



Town of Berwick

BOARD OF SELECTMEN/BOARD OF ASSESSORS MINUTES

Tuesday, July 28, 2020

6:30pm

Via Zoom
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 Noah Cobb, and Selectman Kenneth Manning, Jr. (via Zoom)

Board Members Absent: Mark Pendergast

Staff Members Present: Town Manager Stephen Eldridge, Planner James Bellissimo, Code Enforcement Officer Jenifer McCabe and Town Clerk Patricia Murray

3. Pledge of Allegiance

Chair Wright led the Pledge of Allegiance.

4. Approval of Meeting Minutes

- June 23, 2020

Motion: Selectman Manning moved to accept the June 23, 2020, minutes as written. Vice Chair Ganiere seconded the motion.

The motion carried: 4:0

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

- Administrative Consent; 344 Diamond Hill Road (vote August 11, 2020)

Chair Wright opened the public hearing. Cindy McKenna, Lynn Chick, Nelson Melvin, and Ed Gowen were present via Zoom.

Code Enforcement Officer Jenifer McCabe read the Administrative Consent. The Board of Selectmen will vote to accept or deny the Administrative Consent at their August 11th meeting.

ADMINISTRATIVE CONSENT AGREEMENT

This agreement is made as of this 14th day of July 2020 by and between G.E.G Builders, LLC (hereinafter “Property Owner”) and the Town of Berwick (hereinafter “the Town”).

WHEREAS, Property Owner owns a certain parcel of land located at 344 Diamond Hill Road in Berwick, Maine, identified in the Town Assessor's records as Tax Map R029 Lot 16-1 (the “Premises”); and

WHEREAS a residential dwelling was recently built on the Premises and inadvertently located 29 feet (plus/minus) from the side lot line and 71 feet (plus/minus) from the front lot line, which resulted in violations of the Land Use Ordinance requiring a minimum side yard setback of 50 feet and a minimum front yard setback of 75feet from the property lines; and

WHEREAS, the Code Enforcement Officer has ordered corrective action to remedy the violations (attached to this Administrative Consent Agreement as Exhibit A); and

WHEREAS, Property Owner desires to convey the property; and

WHEREAS, state law and the Town’s ordinances authorize the Town to bring enforcement actions to cure violations, including the imposition of fines and the recovery of legal fees and expenses, and further the Town has the discretion whether or not to bring enforcement actions; and

WHEREAS, the Town and Property Owner wish to resolve this matter without further litigation; NOW, THEREFORE, in consideration of the mutual promises and agreements set forth herein, the parties agree as follows:

1. The Property Owner shall comply with the following action: a. Pay a fine and attorney’s fees in the amount of \$2,835.00.
2. Given the above circumstances, the Town will not take any action regarding the setback violations under Section 6.3 of the Town of Berwick Land Use Ordinance against the Premises.
3. In the event that the Property Owners fail to comply with the terms of this agreement, the Town shall reserve the right to initiate enforcement proceedings to resolve the violations and seek further proceedings under Sections 9.6 and 9.7 of the Land Use Ordinance and 30-A M.R.S. 4452.
4. When the terms of this consent agreement have been completed, it shall conclude this matter between the parties. A copy of this agreement will remain in the property file.
5. The issuance of a Certificate of Occupancy shall be conclusive evidence that the Property Owner has paid the fine and otherwise complied with this agreement.

There being no comments or questions, Chair Wright closed the public hearing.

7. **Reports of Committees**
 - **BCTV Committee**

None.

- **Envision Berwick Committee**

None.

Department Reports

None.

8. Appointments/Presentations/Other Guests

None.

9. Unfinished Business

None.

10. Town Manager Report

Town Manager Eldridge reported the following:

- The drainage system is going in at 71 Sullivan Street. The entrance is being reconfigured to the center of the property.
- The travel layer will be poured on the Hubbard Road bridge today and is expected to be open on Thursday, July 30, 2020.
- The new Fire Station is anticipating an occupancy permit the week of September 8, 2020.
- Preparation for paving work on Cemetery Road and Pine Hill is being completed.
- Design work is being done on Diamond Hill and Ridlon Road bridges.
- Great Falls will be in Berwick on August 13, 2020, at 10am to discuss progress at Prime. If feasible, this will be held on the green space at Prime.
- Covid-19 update: A staff member at the Fire Department needed to be tested after a family member tested positive. The staff member tested negative and is quarantined.
- RHR Smith & Company will be conducting the Town audit next week.

11. Selectmen Communications

None.

12. Approval of Warrants

06-30-2020	Payroll Warrant #2053	\$ 55,233.08
06-30-2020	A/P Warrant #2053	\$ 168,633.24
06-30-2020	A/P Warrant #2054	\$ 121,831.79
06-30-2020	A/P Warrant #2055	\$ 100,977.25
06-30-2020	A/P Warrant #2056	\$ 9,007.74
07-01-2020	A/P Warrant #1	\$ 190,346.52
07-09-2020	Payroll Warrant #2	\$ 85,356.03
07-15-2020	A/P Warrant #4	\$ 173,526.52
07-16-2020	Payroll Warrant #3	\$ 52,449.56
07-23-2020	Payroll Warrant #5	\$ 62,549.22
07-27-2020	A/P Warrant #6	\$ 929,263.53
07-30-2020	Payroll Warrant #7	\$ 57,851.58

Motion: Chair Wright made a motion to accept the Accounts Payable Warrants as presented and on the condition of the inspection of a majority of the Board of Selectmen. Vice Chair Ganiere seconded the motion.

The motion carried: 4:0

13. New Business

- MMA Legislative Policy Committee Ballot
The Board of Selectmen voted for the Legislative Policy Committee members.

OFFICIAL BALLOT – District 35

Maine Municipal Association's Legislative Policy Committee
July 1, 2020 – June 30, 2022

VOTE FOR TWO:

- Perry Ellsworth, Manager, Town of South Berwick
- Dana Lee, Manager, Town of Eliot
- _____ (name) _____ (position) _____ (municipality) *(write in)*

Candidate Profiles Are On Reverse Side

MUNICIPALITY: Berwick DATE: 07-28-2020

(Signature) BY SELECTMEN/COUNCILORS:

<u><i>(Signature)</i></u> signature	<u>Thomas J. Wright</u> print name
<u><i>(Signature)</i></u> signature	<u>Edward C. Ganiere</u> print name
<u><i>(Signature)</i></u> signature	<u>Noah Cobb</u> print name
_____ signature	_____ print name
_____ signature	_____ print name

Return by 5:00 p.m., August 27, 2020 to:

Laura Ellis, Maine Municipal Association
lellis@memun.org
Fax: 624-0129

Motion: Vice Chair Ganiere made a motion to cast votes for Perry Ellsworth and Dana Lee for the MMA Legislative Policy Committee. Selectman Cobb seconded the motion.

The motion carried: 4:0

- Town Report Dedication
Chair Wright presented the dedication to Paul and Pat Boisvert.



A Dedication to the Boisverts

Thank you Pat and Paul!

The Board of Selectmen is proud to dedicate this year's report to Pat and Paul Boisvert. With no expectation of recognition, they work tirelessly, often behind the scenes, for issues preserving Berwick's rich heritage, as well as its promising future.

- ✓ Pat & Paul Boisvert hosted Birgitta Ingemanson, an author who discovered writings from Berwick native, Eleanor Lord-Pray, connecting Vladivostok, Russia, to Berwick, Maine. The Boisverts have preserved Eleanor's house and restored her barn.
- ✓ Paul is one of the longest tenured Planning Board members in State of Maine history. 48 years!
- ✓ Pat was a school teacher for many years and has been Envision Berwick's t trosser and i dotter.

The Boisverts are inquisitive, kind hearted and aren't afraid to ask why. Their focus and energy were an essential part of Envisioning Downtown Berwick and continues to be within Envision Berwick and Town efforts today. Pat & Paul partnered to purchase the 1 Sullivan Building because they understood it was an essential part of Downtown. The building is now an anchor to the area, which currently houses two local businesses and has potential for more in the near future.

Here is a small snapshot of their volunteer repertoire:

Board of Appeals (Pat); Downtown Vision Committee (P&P); Envision Berwick Committee (Pat/Honorary Member Paul/Treasurer); Historical Society (P&P); Preservation/Heritage Committee (P&P/Treasurer); Berwick For a Lifetime (Pat); Salmon Falls River Water Quality Testing Program (Pat); Seacoast Trail Riders Association Events -Library Donations (P&P); Ice Skating Rink (P&P) Prime Tanning Stack Brick Preservation (P&P); Great Falls Park (P&P); Annual Christmas Tree Project (P&P); Riverfront Kayak Launch Volunteers (P&P)

Pat & Paul are champions of causes for family and town, they are advocates for quality of life and they are supporters of all ages living the small community lifestyle. They are always dependable and firmly believe that your word is your bond.

Right from Pat and Paul's beginning - they met as cheerleaders they have maintained that understanding, friendship, level of responsibility, and steadfast courage in their beliefs and undertakings as a team effort. ***This is best summed up:***

**- If you got one Boisvert, you always got two! -
THANK YOU, PAT AND PAUL!**

- Spirit of America Award

Chair Wright presented the Spirit of America Award to Paul and Pat Boisvert.

MUNICIPAL RESOLUTION

A Resolution by the Board of Selectmen

July 28, 2020

Maine Spirit of America Foundation Tribute honors

Pat and Paul Boisvert

Whereas, Pat and Paul Boisvert, citizens of Berwick have served the Berwick community as a volunteers and appointed officials. They have given their heart and soul to mostly behind the scene promoting the Town of Berwick and having the vision of what Berwick is and can be. They have been a very active and positive members of the Berwick Community.

Whereas, Paul has been the longest tenured Planning Board member for 48 years.

Whereas, Pat has served the Berwick children as a teacher in the local schools.

Whereas, Pat and Paul serve on the Envision Berwick Committee and are Honorary Members Paul as their treasurer.

Whereas, Pat and Paul served on the Historical Society and Preservation/Heritage Committee

Whereas, Pat and Paul have championed the Berwick Library Donations

Whereas, Pat and Paul have been instrumental in the creation of the Berwick Ice Skating Rink, Prime Tanning Brick Stack Preservation.,

Whereas, Pat and Paul were part of the creation of Great Falls Park and the Riverfront Kayak Volunteers

Whereas, Pat and Paul were part of the Prime Tanning Redevelopment Project

Whereas, Pat and Paul are Berwick role models for love of family, community and friendship with their tireless energy and “let’s get it done” attitude.

Therefore, **be it Resolved** by the Board of Selectmen of the Town of Berwick in sincere gratitude and appreciation that Pat and Paul Boisvert are hereby recognized for their exemplary citizenship and achievement and honor brought to the Community with the “2020 Spirit of America Foundation Tribute”.

Selectmen: Tom Wright, Ed Ganiere, Mark Pendergast, Noah Cobb and Ken Manning

- Election of Board of Selectmen Chair and Vice Chair

Motion: Vice Chair Ganiere made a motion to elect Tom Wright as Chair of the Board of Selectmen. Selectman Cobb seconded the motion.

The motion carried: 3:1 with Chair Wright opposing

Motion: Chair Wright made a motion to elect Ed Ganiere as Vice Chair of the Board of Selectmen. Selectman Cobb seconded the motion.

The motion carried: 4:0

- July 14, 2020 Election Results

July 14, 2020 Town of Berwick Municipal Election
TOTAL VOTES CAST = 1056

Office/Candidate	Total Votes
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Selectman/Overseer of the Poor (vote for 2)

Mark Pendergast	628
Write-Ins	16
Thomas Wright	628
Write-Ins	5
Blanks	833

School Board 3-year Term

Denise Mallet	801
Write-Ins	12
Blanks	238

WARRANT ARTICLES	YES	NO	BLANK
3	686	304	66
4	681	322	53
5	691	310	55
6	688	290	78
7	731	240	85
8	766	221	69
9	879	132	45
10	749	266	41
11	681	320	55
12	702	300	54
13	682	317	57
14	666	337	53
15	708	261	87
16	759	212	85
17	716	269	71
18	799	188	69
19	796	183	77
20	815	171	70
21	890	96	70
22	831	150	75
23	680	293	83
24	710	259	87

WARRANT ARTICLES	YES	NO	BLANK
25	725	242	89
26	818	162	76
27	764	219	73
28	824	162	70
29	682	330	42
30	807	200	47
31	724	276	54
32	771	228	55
33	761	241	52
34	831	175	48
35	840	164	50
36	831	175	48
37	726	274	54
38	747	250	57
39	682	293	79
40	636	330	88
41	618	342	94
42	681	289	84
43	831	144	79
44	661	307	86
45	799	169	86

Certified by Municipal Clerk:

Patricia Murray

Date: 07-15-2020

July 14, 2020 MSAD 60 Budget Validation and Referendum Election - BERWICK RESULTS
TOTAL VOTES CAST = 1055

QUESTION	YES	NO	BLANK
1	702	299	54
2	834	203	18
3	714	323	18
4	787	246	22

Certified by Municipal Clerk:

Patricia Murray

Date: 7-15-2020

STATE OF MAINE RETURN OF VOTES CAST

MUNICIPALITY: BERWICK - 1 (1-1)

QUESTION 1: BOND ISSUE

736 YES

295 NO

25 BLANK

QUESTION 2: BOND ISSUE

806 YES

233 NO

17 BLANK

STATE OF MAINE RETURN OF VOTES CAST - DEMOCRATIC

MUNICIPALITY: BERWICK - 1 (1-1)

REP. TO CONGRESS (District 1)

498 PINGREE, CHELLIE M.

40 BLANK

STATE SENATOR (District 34)

331 RAFFERTY, JOSEPH E. JR.

65 BLANK

STATE SENATOR (District 35)

130 LAWRENCE, MARK W.

12 BLANK

REP. TO THE LEGISLATURE (District 5)

481 GALEMMO, CHARLES

57 BLANK

JUDGE OF PROBATE

470 HOUDE, SCOTT M.

68 BLANK

UNITED STATES SENATOR

380 GIDEON, SARA I.

31 KIDMAN, BRE

97 SWEET, ELIZABETH A.

30 BLANK

STATE OF MAINE RETURN OF VOTES CAST - REPUBLICAN

MUNICIPALITY: BERWICK - 1 (1-1)

UNITED STATES SENATOR

285 COLLINS, SUSAN MARGARET

22 COLTER, AMY (Declared Write-In)

24 BLANK

REP. TO CONGRESS (District 1)

261 ALLEN, JAY T.

70 BLANK

STATE SENATOR (District 34)

213 PARDUE, MICHAEL

38 BLANK

STATE SENATOR (District 35)

66 MOULTON, BRADLEY S.

14 BLANK

REP. TO THE LEGISLATURE (District 5)

304 O'CONNOR, BETH A.

27 BLANK

REGISTER OF PROBATE

281 LOVEJOY, CAROL J.

50 BLANK

- FY 2021 Assessors Return

Assessor Paul McKenney presented the annual Assessors Return for the Board of Selectmen approval and signatures.

STATE OF MAINE



YORK, §

TO THE ASSESSOR(S) OF THE TOWN/CITY OF BERWICK in said County.

GREETINGS:

AT THE COURT of County Commissioners, begun and holden at Alfred within and for the County of York, on the 1st day of July, AD, 2020.

WHEREAS, the York County Budget Committee, pursuant to M.R.S.A. 30-A § 833, passed at their last session, upon an estimate of the County Commissioners for said County, of the sums necessary for defraying the charges of the County for the budget year FY 21, July 1, 2020 through June 30, 2021 ensuing and exhibited by the Clerk of said Court, granted a tax of \$17,972,861.00 to be assessed, collected, and paid according to law, and applied for the purposes aforesaid.

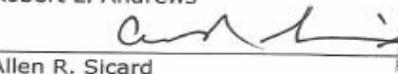
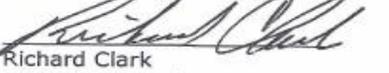
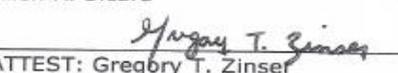
AND WHEREAS, upon a due apportionment of said sum of the several Towns and Cities in said County, made at a session of the Court of County Commissioners, held on the 1st day of July, AD, 2020 your town's proportion is found to be \$357,113.56.

YOU ARE HEREBY REQUIRED, in the name of the State of Maine to assess the said sum last mentioned, upon the inhabitants of said Town/City, agreeable to the laws of said State, and cause the same in like manner to be collected and paid to Bobby J. Mills, Treasurer of said County or his/her successor in said office, forthwith as of the FIRST DAY OF SEPTEMBER, 2020.

At its regular meeting duly held on July 1st, 2020 the Board of Commissioners of the County of York, pursuant to M.R.S.A. 30-A § 706, by motion, seconded, and unanimously voted that the Treasurer shall assess interest according to M.R.S.A. 36 § 892-A and § 186 amended 1996 at the rate of 8% compounded annually. A municipality will be considered DELINQUENT if the taxes are not received by the County by OCTOBER 31, 2020.

WHEREOF FAIL NOT, and make due returns to the said Treasurer of the names of person or persons to whom your list of assessments shall be committed.

IN WITNESS THEREOF WE, Michael J. Cote, Richard R. Dutremble, Richard Clark, Robert L. Andrews, and Allen R. Sicard, County Commissioners, have hereunto set our hands, this 1st day of July, 2020.

 Michael J. Cote	 Robert L. Andrews
 Richard R. Dutremble	 Allen R. Sicard
 Richard Clark	 ATTEST: Gregory T. Zinser County Manager

Motion: Vice Chair Ganiere made a motion to accept the Assessors Return as presented. Selectman Manning seconded the motion.

The motion carried: 4:0

14. Quitclaim Deeds and/or Installment Contracts

None.

15. Abatements/Supplements

Assessors Karen Fortier and Paul McKenney were present.

- Tree Growth Penalty
 - Map R058 Lot3-A – Norman Albert, 153 Route 236

The subject property is a 22.87-acre parcel with a single-family dwelling and 20.87 acres classified as tree growth.

On March 16, 2020, the property owner transferred ownership of 7.45 acres, including the single-family dwelling, per Deed B18195 P161. Of the 7.45 acres that transferred, 5.45 acres were classified as tree growth. Because this parcel is less than the 10-acre minimum for Tree Growth, a Tree Growth penalty must be assessed pursuant to 36 M.R.S.A. § 571-584-A.

The penalty is the amount equal to 20% of the difference between the 100% valuation of the classified forest land on the assessment date immediately preceding withdrawal and the just value of the property on the date of withdrawal. Please see the attached Tree Growth Penalty calculation.

The Assessor recommends that the Tree Growth Penalty be charged in the amount of \$2,580.00 to the property owner at the time of withdrawal.

Motion: Vice Chair Ganiere made a motion to accept the Tree Growth Penalty request for Map R058 Lot 3-A in the amount of \$2,580.00 as presented. Selectman Cobb seconded the motion.

The motion carried: 4:0

- Farmland Penalty
 - Map R040 Lot 011 – Sunshine Goodrich, 308 Diamond Hill Road

On April 29, 2020, the Assessing office received an application for Open Space Land Classification from the property owner, Sunshine Goodrich, for her property located at 308 Diamond Hill Road.

The total area of the parcel is 8.70 acres. At the time of this application, the property had 1.0 acre classified as a building lot for her home, 7.70 acres classified as Farmland.

According to the Open Space application, 6.60 acres are classified as ordinary open space, and 2.10 acres are classified as an improved site/building lot. Pursuant to 36 M.R.S. § 1112, a penalty may not be assessed at the time of a change of use from farmland classification of land to open space classification of land.

The only land subject to the Farmland penalty is 1.10 acres which was removed from Farmland (pasture) classification to a building lot which is assessed at its highest & best use in accordance to market value as excess land. Please see the attached spreadsheet pertaining to the Farmland penalty calculation.

The Assessor recommends that a supplemental tax bill for this Farmland penalty in the amount of \$288.57 to the property owner for the removal of 1.10 acres from Farmland classification is approved.

Motion: Vice Chair Ganiere made a motion to accept the Farmland Penalty request for Map R040 Lot 011 in the amount of \$288.57 as presented. Selectman Cobb seconded the motion.

The motion carried: 4:0

- Abatement:
 - Map U006 Lot 4 – Keith and Cynthia Bowles Rev Trust, Knox Lane

The subject is a 0.39-acre vacant parcel that sold 09-18-2018 and was assessed to the incorrect owner. The parcel has since been merged into U006-5; an abutting parcel owned by the same owner.

The Assessor recommends that an abatement be granted in the amount of \$115.70.

Motion: Vice Chair Ganiere made a motion to accept the abatement request for Map U006 Lot 4 in the amount of \$115.70 as presented. Selectman Cobb seconded the motion.

The motion carried: 4:0

- Map F0005 Lot 041 – Wells Fargo Financial Leasing, 4 Dana Street

The personal property declaration form and Business Equipment Tax Exemption (BETE) application for this business were received in the Assessing office on 04-29-2019. The personal property (copiers) listed as located at the York Hospital, 4 Dana Street, was denied on the BETE application because these are items that are already exempt from taxation due to its location in a hospital. However, due to a data entry error, the items were not noted as exempt in the database and should have been.

The Assessor recommends that an abatement in the amount of \$109.28 be granted.

Motion: Vice Chair Ganiere made a motion to accept the abatement request for Map F0005 Lot 041 in the amount of \$109.28 as presented. Selectman Cobb seconded the motion.

The motion carried: 4:0

- Map R013 Lot 1 – Harvard Turf Farm, Ridlon Road

Property owner, Mr. Steven Donahue, was present.

The subject property is a 723.87-acre vacant parcel which is the result of 12 parcels that were merged on April 1, 2017, as shown as Exhibit 1 Harvard Turf Farms Berwick Lot Merger. Of those parcels that were merged into R013-1, only a 21.7-acre portion of Map/Lot; R013-1, and Map/Lot: R013-2 4.7-acre parcel were NOT classified as Farmland.

During the revaluation, the 21.7-acre portion of R013-1 and the 4.7-acre portion from the former R013-2, which totals 26.40 acres, were valued as vacant land suitable for residential development, and the neighborhood code for these acres of these areas were changed to be consistent with the other developed parcels located on Ridlon Rd.

The property owner seeks an abatement for the difference in valuation from residential development to farmland and for the neighborhood code to be changed back to slightly below average due to the site being accessed by the portion of Ridlon Road that is seasonal, and therefore not maintained during the winter months.

A search of the assessing files and requests from the property owner did not produce a farmland application showing that these 26.40 acres were in farmland. Rather assessing notes from the 2017 merger state that 21.70 acres were not in farmland, and the 4.7-acres from R013-2 was a non-buildable lot due to wetlands and topography. Assessing does acknowledge that the neighborhood code should have been classified as noted by the owner, and the 4.70-acre area should have been classified as non-buildable. However, the total FY2019-20 assessment of this property has been greatly reduced due to most of it being classified as Farmland. This parcel, therefore, is not substantially overvalued.

In conclusion, the property owner has not provided any supporting evidence to prove any one of the three tests for an abatement. The property owner has failed to prove that there has been an “substantial overvaluation,” an “unjust discrimination,” or that the assessed value is “manifestly wrong.”

The Assessor recommends that the property owner’s request for an abatement be denied.

Discussion ensued with the BOS, Mr. Donahue and Assessors Fortier and McKenney.

Motion: Vice Chair Ganiere made a motion to deny the abatement request for Map R013 Lot 1 as presented. Selectman Cobb seconded the motion.

The motion carried: 4:0

16. Second Public Comment

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

17. Executive Session

- Title 1 §405(6)(E) – consultation with assessor

Motion: Chair Wright made a motion to enter into Executive Session per MSRA Title 1 §405(6)(E) – Consultation. Selectman Cobb seconded the motion.

The motion carried: 4:0

The Board entered into Executive Session at 7:36pm.

The Board resumed its regular meeting at 7:50pm. Chair Wright noted no actions were made during the Executive Session.

18. Other Business/Non-Agenda Items

19. Adjournment

The meeting adjourned at 7:50pm.

Respectfully submitted,

**Patricia Murray
Town Clerk**

The July 28, 2020 BOS Meeting Minutes – Signed as approved at the Board of Selectmen’s August 11, 2020 meeting.

On behalf of the Board
