

**VAUGHAN FUND  
NOVEMBER 24, 2009**

Chairman David Burke opened the meeting at 6:30pm. Trustees present included Michelle Kareckas, Jean Demetracopoulos, Gerald W. MacPherson, Sr., and David H. Webster. Town Manager John B. Schempf was also present.

**ELECTION OF OFFICERS**

On a nomination by Mrs. Demetracopoulos, seconded by Mrs. Kareckas, David Burke was unanimously voted as Chairman and Gerald MacPherson, Sr. was unanimously voted as Treasurer for the ensuing year.

**VALUATIONS**

Mr. MacPherson gave a brief summary of the Fund's balance. The Fund has realized a 16% return since January 2009. Fixed accounts include 2 CD's: Kennebunk Savings \$50,341, earning 1.34% matures on 2-20-2010; and Edward Jones \$50,549 earning 1.70% matures 11-29-2010. The General Motors bond is listed as a debt, but it is earning 7% and has a current value of \$2,175. The cash/money market account has a current balance of \$278,761. The total Fund value as of November 24, 2009 is \$380,936.

Mr. Burke stated that it is anticipated, if numbers hold steady, that there may be as much as \$40,000 - \$42,000 available for grants.

**ADJOURNMENT**

On a motion by Mr. MacPherson, seconded by Mrs. Demetracopoulos, it was unanimously voted to adjourn the meeting at 6:37pm.

Attest:

Barbara Bennett, CCM  
Town Clerk



Date: January 12, 2010  
To: John  
Vaughan Fund Trustees  
From: Fern   
Re: Spending Calculations

According to the Investment and Disbursement Policy signed on February 14, 2005, the recommended spendable limit is determined by calculating 70% of the increase in investment value as of December 31st of the previous year.

For 2009, the calculations are as follows:

January 1, 2009 Balance:	<b>\$333,280.16</b>	Fidelity
December 31, 2009 Balances:	\$281,066.23	Fidelity
	50,397.09	Kennebunk Savings Bank
	50,498.40	Edward Jones
	<b>\$381,961.72</b>	Total

Change in Value:	\$48,681.56
At 70%:	\$34,077.09

The Trustees have the option to disburse more.

Applications for funding are due February 28, 2010.



## **SOUTH BERWICK TOWN COUNCIL JANUARY 12, 2010**

Chairman David Burke called the meeting to order at 6:30pm. Those present included Councilors Michelle Kareckas, Jean Demetracopoulos, Gerald W. MacPherson, Sr., and David H. Webster. Town Manager John B. Schempf was also in attendance.

### **APPROVAL OF MINUTES**

1. Town Council Special 12-21-09: On a motion by Mrs. Demetracopoulos, seconded by Mrs. Kareckas, it was unanimously voted to adopt the minutes as written.
2. Town Council 12-22-09: On a motion by Mrs. Kareckas, seconded by Mrs. Demetracopoulos, it was unanimously voted to adopt the minutes as written.

### **SIGNING OF TREASURER'S WARRANT** – January 12, 2010

On a motion by Mr. MacPherson, seconded by Mr. Webster, it was unanimously voted to sign the warrant.

### **PUBLIC COMMENT**

1. Cliff Cleary, Spillane's Hill Rd, commented on the Channel 6 note regarding Powderhouse Ski Hill. He stated that he hoped no South Berwick residents were denied use because there were too many out-of-towners.
2. David E. Webster, Tamarack Dr, stated that at the town meeting in June 4 hours were cut from the transfer station. He asked where the hours had been cut from, because he has not seen a change. Mr. Webster also asked about the revenues from the PAYT program. Mrs. Demetracopoulos stated that for the first six months of the budget year the revenues total \$60,066. Mr. Webster recommended not charging any additional fees (for brush) until money already being collected is completely accounted for.
3. Richard Clough, Academy St, asked if there was an update on the Balancing Rock. Mr. Schempf stated "No". Mr. Clough also asked how much the legal opinion regarding 25 Academy Street cost.

### **TOWN MANAGER'S REPORT**

- The storm over New Year's weekend caused 100 hours of overtime for the highway crew.
- Verified 2 workshop dates: February 3rd would be the Regional Maintenance Facility and February 27th would be on TIF's.
- Stated that the next York County Advocacy meeting would be held in Augusta to meet with legislatures. He requested Council input regarding his attendance. Council consensus was to allow the Manager to proceed. It was explained that there is a set agenda for the day. The meeting will be held on January 21st at the State House.
- Commented on requests for information made during a council meeting. He informed everyone that the Town's Public Info Request form should be used. The use of the form will provide clear direction for staff and eliminate the possibility of wrong information being researched or provided.

### **UNFINISHED BUSINESS**

1A. 25 Academy Street: Mr. Burke explained that he added the item to the agenda for discussion.

Mr. Webster: Stated that it was important to get a legal opinion. He added that he hopes the Code Enforcement Officer will make sure that the developer lives up to his end of the agreement. Mr. Webster stated that at this point we need to move ahead.

Mr. MacPherson: Stated that we should move forward with the project under current conditions and work with the Planning Board to tighten up the ordinances.

Mrs. Demetracopoulos: Stated she was glad to receive the legal opinion. She added that she would like to have a workshop with the Planning Board.

Mrs. Kareckas: Stated that the legal opinion was necessary. She would like to meet with the Planning Board. She added that the Planning Board decisions need to be written very clearly.

Mr. Schempf: Stated that the statutory time limit for appealing has passed. He added that the intention was not in question, however, the written document prevails, and the written approval document does not include intentions.

## **NEW BUSINESS**

1A. On a motion by Mrs. Demetracopoulos, seconded by Mr. MacPherson, it was unanimously voted to approved the renewal of Relish's (fka Margaux) liquor license. Note was made that the parent company for both is Big Night Productions.

1B. On a motion by Mr. Webster, seconded by Mrs. Demetracopoulos, it was unanimously voted to approved the renewal of Spring Hill's liquor license and special amusement permit.

1C. The Council discussed the merits of plowing Alder Drive. Each of the Councilors agreed to leave sidewalk plowing to the Manager's discretion, as it was decided last budget season. Mr. Schempf stated that he is reluctant to make any changes at this time. He added that he believed all of the sidewalks should be plowed to help promote a "walking community"; however, plowing the sidewalks would cost between \$25,000 and \$75,000 and our equipment (5' wide) is too wide for most of the sidewalks (4' wide).

## **COUNCIL MEMBER COMMENTS**

1. Mr. Webster: Did not receive any citizen concerns.

2. Mr. MacPherson: Received a couple of citizen emails with basic questions.

3. Mr. Burke:

-Asked if there were any issues the Council wanted him to bring up at his meeting with the SAD #35 and Eliot Chairs.

-Congratulated Powderhouse for a successful weekend and especially for how they handled the traffic.

-Commended the former Council for their pushing the DOT to construct a temporary bridge on Route 236. The state had intended on just closing the road for construction.

-Made note that numbers are available for the library capital account.

4. Mrs. Demetracopoulos:

-Stated (to clear up confusion) that the Council has no intention of dropping its action regarding the Comcast performance bond.

-Congratulated Officer Dave Ruger for achieving his Advanced Officer Certification.

-Asked the Chair to ask SAD #35 to add to their warrant articles the amount of the tax rate it equates to (the same way the Town does on its warrant).

5. Mrs. Kareckas:

-Stated that the schools ventilation project is on hold. It would not save as much as anticipated.

-Made note of the school looking into a floodplain mapping grant.

-Need Building Committee by-laws.

-Powderhouse Ski Hill – the website is gone and minimal advertising will be done. Consideration is being given to opening earlier specifically for South Berwick residents. The Club will start tracking demographics for future planning.

## **ADJOURNMENT**

On a motion by Mrs. Demetracopoulos, seconded by Mrs. Kareckas, it was unanimously voted to adjourn the meeting at 8:16pm.

Attest:

Barbara Bennett, CCM



TOWN OF SO. BERWICK  
CHECK REGISTER

Check Number	Account	Date Paid	Amount
00051106	133050 TREAS,STATE OF MAINE/IV-D	01/26/2010	70.00
00051107	132500 SECRETARY OF STATE M/V	01/26/2010	24,693.26
00051108	090151 UNITED STATES TREASURY	01/26/2010	237.76
00051109	132500 SECRETARY OF STATE M/V	01/26/2010	5,253.81
00051110	133050 TREAS,STATE OF MAINE/IV-D	01/26/2010	25.00
00051111	189999 REFUNDS	01/26/2010	123.00
00051112	189999 REFUNDS	01/26/2010	82.00
00051113	010301 AETNA	01/26/2010	14,629.00
00051114	010336 AGGREGATE RECYCLING CORP	01/26/2010	1,690.95
00051115	010440 ALBERTSONS	01/26/2010	45.98
00051116	010490 ALGONQUIN PRODUCTS CO	01/26/2010	106.86
00051117	021300 BERNSTEIN SHUR	01/26/2010	4,636.06
00051118	022850 BUSINESS EQUIPMENT UNLIMITED	01/26/2010	216.00
00051119	021800 BOB'S TROPHIES & AWARDS	01/26/2010	15.00
00051120	022300 BOWS AND BALLOONS BY BRINA	01/26/2010	405.00
00051121	022503 SHARON BRASSARD	01/26/2010	547.68
00051122	022700 BROWN'S RIVER MAROTTI CO	01/26/2010	910.00
00051123	030725 CITIZENS BANK (CHG)	01/26/2010	225.00
00051124	030920 CLEAN-O-RAMA	01/26/2010	113.01
00051125	031430 COMCAST	01/26/2010	95.00
00051126	032002 ONE COMMUNICATIONS	01/26/2010	1,194.01
00051128	040105 DAYTON SAND & GRAVEL	01/26/2010	464.80
00051129	040520 DIGITAL INK PRINTING	01/26/2010	29.31
00051130	041305 G MITCHELL DUGAN	01/26/2010	137.50
00051131	060100 HOWARD P FAIRFIELD INC	01/26/2010	462.43
00051132	141000 FAIR POINT COMM	01/26/2010	129.60
00051133	060260 FASTENAL COMPANY	01/26/2010	22.57
00051134	060275 THE FASTENER WAREHOUSE	01/26/2010	3.00
00051135	060750 FIRE TECH & SAFETY	01/26/2010	539.85
00051136	010525 G&K SERVICES	01/26/2010	768.56
00051137	070200 P GAGNON & SON INC	01/26/2010	1,753.06
00051138	070210 GALL'S INC	01/26/2010	73.98
00051139	070600 GEORGE GORMAN	01/26/2010	49.93
00051140	191330 HANNAFORD'S	01/26/2010	837.03
00051141	080248 HANSCOM'S TRUCK STOP INC	01/26/2010	7,605.40
00051142	080325 TOM HARMON	01/26/2010	21.97
00051143	022665 C.E. HOLMES CONSTRUCTION	01/26/2010	1,200.00
00051144	087100 ICMA MEMBER SERVICES	01/26/2010	286.81
00051145	090120 INLAND FISHERIES & WILDLIFE	01/26/2010	1,393.00
00051146	090450 INTERSTATE ALL BATTERY CENTER	01/26/2010	30.00
00051147	100150 JANETOS MARKET	01/26/2010	141.61
00051148	100185 JENSEN BAIRD GARDNER & HENRY	01/26/2010	763.96
00051149	100380 JOHN DEERE LANDSCAPES	01/26/2010	281.29
00051150	100820 FRED KEEN	01/26/2010	75.00
00051151	100870 KENNEBUNK SAVINGS BANK	01/26/2010	2,495.33
00051152	141367 KONE INC	01/26/2010	175.50
00051153	120950 LHS ASSOCIATES INC	01/26/2010	175.00
00051154	127000 CORRINE J MAHONY	01/26/2010	600.00
00051155	131698 MAINE BETTER TRANSPORTATION	01/26/2010	75.00
00051156	131700 MAINE CHIEFS OF POLICE ASSOC.	01/26/2010	82.00
00051157	133375 MAINE ENERGY RECOVERY CO.	01/26/2010	2,010.93
00051158	130670 MAINE RESOURCE/RECOVERY	01/26/2010	45.00
00051159	133195 MAINE TURNPIKE AUTHORITY	01/26/2010	10.60
00051160	133345 MARSHWOOD ADULT EDUCATION	01/26/2010	35.00
00051161	133358 W.B.MASON	01/26/2010	215.97
00051162	134200 MAINE MUNICIPAL ASSO (INS)	01/26/2010	31,731.00

TOWN OF SO. BERWICK  
CHECK REGISTER

Check Number	-----Account-----	Date Paid	Amount
00051163	134300 MAINE MUNICIPAL EMPLOYEES	01/26/2010	4,012.67
00051164	134400 MAINE MUNICIPAL ASSOCIATION	01/26/2010	5,430.00
00051165	134450 MMTCTA	01/26/2010	90.00
00051166	134601 EXXON/MOBIL	01/26/2010	409.14
00051167	134665 MONTROSE-SANFORD HYDRAULICS	01/26/2010	79.50
00051168	134900 MORTON SALT	01/26/2010	18,471.90
00051169	135110 MAINE RECREATION & PARK ASSO	01/26/2010	35.00
00051170	135130 MTCCA/MMA	01/26/2010	40.00
00051171	140809 NEW ENGLAND COACH	01/26/2010	750.00
00051172	141080 NEXTEL	01/26/2010	75.73
00051173	141368 NORTHEAST EMER APPARATUS	01/26/2010	446.04
00051174	160692 POLAND SPRING	01/26/2010	91.96
00051175	170000 QUILL CORPORATION	01/26/2010	160.77
00051176	180125 RANSOM ENVIRONMENTAL INC	01/26/2010	2,741.25
00051177	180185 RCP LLC	01/26/2010	387.50
00051178	180900 ROBBINS AUTO PARTS INC	01/26/2010	55.56
00051179	190630 SEACOAST LOCK & SAFE CO INC	01/26/2010	912.50
00051180	191320 SHERWIN-WILLIAMS	01/26/2010	72.59
00051181	191500 MAURICE ROBERGE	01/26/2010	585.00
00051182	191753 FOREST SMITH	01/26/2010	338.00
00051183	191900 SO BERWICK EMERGENCY RESCUE	01/26/2010	5,847.62
00051184	192900 SO BERWICK WATER DISTRICT	01/26/2010	77,979.47
00051185	193410 SO MAINE REGIONAL PLANNING CM	01/26/2010	2,087.90
00051186	193640 STAPLES	01/26/2010	189.90
00051187	194330 SUPERIOR FIRE PROTECTION INC	01/26/2010	400.00
00051188	201100 TOWER PUBLISHING	01/26/2010	92.00
00051189	133113 TREASURER OF STATE/ATV	01/26/2010	2,024.10
00051190	201300 TWO-WAY COMMUNICATION SERV INC	01/26/2010	9,236.73
00051191	210070 ULTRAMAX	01/26/2010	368.00
00051192	211500 VERIZON WIRELESS	01/26/2010	552.82
00051193	230300 WALMART COMMUNITY BRC	01/26/2010	48.00
00051194	231320 WINDWARD PETROLEUM	01/26/2010	548.96
00051195	231800 WYNDHAM PORTLAND AIRPORT HOTEL	01/26/2010	87.74
00051196	241255 XEROX CORPORATION	01/26/2010	132.47
00051197	240900 YORK COUNTY REGISTRY OF DEEDS	01/26/2010	57.23
Total Not Prepaid			214,389.59
Total Prepaid			30,484.83
Grand Total			244,874.42

TOWN OF SO. BERWICK  
CHECK REGISTER

Check Number -----Account----- Date Paid Amount

WARRANT NUMBER ----- \$ 244,874.42 DATE 01/21/2010  
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\* \* \* TREASURER'S WARRANT \* \* \*

THIS IS TO CERTIFY THAT THERE IS DUE AND CHARGEABLE TO THE APPROPRIATIONS LISTED  
ABOVE THE SUM SET AGAINST EACH NAME AND YOU ARE DIRECTED TO PAY UNTO THE PARTIES  
NAMED IN THIS SCHEDULE.

TOWN COUNCIL:

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**TOWN COUNCIL**  
***Agenda Information Sheet***

<b>Meeting Date: January 26, 2010</b>	<b>Item # NB 1A</b>
<b>Agenda Item: National Incident Management System (NIMS) adoption</b>	
<b>Department Head Recommendation: Blain Cote</b>	
Attached is the official NIMS designation for the Town of South Berwick. The adoption of this order is required for the Town to remain compliant.	
<b>Town Manager's Recommendation</b>	
Recommend the Council Adopt NIMS for emergency management situations.	
<b>Requested Action</b>	
Motion to adopt the designation of the National Incident Management System (NIMS) as the basis for all incident management in South Berwick, Maine.	
<b>Vote</b>	

## EXECUTIVE ORDER

### **DESIGNATION OF THE NATIONAL INCIDENT MANAGEMENT SYSTEM (NIMS) AS THE BASIS FOR ALL INCIDENT MANAGEMENT IN THE STATE/Commonwealth**

**WHEREAS**, the President in Homeland Security Directive (HSPD)-5, directed the Secretary of the Department of Homeland Security to develop and administer a National Incident Management System (NIMS), which would provide a consistent nationwide approach for Federal, State, local, and tribal governments to work together more effectively and efficiently to prevent, prepare for, respond to, and recover from domestic incidents, regardless of cause, size, or complexity;

**WHEREAS**, the collective input and guidance from all Federal, State, local, and tribal homeland security partners has been, and will continue to be, vital to the development, effective implementation and utilization of a comprehensive NIMS;

**WHEREAS**, it is necessary and desirable that all Federal, State, local, and tribal emergency agencies and personnel coordinate their efforts to effectively and efficiently provide the highest levels of incident management;

**WHEREAS**, to facilitate the most efficient and effective incident management it is critical that Federal, State, local, and tribal organizations utilize standardized terminology standardized organizational structures, interoperable communications, consolidated action plans, unified command structures, uniform personnel qualification standards, uniform standards for planning, training, and exercising, comprehensive resource management, and designated incident facilities during emergencies or disasters;

**WHEREAS**, the NIMS standardized procedures for managing personnel, communications, facilities and resources will improve the State's ability to utilize federal funding to enhance local and state agency readiness, maintain first responder safety, and streamline incident management processes.

**WHEREAS**, the Incident Command System components of NIMS are already an integral part of various incident management activities throughout the State, including current emergency management training programs; and

**WHEREAS**, the National Commission on Terrorist Attacks (9-11 Commission) recommended adoption of a standardized Incident Command System;

NOW THEREFORE, the town/city of South Berwick, ME hereby adopts the National Incident Management System (NIMS) as the town/city standard of management.

John Blain  
Senior Official

1/11/10  
Date

George Gorman  
Fire Chief

1-4-10  
Date

William A. ...  
Rescue Chief

1-4-10  
Date

[Signature]  
Police Chief

1/11/10  
Date

[Signature]  
Public Works

1/11/10  
Date

Blain A Col  
Director, Emergency Management Agency

1/4/10  
Date

TOWN COUNCIL

*Agenda Information Sheet*

<b>Meeting Date:</b> January 26, 2010	<b>Agenda Item NB 1B</b>
<b>Subject:</b> Review/discuss Solid Waste Ordinance re: Haulers	
<b>Information:</b>	
Current ordinance as written requires Council action to administer all provisions, i.e. renewals, warnings, suspensions, violations, etc. While some actions (hearings) rightfully belong at the Council level, others could and should be able to be completed by staff.	
<b>Staff Comments/Recommendation:</b>	
Amend ordinance and/or delegate Town Manager to administer ordinance.	
<b>Requested Action:</b>	
Direct staff to prepare ordinance revision. Motion to delegate Town Manager as the ordinance administrator.	
<b>Vote:</b>	

**Chapter 115**  
**SOLID WASTE**

**ARTICLE I**  
**Disposal and Recycling Standards**

- § 115-1. Title.
- § 115-2. Purpose; authority.
- § 115-3. Definitions.
- § 115-4. Disposal control standards and regulations.
- § 115-5. Recycling standards and regulations.
- § 115-6. Violations and penalties.
- § 115-7. Conflict with other provisions.

**ARTICLE II**  
**Flow Control**

- § 115-8. Title.
- § 115-9. Authority.

- § 115-10. Purpose.
- § 115-11. Definitions and word usage.
- § 115-12. Designation of facility.
- § 115-13. Regulation of wastes.
- § 115-14. Exempted waste.
- § 115-15. Administration.
- § 115-16. License required; application.
- § 115-17. Suspension or revocation of license.
- § 115-18. Hearing procedure.
- § 115-19. Enforcement.
- § 115-20. Violations and penalties.
- § 115-21. Variances.
- § 115-22. Amendment procedure.
- § 115-23. When effective.
- § 115-24. Effective date of amendments.

**[HISTORY: Adopted by the Town Council of the Town of South Berwick as indicated in article histories. Amendments noted where applicable.]**

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**ARTICLE I**  
**Disposal and Recycling Standards**  
**[Adopted 7-9-1980<sup>1</sup> ]**

**§ 115-1. Title.**

This article shall be known and may be cited as the "Solid Waste Disposal Control and Recycling Ordinance of the Town of South Berwick, Maine."

**§ 115-2. Purpose; authority.**

- A. Declaration of policy. This article is designed to control solid waste material in the Town of South Berwick, Maine, by providing for the establishment and enforcement of rules and regulations, establishing limitations, prohibiting certain acts causing solid waste disposal problems and providing for fines for violation of the provisions of this article.

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1. Editor's Note: The rules and regulations governing solid waste disposal, adopted 9-28-1987, are on file in the office of the Town Clerk.

B. Authority for this article is 38 M.R.S.A. § 1304-B. [Amended 8-26-1991]

**§ 115-3. Definitions. [Amended 12-8-2008]**

In this article, the following terms shall have the following meanings:

**ATTENDANT** — Any person employed by the Town of South Berwick to supervise the solid waste transfer station and operate any necessary equipment.

**BAGS** — Official Pay As You Throw bags.

**BULKY WASTE** — Mattresses, box springs, furniture, tires and other waste materials accepted at the South Berwick Transfer Station, not including demolition debris, wood and yard waste.

**COMMERCIAL WASTE** — Solid waste generated by stores, offices, restaurants, warehouses, multi-unit rental units and condominiums within the Town. This definition applies to those designated by the Planning Board to provide for the disposal of all solid waste.

**CONSTRUCTION AND DEMOLITION DEBRIS** — Debris resulting from construction, remodeling, repair or demolition of structures, excluding asbestos and other special wastes. Sheetrock and shingles are not considered construction and demolition debris under this regulation.

**HAZARDOUS WASTE** — Any waste which the federal and/or state government(s) have determined to be hazardous in composition.

**INDUSTRIAL WASTE** — Solid waste generated by manufacturing facilities within the Town.

**MERCHANT** — Businesses that sell PAYT bags to South Berwick residents.

**MSW** — Municipal solid waste.

**MULTIFAMILY RENTAL UNITS** — Apartment buildings containing four or more units.

**PAYT** — "Pay As You Throw."

**PRIVATE CONTRACTORS** — A person, firm or corporation that accumulates, collects, stores, transports or disposes of more than one ton of waste per month.

**PUBLIC** — Residents of South Berwick.

**RESIDENTIAL SOLID WASTE** — Solid waste generated by residential households or dwelling units; this includes but is not limited to food scraps, garbage, trash, refuse and junk.

**TOWN** — The Town of South Berwick.

**TRANSFER STATION** — The municipal facility located in South Berwick for the collection and processing of municipal solid waste, for eventual movement to another waste facility.

WHITE GOODS — Stoves, refrigerators, water tanks, washing machines, microwaves and other appliances without freon.

**§ 115-4. Disposal control standards and regulations. [Amended 2-14-1994; 7-11-2005; 12-8-2008]**

- A. The Town Council is hereby granted authority to establish detailed operating rules and regulations for all municipal solid waste collection and disposal facilities. The rules and regulations shall be reviewed and revised as required to satisfy needs of the municipality, changes in state and federal laws and regulations and the economics of municipal solid waste disposal. The rules and regulations shall include the operating hours of the facility. No person shall use the facility outside of said hours of operation without specific written consent of the South Berwick Town Council or its authorized agent, if any. The rules and regulations will become effective 15 days following adoption by the Town Council. Currently effective rules and regulations shall be prominently displayed at the transfer station site and on file in the municipal office.
- B. The use of the transfer station by any person shall be at the strict direction of the attendant designated by the Town Manager. No person shall violate any directives put forth by the attendant in the use of the facility. If any person refuses to obey a directive of the facility attendant, the attendant shall have the authority to immediately refuse access to the facility to that person.
- C. No hazardous waste shall be delivered to the transfer station.
- D. No industrial or commercial waste which creates a problem of disposal by virtue of federal, state or local statutes, rules, regulations, etc., controlling or prohibiting its disposal shall be delivered to the transfer station.
- E. The South Berwick solid waste transfer station is operated solely for the benefit of South Berwick residents and/or property owners. Admission to the transfer station will be by permit only. South Berwick residents and/or property owners will be issued permits without charge upon application to the municipal office. The Town Manager is authorized to issue temporary permits on a case-by-case basis. Residents and/or property owners must display a permit on their vehicle to gain access to the transfer station.
- F. All commercial and industrial businesses as defined in this article must contract with a private contractor to transport their waste to the MERC facility. No commercial or industrial waste will be permitted to be disposed of in the hopper at the transfer station.
- G. All private contractors must be properly licensed by the Town of South Berwick pursuant to § 115-16 of the Town of South Berwick's Flow Ordinance in order to collect MSW within the boundaries of South Berwick. Private contractors are responsible for the waste they collect and must dispose of it properly at the MERC facility as designated in § 115-13, Regulation of wastes.
  - (1) Private contractors will be billed by the Town of South Berwick for the tonnage they deliver to MERC according to the following fee schedule. Tonnage delivered to MERC shall be billed to the private contractor on a monthly basis, at the Town's

contracted rate plus \$2/ton. A nominal administration fee shall be added to the invoice each month, not to exceed \$25.

- (2) All invoices sent to the private contractor must be paid in full within 30 days of the date of invoice. Failure to pay the Town will result in a revocation of the company's ability to dispose of MSW under the Town's contract with MERC and shall result in the Town initiating collection proceedings. The private contractor shall be responsible for all collection costs.

**§ 115-5. Recycling standards and regulations. [Amended 6-12-2006; 12-8-2008]**

- A. All solid waste shall have recyclable commodities separated out and in a readily handleable form when brought to the transfer station. The list of acceptable recyclable materials shall be established, and may be revised from time to time, by order of the South Berwick Town Council.
- B. Safety requirements prohibit the removal of items from the wood or steel bins.
- C. All residential solid waste shall be delivered to the transfer station in PAYT bags as designated by the South Berwick Town Council. The Town will provide two bag sizes to choose from: fifteen-gallon; thirty-three-gallon.
- D. PAYT bags will be sold at various locations throughout the Town of South Berwick. Out-of-town merchants may also sell South Berwick PAYT bags.
- E. Merchants will purchase bags in bulk quantity and agree to sell the bags at cost. Merchants will be required to sign an agreement outlining these arrangements. These agreements will be kept on file in the Town Clerk's office.

**§ 115-6. Violations and penalties. [Amended 12-8-2008]**

Any person who violates any provision of this article commits a civil violation, punishable by a civil penalty of not less than \$200 and not more than \$2,500 for each violation. Penalties shall be recovered upon complaint made by the Town. Each day upon which a violation continues shall be considered a separate violation. The Town shall be entitled to recover its attorney's fees and court costs in any action in which the court finds that a violation has occurred. In addition to penalties, the Town may seek injunctive relief to prevent the continuance of an ongoing or recurring violation. The Town may also pursue any of the remedies set forth in Subsections A, B and C below:

- A. Roadside littering. Any person found to have littered public or private property with MSW, construction and demolition debris, bulky waste, tires or any other trash will be prosecuted by the Police Department in accordance with Title 17 M.R.S.A. Chapter 80, Litter Control.
- B. Public health. Any individual who is found to be accumulating solid waste in an unapproved location which is deemed to be injurious to the public health and safety by the South Berwick Health Officer shall be dealt with in the following manner:

- (1) Written warning, with seven days to remove trash.
  - (2) If after seven days the trash has not been removed, the Health Officer may cause the removal of the solid waste. All costs associated with the removal of the solid waste shall be billed to the property owner.
  - (3) Failure to pay the costs for the removal of the solid waste will constitute a lien against the real estate enforceable in the same manner as real estate taxes, including possible loss of the property for nonpayment.
- C. Unacceptable materials. Any person caught throwing unacceptable materials in the hopper, bulky waste, construction debris or other designated area of the transfer station shall be prosecuted in the following manner:
- (1) First offense: verbal warning from staff, documented on a form approved by the Town Manager
  - (2) Second offense: written warning from the Town Manager.
  - (3) Third offense: loss of privileges to use transfer station as determined by the Town Council.

**§ 115-7. Conflict with other provisions.**

In any case where a provision of this article is found to be in conflict with a provision of any other ordinance or code of the Town of South Berwick existing on the effective date of this article, the provision which establishes the higher standard for the promotion and protection of health and welfare for the community shall prevail.

ARTICLE II  
Flow Control  
[Adopted 3-9-1987]

**§ 115-8. Title.**

This article shall be known as the "Town of South Berwick, Maine, Solid Waste Flow Control Ordinance."

**§ 115-9. Authority. [Amended 8-26-1991]**

This article is enacted pursuant to the authority granted in 30-A M.R.S.A. §§ 3001 through 3007, 3351 and 3352.

**§ 115-10. Purpose.**

- A. The municipality has a statutory obligation to provide a solid waste disposal facility for domestic and commercial waste generated within the municipality and is authorized to provide such a facility for industrial waste and sewage treatment plant sludge, pursuant to

38 M.R.S.A. § 1305, Subsection 1. Municipal solid waste contains valuable recoverable resources, including energy, which, if recovered, reduce the cost of solid waste disposal. Because energy recovery technology is complex, most energy recovery facilities have high capital costs and long payback periods. To remain cost-effective and operate efficiently during their useful lives, energy recovery facilities require a guaranteed steady supply of waste during their entire useful life. Consequently, a municipality that wants to utilize an energy recovery facility for processing municipal solid wastes generally must agree to provide the facility with a steady supply of solid waste for a relatively long period.

- B. The municipality must exercise its legal authority to control the collection, transportation and disposal of solid waste generated within its borders to ensure delivery of a steady supply of waste to the energy recovery facility designated herein. The municipality finds that use of an energy recovery facility to process acceptable solid waste is an environmentally sound and economically viable solution to the solid waste disposal problem and thereby protects the public health, welfare and safety of the citizens of the municipality.

**§ 115-11. Definitions and word usage.**

- A. All terms not specifically defined herein shall have their ordinary meanings; words used in the present tense include the future, and the plural includes the singular.
- B. As used herein, the following terms shall have the meanings indicated:

**ACCEPTABLE WASTE** — All solid wastes of the type presently accepted at the transfer station used by the municipality, including all ordinary household, municipal, institutional, commercial and industrial wastes, with the following exceptions:  
**[Amended 12-8-2008]**

- (1) Demolition or construction debris from building and roadway projects or locations.
- (2) Liquid wastes or sludges.
- (3) Abandoned or junk vehicles.
- (4) Hazardous waste, that is, waste with inherent properties that make it dangerous to manage by ordinary means, including but not limited to chemicals, explosive, pathological wastes, radioactive wastes, toxic wastes and other wastes defined as hazardous by the State of Maine or the Resource Conservation and Recovery Act of 1976, as amended, or other federal, state or local laws, regulations, orders or other actions promulgated or taken with respect thereto.
- (5) Dead animals or portions thereof or other pathological wastes.
- (6) Water treatment residues.
- (7) Tree stumps.
- (8) Tannery sludge.

- (9) Waste oil.
- (10) Discarded white goods, including but not limited to freezers, stoves, refrigerators and washing machines.

**COLLECTION FACILITY** — A building or container or designated area in which acceptable waste is deposited and temporarily stored for transfer to the energy recovery facility. [Amended 12-8-2008]

**DISPOSAL FACILITY** — The facilities designated by the municipality as the storage and/or disposal sites for unacceptable wastes.

**ENERGY RECOVERY FACILITY** — The facility designated herein which processes and recovers energy and/or useful materials from acceptable waste generated in the municipality.

**MUNICIPALITY** — The Town of South Berwick, Maine.

**UNACCEPTABLE WASTE** — All solid waste of the type municipalities are required to regulate by 38 M.R.S.A. § 1305, as amended, which specifically excludes industrial and sewage treatment plant sludge, and not included in the definition of "acceptable waste."

#### **§ 115-12. Designation of facility.**

- A. In accordance with the provisions of 38 M.R.S.A. § 1304-B, the municipality hereby designates the Maine Energy Recovery Company facility located in Biddeford, Maine, as the energy recovery facility and disposal facility for acceptable waste.
- B. The Town also designates a municipally owned and operated transfer station on Agamenticus Road in South Berwick, whose operation shall be conducted in accordance with the rules and regulations of the Maine Department of Environmental Protection and the Town of South Berwick Solid Waste Disposal Control and Recycling Ordinance,<sup>2</sup> as the temporary disposal facility for acceptable waste.
- C. The Town further reserves that it may designate an alternate disposal facility for a specified time period for acceptable waste, should circumstances require it, upon a majority vote of the municipal officers.

#### **§ 115-13. Regulation of wastes.**

The accumulation, collection, transportation and disposal of acceptable waste and unacceptable waste generated within the municipality shall be regulated in the following manner:

- A. All acceptable waste generated within the municipality shall be deposited at the municipal transfer facility or directly at the energy recovery facility.

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2. Editor's Note: See Art. I, Disposal and Recycling Standards, of this chapter.

- B. All unacceptable waste generated within the municipality shall be deposited only at a suitable disposal facility which is designed for the express purpose of handling said unacceptable waste.

**§ 115-14. Exempted waste.**

The following categories of waste shall be exempted from regulation by this article:

- A. Materials from manufacturing, processing or packaging operations which are segregated from solid waste and salvaged for alternate use or reuse by the generator or sold to third parties.
- B. Glass, metal or other noncombustible materials which are separated from acceptable waste by the generator as part of a recycling program approved by municipal officers.
- C. Cardboard, paper or other combustible materials which are separated from acceptable waste by the generator as part of a recycling program approved by the municipal officers, provided that any such recycling program shall not reduce the Btu content of acceptable waste below the Btu level acceptable to the energy recovery facility.

**§ 115-15. Administration.**

This article shall be administered by the municipal officers. Their powers and duties are as follows:

- A. To adopt reasonable rules and regulations as needed to enforce this article.
- B. To consider all license applications and to grant or deny each application within 15 days after receipt of a completed application at the municipal offices or within such other time as the municipal officers and the applicant shall agree is reasonable.
- C. To review any alleged violation of this article and to impose appropriate penalties therefor after notice and hearing as required by this article.
- D. To institute necessary proceedings, either legal or equitable, to enforce this article.

**§ 115-16. License required; application.**

- A. No person, firm or corporation shall accumulate, collect, store, transport or dispose of acceptable waste or unacceptable waste generated within the municipality without obtaining a license from the municipal officers, except that a person, firm or corporation that accumulates, collects, stores, transports or disposes of less than 1/4 ton (500 pounds) per month of its own waste shall not be required by this section to obtain such a license.  
[Amended 12-8-2008]
- B. Any person, firm or corporation required by this article to obtain a license shall make application to the municipal officers, providing the information required. Each application shall be accompanied by a nonrefundable one-time application fee of \$250.  
[Amended 12-8-2008]

- C. The application shall contain all information required by the municipal officers, including but not limited to a description of the activity(ies) engaged in, e.g., collection, transport or disposal of acceptable and/or unacceptable waste; types and amount of waste handled in each service area; a description of the facility(ies) operated and used; and an equipment inventory, including, for vehicles, a description of the make, model and year of each vehicle used for collection or transportation of solid waste. All information provided shall be revised annually upon application for license renewal. If the municipal officers determine the application is incomplete, they shall notify the applicant, in writing, of the specific information necessary to complete it. The municipal officers shall be informed immediately, in writing, of any changes in or additions to equipment, including vehicles.
- D. Licenses shall not be transferable. In the event of an emergency or vehicle breakdown, a licensee shall be issued a special license for a satisfactory replacement vehicle upon the furnishing of all information required for a licensed vehicle.
- E. All licenses shall expire one year from the date of issue unless otherwise stated on the license or revoked or suspended sooner in accordance with the provisions of this article.
- F. Annual renewal license fees shall be \$100, with an additional fee of \$50 for each vehicle licensed or \$50 for each applicant licensed for activities not involving the transport of solid waste. License fees shall be prorated based upon the number of months for which the license is issued. License fees shall not be refunded in the event that a license is suspended or revoked. **[Amended 12-8-2008]**
- G. In the event that the municipal officers deny a license application, they shall notify the applicant, in writing, and shall state the reasons for the denial. The applicant may request a public hearing in accordance with the procedures in § 115-18.

#### **§ 115-17. Suspension or revocation of license.**

Any license issued may be suspended or revoked by order of the municipal officers after benefit of a hearing in accordance with the procedures in § 115-18 for the following causes:

- A. Violation of this article.
- B. Violation of any provision of any state or local law, ordinance, code or regulation which relates directly to the provisions of this article.
- C. Violation of any license condition(s).
- D. Falsehoods, misrepresentations or omissions in the license application.

#### **§ 115-18. Hearing procedure.**

- A. Anyone denied a license or whose license is suspended or revoked pursuant to § 115-17 shall be entitled to a hearing before the municipal officers, if such request is made, in writing, within 30 days of the denial, suspension or revocation.

- B. Such hearings shall be held within 30 days after receipt of the written request for a hearing.
- C. The licensee or applicant shall be notified, in writing, as to the time and place of the hearing at least 10 days prior to the hearing date. The applicant or licensee has the right to be represented by counsel, to offer evidence and to cross-examine witnesses.
- D. A determination shall be made by the municipal officers within 10 days after the conclusion of the hearing, and notice of the decision shall be served upon the applicant or licensee by registered mail, return receipt requested.
- E. The municipal officers' final determination relative to the denial or suspension or revocation of a license and the period of suspension or revocation shall take effect as provided in the notice but no later than 10 days after the date notice of such final determination has been mailed by registered mail, return receipt requested, to the applicant and shall be conclusive. Notice of the final determination shall set forth the reasons for the denial, suspension or revocation and the effective dates thereof, together with a statement that such decision may be appealed as provided in this article.
- F. Any controversy or claim arising out of or relating to the municipal officers' determination shall be directly reviewable by the Superior Court pursuant to M.R. Civ. P., Rule 80B.

**§ 115-19. Enforcement.**

- A. All provisions of this article are enforceable by duly authorized police officers and the municipal officers.
- B. Any person who violates any provision of this article is subject to arrest and, if convicted, to punishment as provided in § 115-20.
- C. Whenever the municipal officers determine that there has been a violation by virtue of noncompliance, they shall give notice of such violation to the person(s) responsible by personal service or by registered mail, return receipt requested.
  - (1) The citation shall include a statement of reasons and shall allow reasonable time for performance of any act it requires.
  - (2) The citation may contain an outline of remedial action which, if taken, will effect compliance.
  - (3) The citation shall state that unless corrections are made within the allotted time, the violator is subject to prosecution and/or to license revocation or suspension pursuant to the provisions of this article.

**§ 115-20. Violations and penalties.**

- A. Criminal penalties. Any person who violates this article shall be guilty of a Class E crime for each violation.

**TOWN COUNCIL**

***Agenda Information Sheet***

<b>Meeting Date: January 26, 2010</b>	<b>Agenda Item NB 1C</b>
<b>Subject:</b> Solid Waste Hauler License for Jayco	
<b>Information:</b> Jayco's license expires January 31, 2010. They have requested renewal, completed the application (attached), and have remitted the proper fees.	
<b>Staff Comments/Recommendation:</b> Recommend approval.	
<b>Requested Action:</b> Motion to renew Jayco's Solid Waste Hauler License.	
<b>Vote:</b>	

Town of South Berwick  
Solid Waste Haulers License Application

Name of Hauler Jayco Disposal / Richard Baker  
Hauler's Address 277 Green Street  
Somersworth, NH 03878  
Email address: Jayco Disposal @ comcast.net  
Telephone 603-692-9700

Vehicle Information:

Plate #	Make	Model	Color	VIN Number	Vehicle Weight
<u>Jayco</u>	<u>ISUZU</u>	<u>Dump</u>	<u>White</u>	<u>JALB4B1481700</u>	<u>11,000</u> <u>2015</u>
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Prepared by (please print) Angel K. Baker  
Signature: Angel K. Baker