

SOUTH BERWICK TOWN COUNCIL
APRIL 27, 2010

The following was reported to the Clerk:

Chairman David Burke called the meeting to order at 5:30pm. 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.

EXECUTIVE SESSION

1. On a motion by Mr. Webster, seconded by Mr. MacPherson, it was unanimously voted to enter executive session at 5:30pm pursuant to 1MRSA §405.6E to consult with the Town Attorney regarding the Council's rights and duties with respect to the proposed Professional Employees Union.

On a motion by Mrs. Demetracopoulos, seconded by Mr. Webster, it was unanimously voted to end the executive session at 6:02pm.

2. On a motion by Mrs. Demetracopoulos, seconded by Mr. MacPherson, it was unanimously voted to enter executive session at 6:02pm pursuant to 1MRSA §405.6A to conduct board/committee interviews.

On a motion by Mr. MacPherson, seconded by Mrs. Demetracopoulos, it was unanimously voted to end the executive session at 6:30pm.

The meeting was recessed to accommodate a scheduled special town meeting.

The meeting reconvened at 6:46pm with the Clerk present.

APPROVAL OF MINUTES

1. Public Hearing (Budget) 4-13-10: On a motion by Mrs. Demetracopoulos, seconded by Mr. Webster, it was unanimously voted to adopt the minutes after amending them to reflect that Bruce Whitney is a former Planning Board member.

2. Town Council 4-13-10: On a motion by Mrs. Demetracopoulos, seconded by Mr. MacPherson, it was unanimously voted to adopt the minutes after amending them to reflect that Councilor Demetracopoulos' comments at the end of new business were in regard to bonding for the library.

SIGNING OF TREASURER'S WARRANT – April 27, 2010

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

PUBLIC COMMENT

1. Norma Tutelian, Butler St, asked if the Council had discussed the sale of tax acquired properties. Mr. Burke stated that they haven't discussed the issue for several months. Mr. Schempf stated that a list has been compiled, but not all properties on the list would be available for sale.

Mrs. Tutelian also asked if the Council had held any discussions in regard to goals. Mr. Burke stated that they have and are in process.

Mrs. Tutelian also asked for the status of the Day property. Mr. Burke stated that since the market analysis came in lower than expected they are not in a rush to sell the property.

2. Patricia Robinson, Chair Conservation Commission, thanked everyone involved in the roadside cleanup.

3. Michael Harvey, Dawson St, expressed his concerns with the pond next to the town garage. He stated that the increased water levels and the lack of drainage are creating flooded basement issues for many of the residents in the neighborhood. He asked that the Council look into the issue and consider pursuing a right-of-way so the pond can be drained. Mr. Harvey asked to be notified when any work is to be done to the pond.

4. Molly Colman, York Woods Rd, thanked the staff and Council for their continued efforts in regard to Comcast.
5. Bob Landry, Front St, added to Mr. Harvey's comments regarding the pond. He stated that something has to be done about the water.
6. Richard Anderson, Dawson St, stated that he has lost 1/3 of his backyard to the pond and he should be entitled to a tax abatement.
7. Al Whitaker, Brookwood Dr, asked for the status of the library vision committee. It was explained that the committee was never established. The Master Plan Vision Committee has yet to be formed and their first task would be the library. He also distributed a memo with questions he felt the Council should be considering. [Included in minute's book]
8. Richard Clough, Academy St, asked for the status of the Balancing Rock. *No change.*
Mr. Clough also asked what the Council's priorities were in light of eliminating the Planner position yet keeping 3 employees at the library. Mr. Burke stated that the two issues were never connected; it was just the numbers. Mrs. Demetracopoulos stated that planning will not be left without professional services and the library positions leverage volunteers to keep the library open.
9. David E. Webster, Tamarack Dr, questioned a number of items in the Recreation Committee's report including field irrigation and grooming the sledding hill. He cautioned that these activities will add to future ongoing expenses.
Mr. Webster asked how many hours the library was open. 36. He then asked how many hours the Town Hall was open. 27. He suggested that the Council consider what the Town is supposed to supply vs. what the Town can supply.
10. Eric Pelchat, Front St, asked about the suggested changes to the driveway at Powderhouse Hill. He also commented that the Teen Center was always promoted as having to be self supporting.
11. Pat Mitchem, Friends of the Library, encouraged everyone to attend the book sale on Saturday. She also stated that they will be having a paint drive for the artists to use for the temporary windows at the Young Street property. She also invited everyone to the informational meeting on May 19th.

REPORTS & CORRESPONDENCE

1. Bill Page, Recreation Committee Chair, gave a brief overview of the charge given to them by the Council. He added that it was understood that the capital improvement funds cannot be used for maintenance. He went on to state that recreation has no real home in South Berwick. Mrs. Demetracopoulos suggested a workshop. [Report included in minute's book]
2. Letter from Stephanie Dornsife regarding flood damages on Bennett Road. [Included in minute's book]

TOWN MANAGER'S REPORT

-Young Street property/Brownfields Grant: legal counsel has recommended that only the ownership of the church be transferred to the Friends of the Library. This would make the remaining additional parcel available for separate grants.

UNFINISHED BUSINESS

1. Library planning schedule: Richard Clough, Tamre Steinhauer, Karen Webster, Al Whitaker, David E. Webster, Molly Colman, Eric Pelchat, and Suzanne Roberge all expressed concerns with regard to the proposed special town meeting on June 15th to bond an additional \$1.1 million for the library. Rushing a special town meeting when turnout would be low, additional cost to taxpayers and the need for private fund raising were discussed.

- Mrs. Kareckas stated that a referendum vote would be better.
- Mr. MacPherson stated that he would go with the majority of the Council.
- Ms. Demetracopoulos "would rather see it done right and successfully". There needs to be an opportunity for public input. Not in favor of proposed schedule.
- Mr. Webster stated that he did not like the idea of a summer vote; September would be better.
- Mr. MacPherson stated that there is never a good time for a special referendum vote. He added that he was in favor of the special town meeting proposed for June 15th.
- Mr. Burke stated that he liked the proposed schedule. Stipulations can be placed on the bonding, i.e. if the bond is not matched by private donations the project would be a no go and the taxpayers will not be asked for more money. He added that he would like to move forward.

2. Town Meeting Warrant: Mrs. Kareckas made a motion to adopt the budget as presented and sign the warrant. Mr. Webster seconded the motion.

The majority of discussion concerned Articles 8 (Bond) and 15 (Town Mgr salary). Concerns were expressed that Article 8 did not include a cap on the interest rate or payment amount. Article 15 may need to be adjusted if the amendment to the Manager's contract is approved later in the meeting.

On a motion by Mrs. Demetracopoulos, seconded by Mrs. Kareckas, it was unanimously voted to amend Article 8 by including an interest rate cap not to exceed 5% and an annual payment not to exceed \$59,000. The amendment passed unanimously.

The original motion to adopt the 2011 budget and sign the warrant as amended passed unanimously.

NEW BUSINESS

1. On a motion by Mrs. Kareckas, seconded by Mr. Webster, it was unanimously voted to appoint Jennifer Houghton to the Community Development Committee with a term to expire June 30, 2012.

2. On a motion by Mrs. Kareckas, seconded by Mrs. Demetracopoulos, it was unanimously voted to appoint Terrence Parker to the Planning Board as an alternate member with a term to expire June 30, 2010.

3. The Council discussed the administrative work related to the Young Street property and the acquisition of the Brownfields Grant. Mrs. Demetracopoulos asked for an estimate of legal expenses. Mr. Schempf stated that an additional \$6,000, possibly as high as \$8,000, is expected.

On a motion by Mr. Webster, seconded by Mr. MacPherson, it was unanimously ordered: The Town Manager and Town Attorney are authorized to prepare documents and make arrangements for the transfer of ownership of the former St Michael's Church property to the Friends of the South Berwick Library for a limited period of time and for the purpose of expending grant funds to remove lead paint, asbestos and mold from the building and to split the property.

On a motion by Mr. MacPherson, seconded by Mrs. Kareckas it was unanimously voted to suspend the rules and take action on an item not on the agenda.

On a motion by Mrs. Demetracopoulos, seconded by Mr. MacPherson, it was unanimously voted to appropriate and expend \$8,000 from the Undesignated General Fund to cover the legal expenses.

4. On a motion by Mrs. Demetracopoulos, seconded by Mr. Webster, it was unanimously voted to accept Lori Medige's resignation from the Library Advisory Board.

5. The Council discussed the Conservation Commission's request to establish a special revenue account with income from the Town Forest tree harvest.

- Mrs. Demetracopoulos: In favor.
- Mrs. Kareckas: No need at this time.
- Mr. MacPherson: Does not support. It should be a budget item.
- Mr. Webster: Can't support.
- Mr. Burke: No.

No action was taken.

6. The Council briefly discussed the proposed amendment to the Manager's contract. On a motion by Mrs. Kareckas, seconded by Mr. Webster, it was unanimously voted to amend the Manager's contract as follows:

Section 6. Vacation and Sick Leave, paragraph A to read "The Manager shall accrue 30 days of paid vacation time per year".

Section 7. Annual Review, paragraph 2 add: "For the evaluation year ended February 2010, the Town Council and the Town Manager agree to waive the merit increase".

COUNCIL MEMBER COMMENTS

1. Mr. Webster stated that South Berwick was well represented at the Earth Day Expo by Energy Committee members John Rudolph and Jeff St. Pierre.
2. Mrs. Kareckas asked that the Manager explore options for the pond at the town garage.
3. Mrs. Demetracopoulos also expressed concern with the pond and asked if there were alternatives.
4. Mr. MacPherson made note that he will not be in the country from May 14th-23rd. He asked the Council to consider including a referendum vote to unencumber the \$35,000 set aside for the Great Works Regional Land Trust purchase of the Balancing Rock.
5. Mr. Burke expressed his thanks to Councilor Webster for his participation in the Community Chorus. He added that the group is a great service and draw for the community.

ADJOURNMENT

On a motion by Mrs. Demetracopoulos, seconded by Mr. MacPherson, it was unanimously voted to adjourn the meeting at 9:32pm.

Attest:

Barbara Bennett, CCM

TOWN COUNCIL
Agenda Information Sheet

Meeting Date: 5/11/2010	Item # UB 1
Agenda Item: Actions on Young Street Property	
Town Manager's Recommendation	
<p>Several items require your action in order to proceed with the remediation, transfer and bonding.</p> <ol style="list-style-type: none"> 1. The agreement with the Friends of the Library needs to be executed. This will not transfer the property, but will set the process in motion. 2. As per your agreement at the previous meeting, the work required to divide the parcel has been completed. Maps are attached. 3. A motion is requested to have staff prepare the Bond application in order to preserve our standing in line at the bond bank. 4. A motion is requested to affirm the proposed schedule for the property. 	
Requested Action	
<ol style="list-style-type: none"> 1. Motion to authorize the Town Manager to execute the agreement with the Friends of the Library outlining the terms of the conveyance for the purpose of the Brownfields Cleanup. 2. Motion to approve the division of the Young Street parcel as shown on the plan entitled "Plan Showing a Proposed Division of Land of the Municipality of South Berwick (formerly St. Michael's Roman Catholic Church)" by Civil Consultants, dated April 29, 2010, with the division to occur at the time of transfer of the church building to the Friends of the South Berwick Library. 3. Motion to authorize staff preparation of the Bond application for One Million Dollars in order to preserve a placeholder. 4. Motion to affirm the proposed schedule. 	
Vote	

AGREEMENT

This Agreement is made as of the 27th day of April 2010 by and between the Town of South Berwick, a Maine municipal corporation (“Town”), and the Friends of the South Berwick Library, a Maine not-for-profit corporation located in South Berwick, York County, Maine (“Friends”).

WHEREAS, Friends is a nonprofit corporation exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code and organized for the purposes of providing support and funding for a public library in the Town of South Berwick; and

WHEREAS, Friends wishes to assist the Town in creating a new public library in the building formerly used as St. Michael’s Church at 29 Young Street; and

WHEREAS, Friends is eligible to receive a grant pursuant to the federal “brownfields” grant program in order to abate mold, asbestos and lead paint problems in the church building (the “Cleanup Project”); and

WHEREAS, in order to receive the grant, Friends must hold title to the real estate during the term of the Cleanup Project; and

WHEREAS, the Town is willing to convey title to Friends for a limited period of time in order to accomplish Friends’ goal of making the building ready for conversion to a public library; and

WHEREAS, Friends does not have the staff, resources, experience or expertise to supervise and oversee the Cleanup Project; and

WHEREAS, the Town is willing to supervise and oversee the Cleanup Project on behalf of and as agent for Friends;

NOW, THEREFORE, in consideration of the mutual promises and covenants made herein, the parties agree as follows:

1. At a date to be determined by the Town prior to commencement of the Cleanup Project, the Town will convey to Friends the church building and land described on Exhibit A hereto (the “Church Parcel”), subject to the right of the Town to repurchase the Church Parcel from Friends upon completion of the Cleanup Project and subject to a reserved easement for utilities and stormwater drainage. Both the conveyance to Friends and the repurchase by the Town shall be for nominal consideration.
2. Upon acquisition of the Church Parcel, Friends will accept the \$200,000 cleanup subgrant from the Southern Maine Regional Planning Commission’s Brownfields Cleanup Revolving Loan Fund as approved by vote of the Southern Maine Regional Planning Commission Executive Committee on January 14, 2010 (the “Grant”) and utilize such funds for the Cleanup Project.

3. In anticipation of receipt of the Grant, Friends hereby appoints the Town, acting by and through its Town Manager or the Manager's designee, as Friends' agent for all purposes associated with the Grant, including, but not limited to, eligible cleanup activities under the Grant.
4. During its period of ownership, Friends will use the Church Parcel only for the purposes of completing the Cleanup Project in order to ready the building for eventual use as a public library. Acting as agent for Friends, the Town will engage a contractor for the Cleanup Project and will enter into and administer a contract with the abatement contractor. The Town will have access to the Church Parcel at all times the Cleanup Project is underway, for the purposes of supervising and inspecting the work and ensuring that the work is consistent with the Town's use of the building for a new public library.
5. Upon receipt of Grant funds, Friends will promptly pay those funds over to the Town, to be used by the Town for paying the abatement contractor and for any and all other programmatic expenses in connection with the Cleanup Project that are reimbursable under the Grant. To the extent the contract provides for progress payments to the contractor before Friends has received the Grant funds, the Town will make those payments on behalf of Friends.
6. During the entire time of ownership of the Church Parcel by Friends, the Town will maintain insurance on the property with the same coverages and policy limits as apply to town-owned buildings, and the Town will pay all costs of utilities, taxes and any necessary maintenance and repairs. The Town will remain obligated on bonds issued to fund the acquisition of the Church Parcel. It is the intention of the parties that Friends will incur no costs of any nature as a result of its ownership of the Church Parcel or receipt and expenditure of grant funds under this Agreement.
7. Without waiving any defenses or immunities available to the Town under the Maine Tort Claims Act or other applicable law, the Town will indemnify and hold harmless Friends, its officers, members, agents and employees from and against any and all claims, demands, damages, actions, causes of action, or suits at law or in equity, of whatsoever kind or nature, arising out of or in any way relating to this Agreement.
8. This Agreement contains the entire agreement between the parties hereto and may be modified only by a writing executed by both parties.
9. This Agreement will terminate upon the repurchase of the Church Parcel by the Town.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first written above.

WITNESS

TOWN OF SOUTH BERWICK

By: _____

John Schempf
Its Town Manager

WITNESS

Kathleen B Landers

FRIENDS OF THE SOUTH BERWICK
LIBRARY

By: Patricia S Mitchem

Its President
Patricia S. Mitchem

APPOINTMENT OF AGENT

The Friends of the South Berwick Library, a Maine not-for-profit corporation located in South Berwick, York County, Maine ("Friends"), hereby appoints the Town of South Berwick, acting by and through its Town Manager or the Manager's designee, to serve as its agent for all purposes in connection with the anticipated receipt by Friends of a \$200,000 cleanup subgrant from the Southern Maine Regional Planning Commission's Brownfields Cleanup Revolving Loan Fund as approved by vote of the Southern Maine Regional Planning Commission Executive Committee on January 14, 2010, including, but not limited to, undertaking eligible cleanup activities in furtherance of the grant, effective as of April 27, 2010.

WITNESS

FRIENDS OF THE SOUTH BERWICK
LIBRARY

Kathleen B Landers

By: Patricia S Mitchem

Its President

Patricia S. Mitchem

PARCEL DESCRIPTION
PROPOSED 12,880 SQUARE FOOT PARCEL
LAND OF THE MUNICIPALITY OF SOUTH BERWICK

A certain parcel or tract of land with the building thereon, located in the town of South Berwick, York County, Maine on the southeasterly side of Young Street, being a portion of the lands described in a deed from The Roman Catholic Bishop of Portland to the Municipality of South Berwick recorded in volume 15412, page 386 at the York County Registry of Deeds, being described more specifically as follows:

Beginning at the most northerly corner of the herein described parcel, marked by a set 5/8" diameter iron rebar in the southeasterly sideline of Young Street, and being also the northwesterly corner of land now or formerly of Carin E. Lee and William C. Rogers as described in a deed recorded at the York County Registry of Deeds in volume 7111, page 257;

thence S35°57'16"E, along said Lee and Rogers land, in close proximity to a chain link fence, 130.28 feet to a set 5/8" diameter iron rebar which occupies a position defined by Maine State Plane Coordinates (West Zone, NAD83): North=146914.026 feet, East=2781198.500 feet;

thence S49°37'05"W, along said Lee and Rogers land, in close proximity to a chain link fence, 9.09 feet to a set 5/8" diameter iron rebar;

thence S28°43'53"E, along said Lee and Rogers land, 54.31 feet to a set 5/8" diameter iron rebar;

thence S51°09'37"W, severing the land of the grantor, 64.54 feet to an unmarked corner;

thence N35°57'16"W, severing the land of the grantor, 91.86 feet to an unmarked corner;

thence N50°58'24"E, severing the land of the grantor, 13.40 feet to an unmarked corner;

thence N35°57'16"W, severing the land of the grantor, 91.94 feet to an unmarked corner in the southeasterly sideline of Young Street;

thence N50°58'24"E, along said Young Street, 67.07 feet to the point of beginning;

containing 12,880 square feet.

This description is based on a survey and plan by CIVIL CONSULTANTS, said plan being titled "PLAN SHOWING A PROPOSED DIVISION OF LAND OF THE MUNICIPALITY OF SOUTH BERWICK (FORMERLY ST. MICHAEL'S ROMAN CATHOLIC CHURCH) LOCATED AT 29 YOUNG STREET, SOUTH BERWICK, YORK COUNTY, MAINE", dated and revised April 29, 2010. Bearings and coordinate

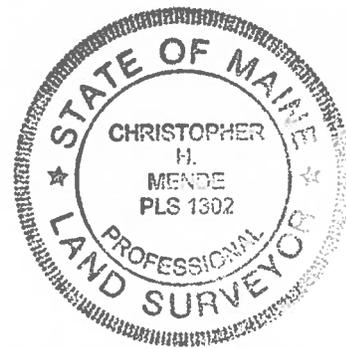


positions as contained herein are relative to the Maine State Plane Coordinate System, West Zone, NAD83.

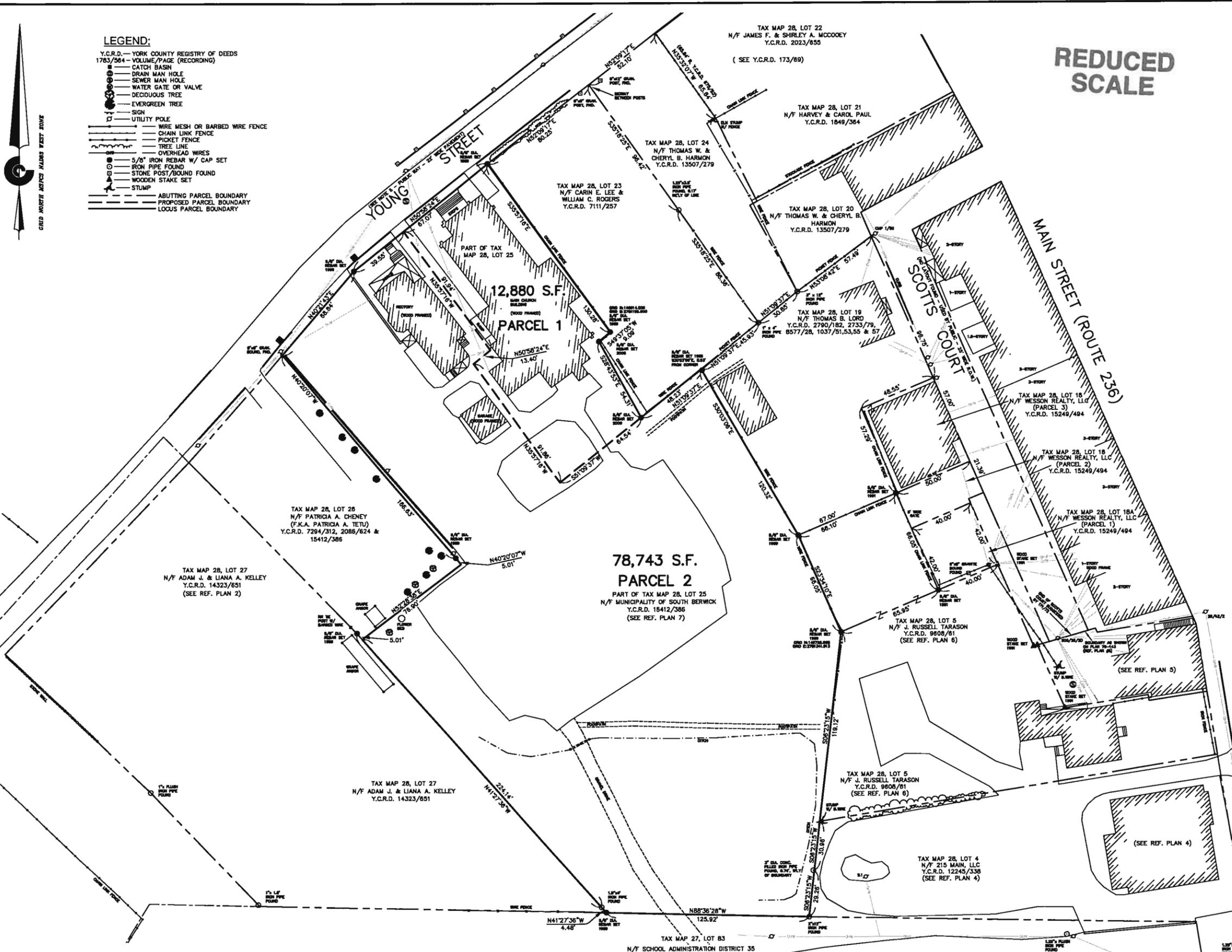
Note: The building on this parcel shares utilities, walks and driveways with parcel 2 as shown on the referenced plan. Easements may be required for common enjoyment of these appurtenances.

Prepared by Civil Consultants, PO Box 100, South Berwick, ME 03908, Christopher H. Mende, PLS (ME 1302), April 29, 2010

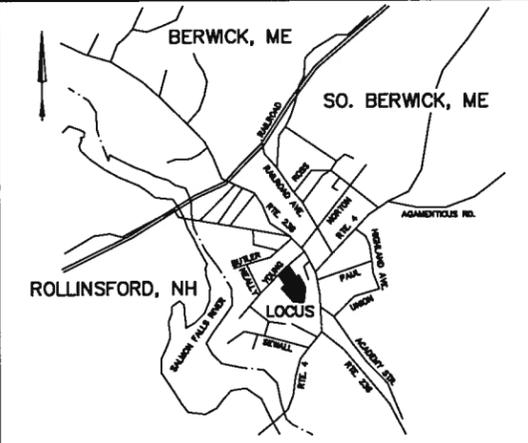
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- LEGEND:**
- Y.C.R.D. - YORK COUNTY REGISTRY OF DEEDS
 - 1783/564 - VOLUME/PAGE (RECORDING)
 - CATCH BASIN
 - DRAIN MAN HOLE
 - SEWER MAN HOLE
 - WATER GATE OR VALVE
 - DECIDUOUS TREE
 - EVERGREEN TREE
 - SIGN
 - UTILITY POLE
 - WIRE MESH OR BARBED WIRE FENCE
 - CHAIN LINK FENCE
 - PICKET FENCE
 - TREE LINE
 - OVERHEAD WIRES
 - 5/8" IRON REBAR W/ CAP SET
 - IRON PIPE FOUND
 - STONE POST/BOUND FOUND
 - WOODEN STAKE SET
 - STUMP
 - ABUTTING PARCEL BOUNDARY
 - PROPOSED PARCEL BOUNDARY
 - LOCUS PARCEL BOUNDARY



REDUCED SCALE



LOCATION PLAN
(NOT TO SCALE)

- NOTES:**
- 1) BEARINGS, DISTANCES AND COORDINATES AS SHOWN HEREON ARE GRID QUANTITIES BASED ON THE MAINE STATE PLANE COORDINATE SYSTEM, WEST ZONE, NAD83. TO CONVERT PLAN DISTANCES TO "GROUND DISTANCES", MULTIPLY BY A SCALE FACTOR OF 1.000000. COORDINATES WERE DERIVED FROM PRECISE G.P.S. MEASUREMENTS TO N.G.S. STATIONS (PID) DF215 ZEW, AJ1830 BARN & AF9487 BRU1 (NAD83 CORSEB EPOCH 2002.0000 USING THE NGS OPUS WEBSITE.
 - 2) THE ORIGINAL FIELD INVESTIGATION AND MEASUREMENTS FOR THIS SURVEY WERE PERFORMED BETWEEN MAY 30, 1989 AND AUGUST 2, 1989. ADDITIONAL WORK WAS PERFORMED BETWEEN AUGUST 3, 1990 AND MAY 20, 1991. THE PRESENT INVESTIGATION WAS CONDUCTED BETWEEN FEBRUARY 19, 2008 AND FEBRUARY 27, 2008 WITH 12 TO 24 INCHES OF SNOW COVER. CONDITIONS OBSERVED BY SNOW COVER MAY NOT BE REFLECTED HEREON. FIELD MEASUREMENTS WERE PERFORMED WITH A COMBINATION OF G.P.S. EQUIPMENT AND AN ELECTRONIC TOTAL STATION.
 - 3) NO WETLANDS MAPPING WAS PERFORMED AS A PART OF THIS SURVEY.
 - 4) BASED ON OUR EXAMINATION OF NATIONAL FLOOD INSURANCE PROGRAM - FLOOD INSURANCE RATE MAP 230157 0011 C, DATED JUNE 5, 1985, THE SURVEYED PREMISES ARE LOCATED WHOLLY WITHIN FLOOD ZONE C, AREAS OF MINIMAL FLOODING.
 - 5) YOUNG STREET IS A PUBLIC HIGHWAY, MAINTAINED BY THE TOWN OF SOUTH BERWICK, WITH A RIGHT-OF-WAY WIDTH OF 33-FEET. FOR RECORDS RELATING TO LAYOUT OF THE ROAD, SEE SELECTMENTS' RETURN IN SOUTH BERWICK CLERK'S RECORDS, PAGE 355, DATED APRIL 28, 1880. THE ROAD SIDELINE AS SHOWN WAS RETRACED BASED ON EXISTING CURB LINES, SIDEWALK LINES AND PROPERTY CORNER MONUMENTS. THE RECORD LAYOUT COULD NOT BE RELIABLY PLACED ON THE FACE OF THE EARTH.
 - 6) THE SUBJECT PARCEL IS LOCATED IN THE B1 - CENTRAL COMMERCIAL ZONING DISTRICT. PRESENT ZONING REQUIREMENTS ARE AS FOLLOWS:
 A) MINIMUM LOT SIZE: NONE
 B) MINIMUM ROAD FRONTAGE: NONE
 C) BUILDING SETBACKS FROM PROPERTY LINES:
 - FRONT: NONE
 - SIDE: NONE
 - REAR: NONE
 D) MAXIMUM BUILDING HEIGHT: 35 FEET
 E) MAXIMUM LOT COVERAGE: 100%
 SEE SOUTH BERWICK ZONING AND LAND USE ORDINANCES FOR COMPLETE INFORMATION.
 - 7) UTILITIES AS SHOWN ARE BASED ON STRUCTURES OBSERVED AT GROUND LEVEL. THE UTILITIES AS SHOWN MAY NOT REPRESENT ALL OF THE UTILITIES PRESENT ON THIS SITE. CONTRACTORS WILL CONTACT DIGSAFE TO VERIFY THE LOCATIONS OF BURIED UTILITIES. THIS SITE IS SERVED BY PUBLIC WATER, SANITARY SEWER, ELECTRIC AND COMMUNICATION SERVICES.
 - 8) NO WORK IN PROGRESS RELATING TO ROAD CONSTRUCTION OR ROAD LINE CHANGES WAS OBSERVED.
 - 9) THIS PLAN HAS BEEN PREPARED TO SHOW A PROPOSED DIVISION OF THE SUBJECT PROPERTY INTO TWO LOTS.
 - 10) THE BUILDINGS ON PARCELS 1 AND 2 SHARE UTILITY SERVICES.

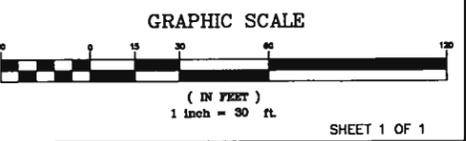
- REFERENCE PLANS:**
- 1) STANDARD BOUNDARY SURVEY, LAND OF ST. MICHAEL'S CHURCH, YOUNG STREET, SOUTH BERWICK, MAINE, BY CIVIL CONSULTANTS, DATED 1988, UNFINISHED PLAN FROM COMPANY FILES, (CIVCON PROJ. 88-228.01).
 - 2) PLAN OF LAND OF DELMAR G. WARREN, JR., YOUNG STREET, SOUTH BERWICK, MAINE, BY CIVIL CONSULTANTS, DATED MARCH 29, 1983, UNRECORDED, (CIVCON PROJ. 83-120.00).
 - 3) RESEARCH NOTES AND SKETCHES FROM CIVCON PROJ. 87-301.00.
 - 4) PLAN SHOWING PROPERTY OF THE FIRST NATIONAL BANK OF BIDDEFORD (DEED DATED MARCH 29, 1957 -1342/191), SOUTH BERWICK, MAINE, INCLUDING PROPERTIES OF BEATRICE F. HAM (1432/315) AND RENE J. BRITTON + RACHEL D. BRITTON (1418/428) AND CLIFFORD B. HAM + PHYRMA B. HAM (1595/301) TO BE CONVEYED TO THE FIRST NATIONAL BANK OF BIDDEFORD, BY MOULTON ENGINEERING CO., INC., DATED NOVEMBER 1964, DRAWN NOVEMBER 12, 1964, UNRECORDED.
 - 5) PLAN OF LAND OF GERARD AND DORIS R. DESROCHERS, MAIN STREET, SOUTH BERWICK, MAINE, BY CIVIL CONSULTANTS, DATED NOVEMBER 30, 1981, UNRECORDED, (CIVCON PROJ. 79-143).
 - 6) STANDARD BOUNDARY SURVEY OF LAND OF JOSEPHINE GAGNON, MAIN STREET, SOUTH BERWICK, MAINE, BY CIVIL CONSULTANTS, DATED APRIL 5, 1991, LAST REVISED APRIL 8, 1991, UNRECORDED, (CIVCON PROJ. 90-165.00).
 - 7) PLAN OF LAND OF THE ROMAN CATHOLIC BISHOP OF PORTLAND - ST. MICHAEL'S CHURCH - OUR LADY OF THE ANGELS PARISH, LOCATED AT 29 YOUNG STREET SOUTH BERWICK, YORK COUNTY, MAINE, BY CIVIL CONSULTANTS, DATED MARCH 3, 2008; REVISED MAY 7, 2008, RECORDED AT THE YORK COUNTY REGISTRY OF DEEDS IN PLAN BOOK 329, PAGE 34.

TAX MAP 28, LOT 25

STATE OF MAINE
YORK COUNTY ss. REGISTRY OF DEEDS
RECEIVED _____ 20
AT _____ h., _____ m., _____ A.M., AND RECORDED IN
PLAN BOOK _____, PAGE _____
ATTEST _____ REGISTER

CERTIFICATION
THIS SURVEY WAS PERFORMED UNDER MY DIRECT SUPERVISION IN ACCORDANCE WITH CHAPTER 90, PART 1 (PROFESSIONAL STANDARDS OF PRACTICE) AND PART 2 (TECHNICAL STANDARDS OF PRACTICE) OF THE MAINE BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS.
CHRISTOPHER H. MENDE, MAINE P.L.S. 1302 DATE _____

NO.	REVISIONS	INT.	DATE
2	TITLE, OWNER, LOT DIVISION	CHM	4/29/2010
2	BOUNDARY AGREEMENT REFLECTED	CHM	4/29/2010
1	365 SF BOUNDARY AGREEMENT	CHM	5/7/2008



DATE: APRIL 29, 2010
PROJECT NO.: 08-112.01
DRAWN BY: CHM
CHECKED BY: CHM
SCALE: 1" = 30'
NOTEBOOK: 239,288,252,398

CIVIL CONSULTANTS
Engineers
Planners
Surveyors
P.O. Box 100
South Berwick
Maine
03908
207-384-2550
chcon@civcon.com

PLAN SHOWING A PROPOSED DIVISION OF LAND OF THE MUNICIPALITY OF SOUTH BERWICK (FORMERLY ST. MICHAEL'S ROMAN CATHOLIC CHURCH) LOCATED AT 29 YOUNG STREET SOUTH BERWICK, YORK COUNTY, MAINE (MAILING ADDRESS: 180 MAIN STREET, SOUTH BERWICK, ME 03908)

■ HOME ■ PROGRAMS ■ APPLICATIONS ■ BORROWERS ■ INVESTORS ■ RELATED SITES ■

American Recovery & Reinvestment Act

Recovery Zone Economic Development Bonds (RZEDBs) are now available. The American Recovery and Reinvestment Act of 2009 (ARRA) created these bonds to provide municipalities within the State with access to direct federal payment bonds on qualified economic development projects. To apply for RZEDBs or any of the other ARRA bonds, please use the [General Resolution application and process](#). These bonds will follow the same spring and fall bond issue schedule, however we will be reviewing applications on a first come first serve basis.

Items to keep in mind while reviewing ARRA Bonds:

- Davis-Bacon wages need to be met when using RZEDBs & QECBS.
- During local authorization an additional 10% needs to be calculated to cover both the cost of the project (loan amount) and an additional 10% of the loan amount for a reasonably required reserve fund. This total dollar authorization amount of project cost plus 10% is true for RZED, QECB, and BABs.

Currently these funds are allocated by county and have limited funding levels. Please submit your application as soon as possible to ensure a timely approval.

For additional information about these bonds and other various ARRA opportunities, click on the link provided below or contact your local counties office. For more information about RZEDBs, contact [Toni Reed](#), the General Resolution Program Officer, at the MMBB at 1-800-821-1113.

[ARRA Provisions](#)

■ CONTACT US ■ NEWS & EVENTS ■ BOND COUNSEL ■ PRIVACY STATEMENT ■ SITE MAP ■

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Southern Maine Regional Planning Commission (SMRPC) is assisting the York County Commissioners to compile a project list in response to the Recovery Zone Economic Development Bond Program. This Program was created under the American Recovery & Reinvestment Act of 2009.

Recovery Zone Economic Development Bonds (RZEDBs) are available to help municipalities finance economic development in York County. Created by the American Recovery and Reinvestment Act of 2009, these bonds provide any municipality in the State financing infrastructure projects in support of economic development with access to reduced interest bond financing.

The funds must be used to promote development or other economic activity including: capital expenditures paid or incurred with respect to property located in the municipality; expenditures for public infrastructure and construction of public facilities; and expenditures for job training and educational programs. Refundings are not permitted, except if outstanding obligations are in the nature of bond anticipation notes. Some examples of possible uses of these funds include: public facilities such as fire stations, municipal buildings and public health and safety buildings, municipal water and sewer service expansions, municipal airports, etc.

The RZEDB Program will be run by the Maine Municipal Bond Bank and they will be using their existing bond process.

The end result of this bond program should save the borrowers several percentage points on funds that are borrowed. It should be noted that this is a bonding/loan program and not a grant program.

The York County Commissioners has the ability to allocate half of its' allocation (approximately \$6.9 million) to projects located within and identified by the county commissioners of the county to which such allocation was originally made, if so identified on or before July 1, 2010. The remaining one half of such allocations, together with any portion of an allocation initially subject to reallocation at the direction of the applicable county before July 1, 2010, but not so reallocated, may be reallocated by the Maine Municipal Bond Bank for any project in any county of the State. After July 1, 2010 all amounts not allocated by York County will be reallocated to the Maine Municipal Bond Bank. All bonds need to be secured by December 31, 2010 so any proposed project should be "ready to go".

 **If you know of any potential project in your community please respond to this email by April 9, 2010.** The information we need is the name of the municipality, type of infrastructure project, and the amount necessary to finance the project. SMRPC will compile a list of projects and submit them to the York County Commissioners. If you have any questions do not hesitate to call Chuck or Paul at 324-2952, 

John B. Schempf

From: Toni Reed [treed@mmbb.com]
Sent: Tuesday, April 06, 2010 12:15 PM
To: John B. Schempf
Subject: amort schedule

Hi John,

Annual payment on \$1,000,000 for 30 years at 3% would be \$51,019.26.

Please let me know if you need anything further. Thank you.

Toni Reed
Maine Municipal Bond Bank
Senior Program Loan Officer
127 Community Drive
P.O. Box 2268
Augusta, Maine 04338-2268
207-622-9386 ext. 213

*= .08 / 100
x 250

\$20*

Dim = 63,500

John B. Schempf

From: John B. Schempf
Sent: Friday, April 16, 2010 9:37 AM
To: 'Chuck Morgan'
Cc: 'Kathy Dumont'; Roberta Orsini
Subject: Recovery Zone Economic Development Bonds

Hi Chuck,

South Berwick submits the following marker requests for subject bond funds:

- (a) \$962,500 for several projects - \$133,000 as match for MDOT Route 4 upgrade; \$110,000 for upgrades to Town Hall; \$200,000 for new roof and siding for Young Street property; \$32,000 for Public Services' communication repeater construction; and \$400,000 for reconstruction of Emory's Bridge, Harvey and Witchtrot Roads (the \$87,500 additional is the required 10% extra for reserve fund). This bond has been included in the Town's proposed FY 10/11 budget and will be voted on at our scheduled June 1 Town Meeting.
- (b) \$1,100,000 for the Town Library project - \$1,000,000 as a match for the \$1,000,000 to be raised by Friends of the Library capital campaign (again, the additional \$100,000 represents the required 10% reserve fund). The Town Council is holding a Workshop next Wednesday, April 21, to develop a timeline for public informational meetings and a Special Town Meeting to vote on the bond.

For additional information, please do not hesitate to contact me.

Thanks,

John

Proposed Schedule
Library Project

Tuesday 5/11	Approve Agreement with Friends and division of the property. Review Recovery Bond Information and Direct Bond application process Review and Approve Schedule
Monday 5/17	Commence 30 day public comment period for information “Brownfields” activities
Wednesday 5/19, 6: 30 pm	Library Information Meeting with Architects and Bonding Advisors
Tuesday 5/25	Review Progress/Adjust Schedule
Thursday 5/27	Public Meeting on Brownfields Project
Tuesday 6/1	Town Meeting Display materials in place
Tuesday 6/8	Election Start bid process
Tuesday 6/15	Sign Municipal Election Warrant for Bond
Tuesday 7/6	Notice of Intent to Award Brownfields Contract
Monday 7/12	Start Perimeter Drain
Thursday 7/22	Award Brownfields Contract
Tuesday 7/27	Sign property transfer
Monday 8/2	Begin contract (inside first)
Tuesday 8/17	Roofing bid package
Tuesday 8/31	Bond Referendum Vote
Wednesday 9/15	End of Brownfields contracts Start roofing Evaluate siding
Friday 10/15	Complete drainage
Tuesday 10/26	Sign property transfer order
Monday 11/1	Transfer property back to Town
Wednesday 12/1	Complete siding

TOWN COUNCIL
Agenda Information Sheet

Meeting Date: May 11, 2010	Item # NB 1
Agenda Item: Meeting night changes for June	
Town Manager's Recommendation	
<p>Town Meeting will be held on Tuesday June 1st, Election is Tuesday June 8th. We request the following schedule change to accommodate two meetings.</p> <p>Change the meeting of June 8th to June 15th Change the meeting of June 22nd to June 29th</p>	
Requested Action	
<p>Motion to amend the meeting schedule for June to two regular Council meetings; one on June 15th and one on June 29th at both to begin at 6:30 pm unless otherwise posted.</p>	
Vote	

TOWN COUNCIL
Agenda Information Sheet

Meeting Date: May 11, 2010	Item # NB 2
Agenda Item: 25 Witchtrot Rd. [Clean up]	
Department Head Recommendation: Take action	
<p>This lot needs to be cleaned up of the old trailer on the lot. The owner has had plenty of time to do this (> two years). There have been letters sent to the property owner. Copies are attached here. The owner was aware of this condition when issued the occupancy permit and has not completed the cleanup as of the deadline for this agenda.</p>	
Town Manager's Recommendation	
<p>We have received numerous complaints about the health hazards and the volume of trash blowing around the neighborhood. This situation needs to be rectified.</p>	
Requested Action	
<p>Motion to take action on zoning violations at 25 Witchtrot Road.</p>	
Vote	



Town of South Berwick

180 MAIN STREET
SOUTH BERWICK, MAINE 03908-1535
TEL. 207-384-3300
FAX: 207-384-3303

April 26, 2010

Jon Chamblee
25 Witchtrot Road
South Berwick, ME 03908

Dear Jon,

Per our conversation on Thursday, April 22nd, you have until the next Council meeting on May 11, 2010 to have your lot cleaned up. If your lot is not cleaned up, it will be put on the Council Agenda for them to discuss their next course of action.

If you have any questions contact the Code Enforcement office at 384-3300.

Sincerely,

Joseph E. Rousselle
Code Enforcement Officer / LPI

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Jon & Kimberly Chamberlain
25 Wickett Rd
So. Berwick, ME 03908

2. Article Number
(Transfer from service)

7006 0810 0000 7212 2817

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
[Handwritten Signature] Addressee

B. Received by (Printed Name) C. Date of Delivery

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below No

JUL 30 2009

3. Service Type USPS
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes



Town of South Berwick

180 MAIN STREET
SOUTH BERWICK, MAINE 03908-1535
TEL. 207-384-3300
FAX: 207-384-3303

July 28, 2009

Jon and Kimberly Chamblee
25 Witchtrot Road
South Berwick, ME 03908

Dear Mr. and Mrs. Chamblee,

I have been informed that the South Berwick Fire Department is not going to burn the remains of the mobile home that is on your property. I am giving you 60 days to get rid of the rest of the debris and get the yard cleaned up. Our office is starting to receive many complaints from residents and passerby's. You've exhausted all your avenues and this has gone on long enough.

If you have any questions contact the Code Enforcement office at 384-3300.

Sincerely,

Joseph Rousselle
Code Enforcement Officer / LPI

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Jan & Kim Chamberlee
 25 Witchcroft Rd.
 South Berwick, ME
 03908

2. Article Number

(Transfer from service label)

7006 0810 0000 7212 2787

COMPLETE THIS SECTION ON DELIVERY

A. Signature

Kim Chamberlee

Agent

Addressee

B. Received by (Printed Name)

Kim Chamberlee

C. Date of Delivery

5/13/09

D. Is delivery address different from item 1? Yes

If YES, enter delivery address below: No

3. Service Type

Certified Mail

Express Mail

Registered

Return Receipt for Merchandise

Insured Mail

C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes



Town of South Berwick

180 MAIN STREET
SOUTH BERWICK, MAINE 03908-1535
TEL. 207-384-3300
FAX: 207-384-3303

May 11, 2009

Jon and Kimberly Chamblee
25 Witchtrot Road
South Berwick, ME 03908

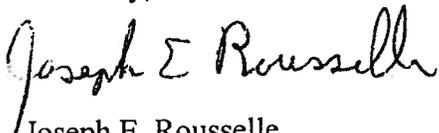
Dear Mr. and Mrs. Chamblee,

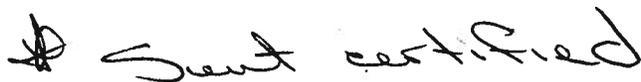
I am writing once again in reference to the mobile home that is still on your property. You have had ample time to remove this. Part of your building permit application was that the mobile home would need to be removed upon completion of the new home.

If the home is not removed by June 1, 2009 I will be presenting it to the Council. Also, you will be in violation of the Town's Zoning Ordinance and are subject to a fine of up to \$100 a day for every day you are in violation.

Please contact the Code Enforcement office as soon as possible at 384-3300.

Sincerely,


Joseph E. Rousselle
Code Enforcement Officer / LPI





Town of South Berwick

180 MAIN STREET
SOUTH BERWICK, MAINE 03908-1535
TEL. 207-384-3300
FAX: 207-384-3303

April 9, 2009

Jon and Kimberly Chamblee
25 Witchtrot Road
South Berwick, ME 03908

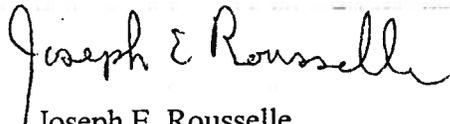
Dear Mr. and Mrs. Chamblee,

I am writing once again in reference to the mobile home that is still on your property. You have had ample time to remove this. Part of your building permit application was that the mobile home would need to be removed upon completion of the new home.

If the home is not removed by June 1, 2009 I will be presenting it to the Council. Also, you will be in violation of the Town's Zoning Ordinance and are subject to a fine of up to \$100 a day for every day you are in violation.

Please contact the Code Enforcement office as soon as possible at 384-3300.

Sincerely,


Joseph E. Rousselle
Code Enforcement Officer / LPI



Town of South Berwick

180 MAIN STREET
SOUTH BERWICK, MAINE 03908-1535
TEL. 207-384-3300
FAX: 207-384-3303

September 16, 2008

Jon Richard and Kimberly Chamblee
25 Witchtrot Road
South Berwick, ME 03908

Dear Mr. and Mrs. Chamblee,

Per our conversation on Friday, September 12, 2008, I am giving you until February 1, 2009 to have the mobile home removed from your property located at 25 Witchtrot Road.

If you have any questions please contact the Code Enforcement office at 384-3300.

Sincerely,

Joseph E. Rousselle
Code Enforcement Officer / LPI



Town of South Berwick

180 MAIN STREET
SOUTH BERWICK, MAINE 03908-1535
TEL. 207-384-3300
FAX: 207-384-3303

September 9, 2008

Jon and Kimberly Chamblee
25 Witchtrot Road
South Berwick, ME 03908

Dear Jon and Kimberly,

I am writing once again in reference to the mobile home that is still on your property. I sent a letter in May of 2007 and never received a response from you. If the Fire Department is not going to take care of the mobile home you need to let us know what your intentions are. This has gone on long enough and cannot continue.

You need to contact the Code Enforcement office immediately. You are in violation of the Town's ordinances. You could be fined up to \$100 a day for every day you are in violation.

Please contact the Code Enforcement office at 384-3300.

Sincerely,

Joseph E. Rousselle
Code Enforcement Officer / LPI

TOWN COUNCIL
Agenda Information Sheet

Meeting Date: May 11, 2010	Item # NB 3
Agenda Item: Professional Union	
Attorney's Recommendation	
Linda McGill has requested the Council authorize the Manager and legal counsel to proceed with a union unit hearing for the professional union. The estimated cost for the legal services for this hearing is between \$3,200-\$3,600.	
Requested Action	
Authorize the Town Manager and the Town Attorney to proceed with a union unit hearing due to the professional union petition.	
Vote	

TOWN COUNCIL
Agenda Information Sheet

Meeting Date: May 11, 2010	Item # NB 4
Agenda Item: Wentworth Fund	
Town Manager's Recommendation	
As requested, we have placed the Florence Wentworth Fund on the agenda for discussion.	
Requested Action	
Council wishes	
Vote	

Date: March 3, 2010
To: John
Council
From: Fern 
Re: Florence Wentworth Trust

The Florence Wentworth Trust was established in 1957 as a permanent trust in the amount of \$2,500. Income only was to be used for the benefit of the Fire Department.

It was not until January 1997 that these funds were reported separately on the Town's trial balance and all revenue and expenditures processed through the Town's operating account. At the time of this transfer, the balance of the account was approximately \$5,300.

The only expenditure since that date was in June 1999 for the trophy case in the front lobby at the Community Center – cost of approximately \$2,600.

In June 2004, the Town Council accepted Berwick Academy's \$25,000 offer to release the Town's contingent interest in future trust funds. These funds were added to the existing Wentworth Fund.

Although not specifically addressed, the inclusion of these funds with the original funds carried with it the stipulation of expenditure of income only. (If the intent was to spend any part of the \$25,000, the funds would have been deposited into the Fire Department CIP Reserve with no spending limits.)

The current balance of the Fund is approximately \$33,600. Based upon expending "income only", the available balance would be approximately \$6,100.

The funds are currently held in a CD at Kennebunk Savings Bank earning .75% with a maturity date of 11/28/10.

If consideration is being given to investing the Fund more aggressively, consideration must also be given to the audit classifications of investments based upon level of risk. Uninsured or uncollateralized deposits could result in an unfavorable audit notation.

outh Berwick, Maine, the sum of Five Hundred Dollars.

Thirteenth: I give and bequeath to the Trustees of the Ministerial Fund of the First Parish Church of said South Berwick, the sum of One Thousand Dollars in trust, to invest and keep the same as a permanent fund, to be designated as the "Charles H. Wentworth Fund," and to use the income therefrom for general expenses.

Fourteenth: I give and devise my homestead real estate, situated at 15 Sewall Road, in said South Berwick, unto the Trustee of Berwick Academy, an educational institution, located at said South Berwick, to have and to hold the same for the use and benefit of said Academy, forever; and in memory of my late husband to be known and designated as the "Charles H. Wentworth Memorial."

Fifteenth: I give and bequeath to the Town of South Berwick, Maine, the sum of Twenty-five Hundred Dollars in trust, to invest and keep the same as a permanent fund, to be designated as the "Charles H. Wentworth Fund," and to use the income therefrom for the benefit of the Fire Department of said South Berwick.

Sixteenth: All the rest, residue and remainder of my property and estate of which I may be seized or possessed at the time of my decease, whether the same be real, personal or mixed, and wherever and however the same may be found or situate, I give, devise and bequeath unto the Trustees of Berwick Academy, an educational institution, located at said South Berwick, in the State of Maine, to be designated as the "Charles H. Wentworth Fund," in trust, to be safely held, managed, invested, and reinvested, the income therefrom to be paid annually to Carolyn T. Stevens, my sister, during her lifetime, and upon and after the decease of said Carolyn T. Stevens, my said sister, the income therefrom to be used by said Trustees of Berwick Academy for the general purposes and purposes of

TOWN COUNCIL
Agenda Information Sheet

Meeting Date: May 11, 2010	Item # NB 5
Agenda Item: Discuss Balancing Rock	
Town Manager's Recommendation	
As requested at the previous Council Meeting, this item is added to the agenda for discussion.	
Requested Action	
Council Wishes	
Vote	

Roberta Orsini

From: Richard Flewelling [rflewelling@memun.org]
Sent: Tuesday, March 17, 2009 2:57 PM
To: Roberta Orsini
Subject: RE: Fund Balance (South Berwick)

Roberta,

It's not that there's a statute requiring a town meeting in this case. It's that under State law the town meeting is the municipal budgetary authority except to the extent a municipal charter has vested this authority in another body. I do not interpret your charter as doing so (at least for appropriations of \$10,000 or more), thus, I believe town meeting action would be needed to rescind an appropriation by a prior town meeting. This is why I don't think the Council on its own could undo this appropriation. Also, I know of no legal restrictions on how long funds may remain in a "standing" account.

Please let me know if you have anything further.

Best,
Richard P. Flewelling, Assistant Director
Legal Services Department
Maine Municipal Association
60 Community Drive, Augusta, ME 04330
1-800-452-8786 (in-state)
207-623-8428
FAX 207-624-0187
legal@memun.org

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From: Roberta Orsini [mailto:rorsini@sbmaine.us]
Sent: Tuesday, March 17, 2009 2:18 PM
To: Richard Flewelling
Subject: RE: Fund Balance (South Berwick)

Hi Richard,
Thank you for this information. To follow up: is there a State Statute requiring we hold a Town Meeting and if not, are there prohibitions against leaving the funds in a designated account. Also can the Council at a Council Meeting undo this Town Meeting action?
Thank you,
Roberta

From: Richard Flewelling [mailto:rflewelling@memun.org]
Sent: Tuesday, March 17, 2009 1:32 PM
To: Roberta Orsini
Subject: RE: Fund Balance (South Berwick)

Dear Roberta,

To summarize, on July 24, 2006 a Special Town Meeting voted to appropriate \$35,000 from the Undesignated General Fund Balance to the Great Works Regional Land Trust to purchase the "Balancing Rock" property. By letter dated March 23, 2007 town attorney Christopher Vaniotis advised the Council to delay disbursement of these funds until doubts about the Land Trust's title to the rock have been resolved. To date, the funds have not been disbursed. Now, a Councilor has asked how to

3/17/2009

undo this appropriation.

My advice would be to include an article in a future town meeting warrant to rescind the July 24, 2006 vote. This would be consistent not only with the fact that the appropriation was made by a town meeting in the first place but also with the spirit (if not the letter) of Article VII, Section 2 of the Town Charter ("When action by town meetings required").

I recommend a warrant article in substantially the following form: "To see if the Town will vote to rescind the action taken under Article 5 at the July 24, 2006 Special Town Meeting (appropriating \$35,000 from the Undesignated General Fund Balance to the Great Works Regional Land Trust to purchase the 'Balancing Rock' property)."

Incidentally, there is no legal time limit *per se* on "standing" appropriations such as this one.

I hope this advice is helpful. As always, please let me know if you have any further questions or comments.

Best regards,

Richard P. Flewelling, Assistant Director

Legal Services Department

Maine Municipal Association

60 Community Drive, Augusta, ME 04330

1-800-452-8786 (in-state)

207-623-8428

FAX 207-624-0187

legal@memun.org

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From: Roberta Orsini [mailto:rorsini@sbmaine.us]

Sent: Tuesday, March 17, 2009 11:42 AM

To: Legal Services Department

Subject: Fund Balance

Hi Mary,

I have been asked to forward these materials to you for review. In 2006 at a Special Town Meeting, a vote was taken to expend \$35,000 to the Great Works Regional Land Trust for the purchase of the property known as the "Balancing Rock" (please see article 5). I have also attached a written opinion on this purchase from C. Vaniotis. In keeping with this opinion, the Council has not expended the funds to the Land Trust until there is an agreement with the landowner or a court decision.

A current Town Councilor has asked how we might return these funds to the undesignated fund balance. Unless there is a State Statute regarding a time limit, the staff believes since these funds were appropriated at a Special Town Meeting, a warrant article should be added to our Annual Town Meeting to reverse the action taken on July 24, 2006.

Would you please have an attorney review these materials so we may offer a legal opinion to the Council on the best approach at this time. I expect there may be some healthy debate on this question. If at all possible, would the attorney please respond in writing to this email?

Thank you,
Roberta

Roberta Orsini
Assistant Town Manager
Town of South Berwick
207-384-3300 ext. 113
207-384-3303-fax

3/17/2009

TOWN COUNCIL

Agenda Information Sheet

Meeting Date: May 11, 2010	Agenda Item NB #6
Subject: 2010 Warrant for SAD #35 Budget Validation Referendum	
Information: Warrant attached	
Staff Comments/Recommendation:	
Requested Action: Motion to sign warrant.	
Vote:	

**WARRANT AND NOTICE OF ELECTION CALLING
SCHOOL ADMINISTRATIVE DISTRICT NO.35
BUDGET VALIDATION REFERENDUM
(20-A M.R.S.A. §1305-B and §§1352 - 1353)**

TO: Randy Stewart, a resident of Maine School Administrative District No. 35 composed of the Towns of Eliot and South Berwick, State of Maine.

In the name of the State of Maine, you are hereby ordered to serve upon the municipal clerks of each of the municipalities within the Maine School Administrative District No. 35, namely, the Towns of Eliot and South Berwick, an attested copy of this warrant and notice of election. Service shall be in hand within three (3) days of the date of this warrant and notice of election. The municipal clerks of the above municipalities shall immediately notify the respective municipal officers, who shall post the following warrant and notice of election:

**TOWN OF SOUTH BERWICK
DISTRICT BUDGET VALIDATION REFERENDUM
WARRANT AND NOTICE OF ELECTION**

York ss.

State of Maine

TO: Barbara Bennett, Town Clerk of South Berwick: you are hereby required in the name of the State of Maine to notify the voters of this municipality of the election described in this warrant and notice of election.

TO THE VOTERS OF THE TOWN OF SOUTH BERWICK:

You are hereby notified that a District budget validation referendum election will be held at the South Berwick Town Hall, 180 Main Street in the Town of South Berwick on Tuesday, June 8, 2010 for the purpose of determining the following referendum question:

Question 1: Shall the Maine School Administrative District No. 35 budget for the 2010 – 2011 school year that was adopted at the District Budget Meeting on June 2, 2010 be approved?

Question 2: Do you wish to continue the budget validation referendum process in Maine School Administrative District No. 35 for an additional three years?

A "Yes" vote will require Maine School Administrative District No. 35 to continue to conduct a referendum to validate its annual school budget for the next three years.

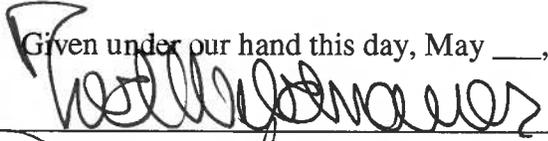
A "No" vote will discontinue the budget validation referendum for at least three years and provide instead that the annual school budget shall be finally adopted by the citizens at the District Budget Meeting.

The polls will be opened at 6:00 A.M. and closed at 8:00 P.M.

The Registrar of Voters shall hold office hours while the polls are open to correct any error in or change a name or address on the voting list; to accept the registration of any person eligible to vote and to accept new enrollments.

A person who is not registered as a voter may not vote in any election.

Given under our hand this day, May __, 2010 at South Berwick, Maine.













A majority of the Board of Directors of Maine School Administrative District No. 35

A true copy of the Warrant and Notice of Election, Attest: _____


Jeffrey Bearden, Resident
Maine School Administrative
District No. 35

Counter signed this _____ day of May 2010 at South Berwick, Maine

A majority of the municipal officers of the Town of South Berwick, Maine.

A true copy of the Warrant and Notice of Election, Attest: _____

Barbara Bennett
Town Clerk
Town of South Berwick