



Town of Berwick

BOARD OF SELECTMEN/BOARD OF ASSESSORS MINUTES

Tuesday, March 12, 2019

6:30pm

Selectmen's Room
11 Sullivan Street
Berwick, ME 03901

1. Call to Order

Chair Wright called the meeting to order at 6:30pm.

2. Roll Call

Board Members Present: Chair Thomas Wright, Vice Chair Ed Ganiere, Selectman Rebecca England, Selectman Mark Pendergast and Selectman Kenneth Manning, Jr.

Board Members Absent: None

Staff Members Present: Town Manager Stephen Eldridge, Planning Board Chair Dave Andreesen, Recreation Director Kim Taylor, Recreation Master Plan Chair Rick Vandenberg and Town Clerk Patricia Murray.

Moment of Silence for Captain Joel Barnes.

3. Pledge of Allegiance

Chair Wright led the Pledge of Allegiance.

Aside: Chair Wright spoke about Captain Joel Barnes' passing. He thanked all the emergency service staff for assisting with the memorial and with manning the Fire Department since March 1st. He stated he would like to arrange a memorial in Berwick for the Town.

4. Approval of Meeting Minutes

- February 26, 2019

Motion: Selectman Manning moved to accept the February 26, 2019 minutes as written. Selectman England seconded the motion.

The motion carried: 3:0 with Selectmen Ganiere and Pendergast abstaining.

5. First Public Comment

Chair Wright opened the first public comment. There being no comments, Chair Wright closed the first public comment.

6. Public Hearing

None.

7. Reports of Committees

- BCTV Committee

No report.

- Envision Berwick

Mr. Rick Vandenberg reported the summer concert series have dates set; August 3rd and August 24th. Bands will be country western music and classic rock respectively.

Department Reports

None.

8. Appointments/Presentations/Other Guests

- Appointments:

- Noah Cobb; Planning Board Alternate Member – 3 Year Term

Mr. Noah Cobb was present. He lives on Worster Road in Berwick and recently ran unsuccessfully for State Representative for Berwick. He is a business owner in Berwick. He would like to continue serving the community by joining the Planning Board.

Motion: Vice Chair Ganiere moved to appoint Noah Cobb as Alternate Member of the Planning Board for a three-year term. Selectman Pendergast seconded the motion.

The motion carried: 5:0

- Dick Moore; BCTV Committee – 3 Year Term

Mr. Dick Moore was present. He is working on a program with Terri Wright, BCTV Coordinator, entitled "Project Remembrance: A tribute to past and present members of the U. S. Armed Forces in appreciation of the sacrifices they have made". Mr. Moore would like to join the committee to serve the community.

Coordinator Terri Wright endorsed Mr. Moore.

Motion: Selectman Pendergast moved to appoint Dick Moore to the BCTV Committee for a three-year term. Selectman Manning seconded the motion.

The motion carried: 5:0

- Presentations regarding June 11, 2019 Town Meeting Warrant

- Planning: Mr. Dave Andreesen presented the following:

- **Proposed Amendments to the Land Use Ordinance**

Amendments for June 2019

Part A

1. Allow Low Impact Industrial in SC/I and reduction in SC/I dimensional requirements.

Low Impact Industrial	X	C*	C*	C*	C*	X	X	C	X	X

	SP	RP	LR	SCI
Minimum lot area (square feet.)	40,000	40,000	40,000	60,000 10,000
Minimum lot width (feet)	200	200	200	150 100
Minimum road frontage (feet)	200	200	200	150 100
Minimum shore frontage (feet)	200	200	200	300 100
Minimum front yard setback (feet)	50	50	50	25
Minimum side yard setback (feet)	25	25	25	15
Minimum rear yard setback (feet)	30	30	30	25
Maximum building height (feet)	35	35	35	45
Maximum lot coverage (percent)	10	10	20	70
Shoreline setback from river and great ponds	100	100	100	25
Shoreline setback from wetlands and streams	100	100	100	25

2. Addressing Note 1 and 10 in the dimensional requirements.

Notes:

1. **In C/I, R1, R2, & RC/I** the setback may be reduced to the average of like setbacks of the existing structures on abutting properties.

10. All uses within the Village Overlay District are exempt from dimensional requirements of the underlying ~~C/I or R1~~ District, **except the 25' setback requirement from the river**, and are subject to the requirements established in Section 6.4. ~~Uses within the Village Overlay District~~

that are located in the Shoreland Zoning District are subject to all applicable dimensional requirements of the underlying Shoreland zone pursuant to Section 14.15.

3. Subdivision & Land Use Ordinance change to private dead-end roads.

All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town, until they meet the municipal street design and construction standards. **If this development is located in the R2, R3, AP zone and has a cul-de-sac or dead-end design, it shall not be accepted as a public way except if the road is part of a subdivision approved before the year 2019 and is still considered active by the Planning Department.**

Dead-End Streets.

3. If the development is located in the R2, R3 or AP Zone, Dead end streets shall remain private until connectivity to other streets may occur except if the road is part of a subdivision approved before the year 2019 and is still considered active by the Planning Department. If the street is connected to another street making it a through way with a second means of egress to a public way and built to town standards it may be petitioned to become a public way.

7.21 Access to Lots.

H. If the development is located in the R2, R3 or AP Zone, dead end streets shall remain private until connectivity to other streets may occur except if the road is part of a subdivision approved before the year 2019 and is still considered active by the Planning Department. If the street is connected to another street making it a through way with a second means of egress to a public way and built to town standards it may be petitioned to become a public way.

4. New Definitions for terms on our Use Table & Use Table changes

Mineral Industry: Manufacturing, processing, and storage of industrial minerals.

Industrial Minerals: Naturally occurring rock or minerals used as raw materials for building, manufacturing, and agriculture. Examples include aggregates, clay and cement.

Parking facilities: A structure or land used for off-street parking of vehicles.

	R1	R2	R3	C/I	RC/I	AP	LR	SC/I	RP	SP
Motorized vehicular traffic on existing roads and trails.	A	A	A	A	A	A	A	A	A	A
Surveying and resource analysis	A	A	A	A	A	A	A	A	A	A
Emergency operations	<u>A</u>									
Signs	A	A	A	A	A	A	A	A	A	A
Yard Sale	A	A	A	A	A	A	A	A	A	A

5. Amendment to Animal Farm

Animal Farm: Any parcel of land that contains at least the following land area used for the keeping of horses, mules, cows, goats, sheep, hogs and similar sized animals for the domestic use of the residents of the lot, provided that adequate land area is provided for each animal unit, excluding water bodies of one-quarter acre surface area or larger:

The follow standards apply to all districts except the R2 & R3 Zones:

Cattle: One bovine animal unit per acre of cleared hay-pasture land.

Horse: 1.5 animal units per acre of cleared hay/pasture land.

Sheep: Three animal units per acre of cleared hay/pasture land.

Swine: Two animal units per acre of cleared land.

Roosters: Are not allowed in the R1 District.

Other animal farms: The required lot size shall be determined by municipal officer charged with enforcement and shall conform to the lot size for similar sized animal

o **Proposed Amendments to the LUO regarding Adult Use Marijuana**
Amendments for 2019
Part B – Marijuana

1. Definition changes primarily to align with new State changes.

Drug store: means an establishment primarily engaged in the retail dispensing of prescription drugs and may offer nonprescription drugs, medical aids and convenience goods, but shall not permit the sale or distribution of ~~medical~~ **Adult Use Marijuana**. The definition of drug store includes a pharmacy.

Marijuana, Adult Use: Marijuana that is cultivated, manufactured, distributed or sold by a marijuana establishment for adults 21+ as defined by Maine Title 28-B.

Marijuana Cooperative: Two or more Medical Marijuana caregivers **or Adult Use cultivators** claiming a location as a primary residence in order to conduct ~~medical~~ marijuana home production. ~~Medical~~ Marijuana cooperatives are considered ~~medical~~ Adult Use Marijuana Production Facilities if marijuana is grown by an Adult Use cultivator and considered a Medical Marijuana Production Facilities if it is grown by a Medical Marijuana caregiver under the Berwick Land Use Ordinance.

Medical Marijuana Home Production: Cultivating, processing and/or storing of **Adult Use** or Medical Marijuana by a ~~qualifying patient~~ **at a person's** primary year-round residence. ~~for use by a qualifying patient~~. This use shall be considered an accessory use.

Marijuana Production Facility, Adult Use: A facility used for cultivating, processing, and/or storing Adult Use Marijuana by an Adult Use cultivator at a location which is not their primary year-round residence or their patient's primary year-round residence.

Marijuana Store, Adult Use: A facility licensed under Maine Title 28-B to purchase adult use marijuana, immature marijuana plants and seedlings from a cultivation facility, to purchase adult use marijuana and adult use marijuana products from a products manufacturing facility and to sell adult use marijuana, adult use marijuana products, immature marijuana plants and seedlings to consumers.

Recreational Marijuana Retail: Means the cultivation, manufacture, distribution or selling of marijuana by a retail marijuana establishment for recreational consumption, as referenced in MRS 7, Section 2442

- Use table amendments, allowing Recreational Marijuana Storefronts and Production Facilities in RC/I.

Recreational Marijuana Retail+	X	X	X	X	X	X	X	X	X	X
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+ Recreational Marijuana Retail is prohibited until the laws at the State level are determined, after that point, the Planning Board will review the Recreational Marijuana Retail definition and Land Use Table.

	R1	R2	R3	C/I	RC/I	AP	LR	SC/I	RP	SP
Medical Marijuana Cooperatives	X	X	X	X	C*	X	X	X	X	X
Marijuana Production Facility, Adult Use	X	X	X	X	C*	X	X	X	X	X
Marijuana Store, Adult Use	X	X	X	X	C*	X	X	X	X	X

- Separate marijuana uses – especially extraction/processing i.e. butane

Medical or Recreational Marijuana Production Facility: A facility used for cultivating, **ethanol extraction**, and/or storing marijuana by a marijuana caregiver or for recreational purposes at a location which is not the medical marijuana caregiver’s primary year-round residence or their patient’s primary year-round residence. **Butane extraction is considered an Industrial Use and also is considered an Explosive Materials and shall follow Section 7.3.**

- 8.25 changes

(Reminder to staff to change in table on contents)

8.25 ~~Medical~~ Adult Use & Medical Marijuana 105

8.25 Adult Use & Medical Marijuana

8.25.1. Purpose: The purpose of this section of the ordinance is to ensure that all cultivation, processing, storage, and distribution of **adult use &** medical marijuana does not have an adverse impact on the health, safety, and general welfare of the residents of the Town of Berwick, ME...

8.25.2. Exemptions: As an accessory use, **Adult Use &** Medical Marijuana Home Production shall be allowed in any qualifying patient’s residence or...

8.25.3. Location:

Medical Marijuana Cooperatives and Medical Marijuana Production Facilities are allowed in the R3 Zone only on properties which have frontage on Route 9 or 4.

Adult Use & Medical Marijuana Production Facilities and Dispensaries cannot be within 1,000 feet of:...

8.25.5. Security

A. All growing of ~~medical~~ marijuana within a commercial production facility shall occur inside and only within a completely enclosed structure. This does not apply to home growing of ~~medical~~ marijuana.

- **Proposed Amendments to the Littering and Animal Waste Ordinance**

Town of Berwick Littering and Animal Waste Ordinance

1. Authority

This ordinance is enacted under Town of Berwick’s home rule land use ordinance enactment authority pursuant to 30-A M.R.S. § 3001. Penalties established hereunder are established on the basis of authority granted to the Town 30-A M.R.S. § 3001 (4).

2. Purpose

The purpose of this ordinance is to prohibit waste and litter from being discarded improperly within the limits of the Town of Berwick. This behavior endangers the public health and negatively impacts the free utilization and enjoyment of the Community.

3. Definitions

Animal Waste: Waste matter eliminated from the bowels; excrement, feces, etc.

Litter: Any discarded, used or consumed substance or waste material, whether made of any metal, glass, plastic, rubber, paper, synthetic material or combination of materials, including, but not limited, to any bottle, can, jar, unlit or discarded cigarette, unlit or discarded cigar, match or any flaming or glowing material or any garbage, trash, refuse, debris, rubbish, grass clippings, brush or garden waste, newspaper, magazines, glass, metal, plastic or paper containers or other packaging or construction material.

Litter Receptacle: A container suitable for the depositing of litter, including, but not limited to trash cans and recycling bins.

4. Prohibitions

A. Litter

No person shall throw, drop, deposit, discard, dump or otherwise dispose of or discard litter in any manner or amount:

1. In or on any public highway, road, street, alley, public right of way or other public lands or upon any privately owned property except when placed in designated litter receptacles.

2. In any fresh water lake, river, or stream, or on ice over these waters. When litter is thrown or discarded from a water craft, both the operator of the watercraft and the person actually disposing of the litter are in violation of this Ordinance.

3. From a trailer or vehicle that is constructed, loaded or uncovered in such a way that the load may drop, sift, leak or otherwise escape. This provision applies to vehicles or trailers carrying trash, rubbish or other materials that may be considered as litter. For any violation of this subparagraph, both the operator of the vehicle and any other person responsible for the litter are in violation of this Ordinance. Any litter from a commercial vehicle shall be deemed to have been done for a commercial purpose.

4. No person shall throw or deposit any commercial or noncommercial leaflet in or upon any vehicle. It shall not be unlawful for a person to hand distribute to another person, without any charge, any noncommercial leaflet or other literature provided that the recipient is willing to accept said materials.

B. Disposal of Animal Waste

An owner, caretaker, or other person responsible for an animal must remove and dispose of any animal waste any feces left by an animal on any sidewalk, street, public property through use of a plastic bag or similar container. This subparagraph does not apply to animal waste produced on private property provided that the owner of such private property consents to the same, nor does it apply to any person who, by reason of any mental or physical handicap, is unable to comply with the requirement of this subparagraph.

5. Penalties and Fines

Any law enforcement officer shall have authority to enforce the provisions of this Ordinance. Fines and penalties shall be imposed in the following manner:

A. A person who disposes of less than 15 pounds or less than 27 cubic feet of litter is subject to a fine of not more than \$500 nor less than \$50 for the first violation and not more than \$1000 nor less than \$500 for any subsequent violations. A person charged with a first violation of less than 15 pounds or less than 27 cubic feet of litter may waive all court action by payment of a fine at the municipal offices within 30 days of the alleged violation.

B. A person who does not dispose of Animal Waste properly will be fined \$25 upon the first offense, \$50 for the second offense and \$200 for the third offense.

C. A person who disposes of more than 15 pounds or more than 27 cubic feet of litter is subject to a fine of not more than \$1000 nor less than \$500 for the first violation and not more than \$2000 nor less than \$1000 for any subsequent violations.

D. A person who disposes of more than 500 pounds or more than 100 cubic feet of litter for commercial purposes is subject to the penalties under 38 M.R.S. § 349.

E. A law enforcement officer may require the offending party to remove unlawfully discarded litter or animal waste and dispose of it in an approved manner in lieu of penalty with a written warning.

- **Recreation Master Plan**

Mr. Rick Vandenberg presented the draft [Recreation Master Plan](#). (attached)

9. Unfinished Business

None.

10. Town Manager Report

Town Manager Eldridge reported the following:

- Mr. Eldridge spoke of the impact of March 1st on all staff and commended all for efforts. He thanked the Fire Department on-call and part-time staff for filling roles. Chair Wright commended the Police Department for their involvement in the March 1st fire and the following days. Town Manager Eldridge stated he would start planning the memorial in Berwick.
- There is a career day at Noble High School on March 20th and Mr. Eldridge will be speaking about careers in the public sector. This is an MMA program called Home Grown. There is another career day at the middle school on April 11th.
- The FY2020 budget is complete. The BOS will be voting on the June 11th Town Election Warrant at the March 26th meeting.

11. Selectmen Communications

Chair Wright reported the following:

- Numerous emails from towns/cities area-wide were received offering assistance with the March 1st incident.
- MMA will be providing testimony on the Governor’s proposed budget particularly revenue sharing. The Governor is requesting a full cut of revenue sharing which will mean cities and towns will receive no reimbursement of income tax which is mandated at 5% per statute and is used to offset property taxes. Governor Lepage had cut this percentage to 2% with a full return to 5% in 2019. Per MMA, the reduction from 5% to 2% (FY2015-FY2019) resulted in a loss to Berwick of \$2,819,193.00. Chair Wright will attend the session.

12. Approval of Warrants

02-28-2019	A/P Warrant #1935	\$ 740,063.28
02-28-2019	Water A/P Warrant #0935	\$ 6,473.88
03-07-2019	A/P Warrant #1936	\$ 135,078.30
03-07-2019	Water A/P Warrant #0936	\$ 6,337.12
03-07-2019	Payroll Warrant #1936	\$ 59,581.13
03-14-2019	Payroll Warrant #1937	\$ 69,448.02

Motion: Chair Wright made a motion to accept the Accounts Payable Warrants as presented. Selectman Manning seconded the motion.

The motion carried: 5:0

13. New Business

None.

14. Quitclaim Deeds and/or Installment Contracts

None.

15. Abatements/Supplements

- Abatement: R007-1-A, 215 Long Swamp Road

Mr. Paul McKenney, Assessor, stated this request is due to discrepancies on the property card stating the property had finished living space in the front portion and an in-law apartment. After inspection, corrections were made to the property card. The assessing staff recommends an acceptance of the abatement request.

Motion: Vice Chair Ganiere made a motion to accept the abatement for 215 Long Swamp Road, Map R007 Lot 1-A as presented. Selectman England seconded the motion.

The motion carried: 5:0.

- Abatement Request: R029-8, 411 Diamond Hill Road

Mr. Paul McKenney, Assessor, stated this request is from the property owner. The property has been assessed at 10 acres since 2005. The actual acreage is 4.1. The owner is asking for an abatement for three years. The assessing staff recommends a denial of the abatement request because the request came after the deadline for abatement filings.

Motion: Vice Chair Ganiere made a motion to deny the abatement for 411 Diamond Hill Road, Map R029 Lot 8 as presented. Chair Wright seconded the motion.

The motion carried: 5:0.

16. Second Public Comment

Chair Wright opened the second public comment.

Ms. Paula Lepore, President of the Library Association, spoke. She is advocating for an additional \$5,000.00 for the library to be included in the Town's FY2020 budget. Chair Wright responded that the Board will be voting on the June 11th Warrant at the March 26th meeting.

Ms. Lepore also noted that they have spoken to Fire Chief Dennis Plante about organizing a memorial for Captain Barnes at the Library. She offered combining efforts with the Town for the memorial.

There being no comments, Chair Wright closed the second public comment.

17. Executive Session

None.

18. Other Business/Non-Agenda Items

None.

19. Adjournment

The meeting adjourned at 7:39pm.

Respectfully submitted,

**Patricia Murray
Town Clerk**

**The March 12, 2019 BOS Meeting Minutes – Signed as approved at the Board of Selectmen’s,
March 26, 2019 Meeting.**

On behalf of the Board
