Selectman O'Connor motioned to table BCTV Policies and Procedures until the next meeting second by Selectman Ganiere. 5/0 motion passes*

**New Business:**

**A. Berwick Somersworth Bridge Aesthetic Improvements-**

Board recognized Dave Chappell, Director of Planning and Community Development. MDOT (Maine) owns half of the Bridge and (NH DOT) New Hampshire owns the other half. Mr. Chappell mentioned that there have been a few meetings about the new bridge and the aesthetics of the new bridge and the City of Somersworth would like to have pedestrian lighting for the aesthetics and for safety reasons. MDOT has indicated that they will not pay for the pedestrian lights if Berwick wants these lights installed the Town will have to pay for the lights and the City of Somersworth will pay for their lights. City of Somersworth will pay for the lights; MDOT has made it clear that they will pay for the installation of the lights but not the fixtures themselves. 1.) Mr. Chappell would like to know if Berwick would like the lights? 2.) How does he go about getting the money from the Town of Berwick? Mr. Chappell has worked with VHP to receive estimates on the fixtures and one company has given him a price of \$3000.00/fixture Berwick's cost would be \$6000.00 two fixtures. Chairman Haley asked when Mr. Chappell when would he need the money? Mr. Chappell stated that town of Berwick has their Town Meeting in March, Manager noted May. Mr. Chappell said that's plenty of time. Selectwoman Murphy said herself would like to have lights at the bridge.

Interim Manager stated that the City of Somersworth should consult Downtown Vision Committee on the fixtures as well. Manager stated that the town of Berwick is in the budget process and could take a

sum of money for suggested CIP for the pedestrian lighting. The Board could have a referendum question for the Annual Town Meeting for the money and the City of Somersworth would know at the end of May if the money is available if question passes. Construction on the bridge will start in the spring of 2014.

Mr. Crichton would like to know who will be responsible for the maintenance on the lights and the cost per year. How will the lights be controlled; by photo electric or by switch. Mr. Chappell stated that they are not at the stage of planning. Mr. Chappell assumed they may be LED and they are cost effective. Berwick would take care of their lights; Somersworth would be responsible for theirs. Mr. Crichton would like to see one firm for Berwick and Somersworth side repair lights instead of having two different companies which gets confusing. Chairman Haley stated to Mr. Chappell that it is the Board's consensus that they support the idea of having the pedestrian lighting whether it's a referendum question to receive funds or budget line item. Dave will attend the next Downtown Vision Committee meeting and discuss certain types of lighting fixtures and placement. City of Somersworth and NHDOT & MDOT have calls and Mr. Chappell would like a representative from Berwick to attend these calls. Selectwoman Murphy suggested Frank Underwood and Selectman O'Connor suggested Patrick Venne, Town Planner to attend. Town of Berwick would have a rep. and input about bring utilities over the bridge into Berwick.

**B. Appointments to Planning Board and Zoning Board of Appeals:**

Two vacancies for regular Planning Board members: three applicants applied for the four positions

*Selectman Crichton moved to appoint John Higgins as a regular Planning Board member second by Selectman O'Connor. 5/0 motion passed.*

*Discussion: Selectwoman Murphy stated that Mr. Higgins resume was impressive and that he has served on the Planning Board in the past and would be a great asset to the Board.*

*Selectwoman Murphy nominated Niles Schore as a regular Planning Board member second by Selectman O'Connor. 5/0 motion passed.*

*Selectman O'Connor nominated Kenneth Poirier as an Alternate member of the Planning Board second by Selectman Ganiere. 5/0 motion passed.*

**Board of Appeals Appointments:**

*Selectwoman Murphy moved to appoint Diane Morrill as a regular member of Zoning Board of Appeals second by Selectman Ganiere. 5/0 motion passed.*

*Selectman Ganiere moved to appoint John Campbell as a regular member of the Zoning Board of Appeals second by Selectwoman Murphy. 5/0 motion passed.*

**C. Extend Contract with Town of South Berwick for CEO Services:**

Difference from the existing contract is; removed the language of six month period and now is a one year contract, either party can give a two months' notice to end contract and rate of pay went from \$40/hr. to \$45/hr.

*Selectman Crichton moved to accept the agreement with the town of South Berwick to extend sharing of the Code Enforcement Officer for one year under the conditions in the contract, second by Selectman O'Connor. 5/0 motion passed.*

**D. Authorization to Renew Police Mutual Aid Agreements:**

Mutual Aid agreements need authorization from Municipal Officials (Board of Selectmen) this approval of authorization is for a renewal of the existing mutual aid contract.

*Selectman Crichton moved to accept the renewal agreement for police mutual aid, second by Selectwoman Murphy 5/0 motion passed.*

**E. Approve Massage Therapy and Massage Therapy Establishment Licenses:**

*Selectwoman Murphy moved to renew the Therapeutic Massage Establishment License for Janet LaPierre second by Selectman Ganiere, 5/0 motion passed.*

*Selectman O'Connor moved to renew the Massage Therapist License to Kayla LaPierre, second by Selectwoman Murphy, 5/0 motion passed.*

*Selectwoman Murphy moved to renew the Therapeutic Massage Establishment License for Maureen Townsend second by Selectman Crichton, 5/0 motion passed.*

*Selectman Crichton moved to renew the Massage Therapist License for Maureen Townsend, second by Selectwoman Murphy, 5/0 motion passed.*

**F. Set Dates for Annual Town Meeting:**

Town Clerk gave the Board a timeline for an election on May 14<sup>th</sup> and 15<sup>th</sup> of 2013 to hold the Annual Town Meeting in the past this was the normal time frame for the election. Interim Manager stated by statue the Board can set the date for ATM for any time before the fiscal year ends. Selectwoman Murphy asked when do the nominations papers need to be returned, because it was not on the timeline. Town Clerk stated that its 45 days prior to the election date they need to be in the office.

*Selectman Ganiere moved to accept the dates of May 14<sup>th</sup> and May 15<sup>th</sup> for the Annual Town Meeting as presented barring any unforeseen circumstances, second by Selectman Crichton, 5/0 motion passed.*

**G. Other:**

Certification of Mailing for Zoning Petition: On November 30<sup>th</sup>, 2012 the town received a petition to rezone a portion of land within the Rural Commercial/Industrial zoning district. The Board is certifying based on the information and belief founding upon the acts and assurances of the town of Berwick staff i.e.; Town Manager, Director of Planning & Town Clerk making certifications that the resident affected within this zone have been notified of the Public Hearing that the Planning Board will hold within 30 days of receiving the petition. On this certification list twenty-five residents that are in or abutting the proposed rezoning area. The Board is certifying that adequate public notice was given and sent out by Planning Director, Patrick Venne. The Board of Selectman is not making any judgment that they are for or against the petition. This certification is a requirement per State Statute. The Petition will come before the Board of Selectman.

*Selectman Crichton moved that the Board of Selectmen certifies the notice of mailing for the Citizen Petition as presented second by Selectman Ganiere, 5/0 motion passed. Have Patrick e-mail the Board the certifying of mailing petition to the Board.*

Kristen Higginbotham from the Foster's Daily Democrat introduced herself as the new reporter for the Berwick area.

**H. Appointment of Department Heads:**

In the past municipal officials have been appointed on a yearly basis, these appointments are the Town Managers appointments and they are done for indefinite amount of time not yearly. The Code Enforcement Officer, Plumbing Inspector and Building Inspector are done on a yearly basis per the requirements of Department of Conservation.

*Pursuant to MRSA 30-A, Section 2636 Gary Stenhouse hereby appoints Timothy Towne as Police Chief with and for the Town of Berwick without term unless specified by law. Selectman Crichton moved that the Board accept Gary Stenhouse, Interim Manager appointment, second by Selectwoman Murphy, 5/0 motion passed.*

*Pursuant to MRSA 30-A, Section 2636, Gary Stenhouse hereby appoints Melissa Albert as Registrar of Voters with and for the Town of Berwick without term unless specified by law. Selectman Crichton moved that the Board accept Gary Stenhouse, Interim Manager appointment, second by Selectwoman Murphy, 5/0 motion passed.*

*Pursuant to MRSA 30-A, Section 2636, Gary Stenhouse hereby appoints Melissa Albert as the General Assistance Administrator with and for the Town of Berwick without term unless specified by law. Selectman moved that the Board accept Gary Stenhouse, Interim Manager appoint, second by Selectwoman Murphy, 5/0 motion passed.*

*Pursuant to MRSA 30-A, Section 2636, Gary Stenhouse hereby appoints Melissa Albert as the Town Clerk with and for the Town of Berwick without term unless specified by law. Selectman Crichton moved that the Board accept Gary Stenhouse, Interim Manager appointment, second by Selectwoman Murphy, 5/0 motion passed.*

*Pursuant to MRSA 30-A, Section 2636, Gary Stenhouse hereby appoints Melissa Albert as Excise tax Collector with and for the Town of Berwick without term unless specified by law. Selectman Crichton moved to accept Gary Stenhouse, Interim Manager appointment, second by Selectwoman Murphy, 5/0 motion passed.*

*Pursuant to MRSA 30-A, Section 2636, Gary Stenhouse hereby appoints Dennis Plante as the Emergency Management Director with and for the Town of Berwick without term unless specified by law. Selectman Crichton moved to accept Gary Stenhouse, Interim Manager appointment, second by Selectwoman Murphy. In Favor: Selectwoman Murphy, Selectman Crichton, Selectman O'Connor and Selectman Ganiere. Opposed: Chairman Haley, 4/1 motion passed.*

*Discussion:* Chairman Haley noted that he feels that the Board should wait for this appointment until the Fire Department review is completed.

*Pursuant to MRSA 30-A, Section 2636, Gary Stenhouse hereby appoints Dennis Plante as Fire Chief with and for the Town of Berwick without term unless specified by law. Selectman Crichton moved to accept Gary Stenhouse, Interim Manager appointment, second by Selectwoman Murphy. In Favor: Selectwoman Murphy, Selectman Crichton, Selectman O'Connor and Selectman Ganiere. Opposed: Chairman Haley, 4/1 motion passed.*

*Discussion:* Chairman Haley objects because he would like to see the Fire Department study before confirming this appointment.

*Pursuant to MRSA 30-A, Section 2636, Gary Stenhouse hereby appoints Joseph Rouselle as the Code Enforcement Officer with and for the Town of Berwick for the calendar year 2013. Selectman Crichton moved to accept Gary Stenhouse, Interim Manager appointment, second by Selectwoman Murphy, 5/0 motion passed.*

*Pursuant to MRSA 30-A, Section 2636, Gary Stenhouse hereby appoints Joseph Rouselle as the Building Inspector with and for the Town of Berwick for the calendar year 2013. Selectman Crichton moved to accept Gary Stenhouse, Interim Manager appointment, second by Selectwoman Murphy, 5/0 motion passed.*

*Pursuant to MRSA 30-A, Section 2636, Gary Stenhouse hereby appoints Joseph Rouselle as the Local Plumbing Inspector with and for the Town of Berwick for the calendar year 2013. Selectman Crichton moved to accept Gary Stenhouse, Interim Manager appointment, second by Selectwoman Murphy, 5/0 motion passed.*

**Abatements/Supplemental:** none

**Public Comment:**

Ron Long- If an employee loses their license for DWI, would that employee be fired. Interim Manager commented that if the employee needed their license to perform their jobs correctly then the Town Manager could lower the employee to a different job or fire the employee. But he would have to look at the union contract if this employee was in the union.

Mr. Reid- Asked about clarification of indefinite appointments.

**Non-Public Session:**

@ 8:36 P.M.

*Selectwoman Murphy moved to enter into non-public session pursuant to MRSA 405 (6) (E) for legal discussion, second by Selectman Ganiere. 5/0 motion passed.*

*Selectman O'Connor moved that the Berwick Board of Selectman hereby delegates its statutory enforcement responsibilities arising under Title MRS 30-A Sections 3751-3760 related to regulations licenses in connection with junkyard and automobile graveyards to the duly appointed municipal Code Enforcement Officer (CEO) the extent and scope of this delegation is intended to empower the CEO to act in any manner which, pursuant to the statutory sections referenced above, the Board itself is now authorized to. Second by Selectwoman Murphy, 5/0 motion passed.*

*Chairman Haley moved to enter in non-public session pursuant to MRSA 405 (6) (A) to discuss a personnel matter, second by Selectman Ganiere, 5/0 motion passed.*

**Adjournment:**

*Selectman Crichton moved to adjourn at 9:55 P.M. second by Selectwoman Murphy 5/0 motion passed.*

