

South Berwick Town Council January 10, 2012

Chairman Gerald W. MacPherson, Sr. called the meeting to order at 6:30pm. Councilors present included, Jean Demetracopoulos, David H. Webster, and John C. Kareckas. Town Manager Perry Ellsworth was also in attendance. David Burke arrived at approximately 6:35pm.

Approval of Minutes

1. Special Council 12-20-11: On a motion by Mr. Webster, seconded by Mr. Kareckas, it was unanimously voted to adopt the minutes as written.
2. Council 12-27-11: On a motion by Mrs. Demetracopoulos, seconded by Mr. Kareckas, it was unanimously voted to adopt the minutes as written.

Treasurer's Warrant – Jan 10, 2012

On a motion by Mrs. Demetracopoulos, seconded by Mr. Kareckas, it was unanimously voted to sign the warrant in the amount of \$652,347.74.

Public Comment

No one in the public audience wished to speak.

Reports & Correspondence

Town Manager Ellsworth made note of a letter received from licensed forester Russ Hughes regarding the logging of a Town lot (Map 3 Lot 43A) adjacent to the Ramsdell lot (Map 3 Lot 63) he is logging. Mrs. Demetracopoulos commented that there are issues with the boundary lines and some of the lots in the area may not actually exist. Mr. Ellsworth commented that he would like to walk the property so that an agreement can be reached.

Town Manager's Report

-Working on a road review. The roads will be catalogued with the help of UNH students and software.

-Currently working on performance evaluations.

-2011/2012 Budget: Revenues (at 50.92%) and expenses (49%) are where they should be half way through the year. Department heads have been watching their budgets closely. Recycling is already at 104% for the year. Winter costs are down due to the lack of snow. Only the General Assistance account is in jeopardy.

-Met with Mike Lassel regarding the mapping of entry and egress from Tarason's property on Scott's Court.

-The audit has come back and is encouraging. The auditor still feels that the Town undesignated fund is underfunded at a balance of \$2,210,244.00. Recommended level based on expenditures should be between \$1.9 and \$2.8 million.

-Need to meet with Avesta housing to discuss potential plans for the remainder of the Young Street property. He received consensus to hold a workshop on Tuesday, January 17th at 6:30pm at the library.

-It is anticipated that a certificate of occupancy for the library will be issued on Friday, January 13th.

New Business

1. The Council discussed the library construction project:

-Construction phases 1 & 2 are complete.

-It is expected to move in mid February; with a fully operational date of March 1st.

-The Manager stated that he has a sequence of things he would still like to get done and asked the Council's permission to continue.

On a motion by Mr. Kareckas, seconded by Mrs. Demetracopoulos, it was unanimously voted to authorize the Town Manager to enter into a continuing contract with Ricci Construction and to expend funds as available from incoming donations (for phase III construction).

2. Mr. Ellsworth introduced Karen Eger, his recommendation for the new library director position. She is a South Berwick resident, has a wealth of library experience, and has been involved in moving a library in the past.

On a motion by Mr. Burke, seconded by Mr. Kareckas, it was unanimously voted to confirm the appointment of Karen McCarthy Eger as the new Library Director.

Council Member Comments

1. Mr. Burke:

- Apologized for being late to the meeting.
- Commended the Manager for keeping the library construction within budget.
- Commented that he is thrilled with the numbers for the audit, and how close he was with his predictions.

2. Mr. Webster:

- Expressed his pleasure that the winter budget has not taken a big hit, yet.
- Commended the Manager for his 1st year.

3. Mrs. Demetracopoulos:

- Pleased with the status of the library project.
- Pleased with the overall condition of the Town. She stated that she feels the ship has turned in the right direction.
- Recognized that departments have been careful with their budgets.

4. Mr. Kareckas:

- Commented that pledges aren't money in hand; and if there is a shortfall in fundraising for the library, it may be necessary to have a back-up plan.** He would hate to see us get close and not have enough funds to finish.

Adjournment

On a motion by Mr. Kareckas, seconded by Mrs. Demetracopoulos, it was unanimously voted to adjourn the meeting at 7:33pm.

Attested:

Barbara Bennett, CCM

TOWN OF SO. BERWICK
CHECK REGISTER

Check Number	Account	Date Paid	Amount
00029775	132275 MAINE REVENUE SERVICES	01/24/2012	19.93
00029776	180470 RICCI CONSTRUCTION INC	01/24/2012	633,270.70
00029777	132500 SECRETARY OF STATE M/V	01/24/2012	11,754.25
00029778	090151 UNITED STATES TREASURY	01/24/2012	162.91
00029779	189999 REFUNDS	01/24/2012	3.90
00029780	132500 SECRETARY OF STATE M/V	01/24/2012	8,353.81
00029781	189999 REFUNDS	01/24/2012	200.00
00029782	010285 ADMIRAL FIRE & SAFETY INC	01/24/2012	79.50
00029783	010336 AGGREGATE RECYCLING CORP	01/24/2012	2,202.71
00029784	010490 ALGONQUIN PRODUCTS CO	01/24/2012	94.63
00029785	011495 ATLANTIC RECYCLING EQUIP LLC	01/24/2012	270.88
00029786	021375 H T BERRY COMPANY INC	01/24/2012	104.44
00029787	022850 BUSINESS EQUIPMENT UNLIMITED	01/24/2012	237.00
00029788	021668 BLOW BROS	01/24/2012	55.95
00029789	022300 BOWS AND BALLOONS BY BRINA	01/24/2012	655.00
00029790	022503 SHARON BRASSARD	01/24/2012	23.18
00029791	022732 CHRISTOPHER BURBANK	01/24/2012	85.00
00029792	022734 D.M.BURNS SECURITY INC	01/24/2012	582.00
00029793	030530 CENTRAL TIRE CO INC	01/24/2012	474.00
00029794	030500 CENTRAL MAINE POWER/CREDIT,COLL	01/24/2012	133.21
00029795	030510 CENTRAL MAINE POWER	01/24/2012	3,813.31
00029796	030920 CLEAN-O-RAMA	01/24/2012	58.24
00029797	031355 TERRIE COLLINS	01/24/2012	100.00
00029798	031430 COMCAST	01/24/2012	102.00
00029799	031997 NANCY CROWLEY	01/24/2012	50.00
00029800	032030 CUMMINS NORTHEAST INC	01/24/2012	155.00
00029801	040515 DIGITAL DOLPHIN SUPPLIES	01/24/2012	211.97
00029802	041305 G MITCHELL DUGAN	01/24/2012	150.00
00029804	032002 EARTHLINK BUSINESS	01/24/2012	1,128.52
00029805	141000 FAIR POINT COMM	01/24/2012	137.98
00029806	060260 FASTENAL COMPANY	01/24/2012	61.32
00029807	061500 FOSTER'S DAILY DEMOCRAT	01/24/2012	141.95
00029808	010525 G&K SERVICES	01/24/2012	965.09
00029809	070200 P GAGNON & SON INC	01/24/2012	6,486.22
00029810	070210 GALL'S INC	01/24/2012	50.95
00029811	070270 GAYLORD BROTHERS	01/24/2012	22.82
00029812	071500 GUNSTOCK GROUP SALES	01/24/2012	1,192.00
00029813	191330 HANNAFORD'S	01/24/2012	84.50
00029814	080248 HANSCOM'S TRUCK STOP INC	01/24/2012	14,573.04
00029815	080575 HETL CHEM/FORENSNIC	01/24/2012	240.00
00029816	080998 HOME DEPOT	01/24/2012	13.64
00029817	081305 HSE GOULD	01/24/2012	99.90
00029818	089010 INDUSTRIAL BURNER SERVICES INC	01/24/2012	262.25
00029819	090120 INLAND FISHERIES & WILDLIFE	01/24/2012	385.25
00029820	090375 INTERNATIONAL SALT	01/24/2012	3,399.85
00029821	100150 JANETOS MARKET	01/24/2012	79.79
00029822	141367 KONE INC	01/24/2012	192.05
00029823	140500 LABORATORY CORP/AMERICA HOLDIN	01/24/2012	120.90
00029824	120510 LAWSON PRODUCTS INC.	01/24/2012	1.90
00029825	120950 LHS ASSOCIATES INC	01/24/2012	176.00
00029826	133375 MAINE ENERGY RECOVERY CO.	01/24/2012	3,932.90
00029827	133195 MAINE TURNPIKE AUTHORITY	01/24/2012	11.10
00029828	133358 W.B.MASON	01/24/2012	169.95
00029829	133795 MICK BODYWORKS	01/24/2012	150.52
00029830	133818 MILLENNIUM ROADS LLC	01/24/2012	1,726.08
00029831	134200 MAINE MUNICIPAL ASSO (INS)	01/24/2012	30,788.80

Check Number	Account	Date Paid	Amount
00029832	134300 MAINE MUNICIPAL EMPLOYEES	01/24/2012	189.12
00029833	134400 MAINE MUNICIPAL ASSOCIATION	01/24/2012	5,705.00
00029834	134450 MMTCTA	01/24/2012	100.00
00029835	134601 EXXON/MOBIL	01/24/2012	533.75
00029836	140105 NAPA OF SOMERSWORTH	01/24/2012	1,022.12
00029837	140803 NEW ENGLAND BARRICADE CO	01/24/2012	228.00
00029838	141080 NEXTEL	01/24/2012	19.02
00029839	141370 NORTHEAST HYDRAULICS INC	01/24/2012	132.03
00029840	141400 NORTHERN DATA SYSTEMS INC	01/24/2012	140.00
00029841	160692 POLAND SPRING	01/24/2012	107.39
00029842	170000 QUILL CORPORATION	01/24/2012	217.49
00029843	180125 RANSOM ENVIRONMENTAL INC	01/24/2012	127.50
00029844	180185 RCP LLC	01/24/2012	775.00
00029845	180900 ROBBINS AUTO PARTS INC	01/24/2012	12.57
00029846	191900 SO BERWICK EMERGENCY RESCUE	01/24/2012	6,353.48
00029847	192900 SO BERWICK WATER DISTRICT	01/24/2012	77,980.80
00029848	193619 SPRING HILL	01/24/2012	540.00
00029849	193622 SPRINGER ELECTRICAL SERV INC	01/24/2012	505.38
00029850	193640 STAPLES	01/24/2012	26.99
00029851	200660 THOMSON WEST	01/24/2012	584.50
00029852	200875 TMDE CALIBRATION LAB INC	01/24/2012	365.00
00029853	133113 TREASURER OF STATE/ATV	01/24/2012	765.00
00029854	210070 ULTRAMAX	01/24/2012	592.00
00029855	210783 VALLEY NAT'L GASES - AG&T	01/24/2012	48.83
00029856	211500 VERIZON WIRELESS	01/24/2012	597.42
00029857	230300 WALMART COMMUNITY BRC	01/24/2012	29.61
Total Not Prepaid			173,931.29
Total Prepaid			653,765.50
Grand Total			827,696.79

WARRANT NUMBER \$ 827,696.79 DATE 01/19/2012
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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

Meeting Date: January 24, 2012	Agenda Item NB # 1
Subject: Relish liquor license	
Information:	
Relish's current liquor license expires Feb 26th.	
Staff Comments/Recommendation:	
Chief Lajoie has reported that there have been no issues.	
Requested Action:	
Motion to approve the renewal of Relish's liquor license.	
Vote:	

Department of Public Safety
Liquor Licensing & Inspection
Division



BUREAU USE ONLY

License No. Assigned:

Class:

Deposit Date:

Amt. Deposited:

Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded. To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.

PRESENT LICENSE EXPIRES 2/26/12

INDICATE TYPE OF PRIVILEGE: MALT SPIRITUOUS VINOUS

INDICATE TYPE OF LICENSE:

- RESTAURANT (Class I,II,III,IV) RESTAURANT/LOUNGE (Class XI)
 HOTEL-OPTINONAL FOOD (Class I-A) HOTEL (Class I,II,III,IV)
 CLASS A LOUNGE (Class X) CLUB-ON PREMISE CATERING (Class I)
 CLUB (Class V) GOLF CLUB (Class I,II,III,IV)
 TAVERN (Class IV) OTHER: _____

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

1. APPLICANT(S) - (Sole Proprietor, Corporation, Limited Liability Co., etc.) DOB:	2. Business Name (D/B/A) <u>Relish</u>
<u>Big Night Predictions Inc</u> DOB:	
Address DOB:	Location (Street Address) <u>404 Main St</u>
<u>404 Main St</u>	City/Town State Zip Code <u>5 Benwick Me 03908</u>
City/Town State Zip Code <u>5 Benwick Me 03908</u>	Mailing Address <u>404 Main St</u>
Telephone Number Fax Number <u>207 384 8249 same</u>	City/Town State Zip Code <u>5 Benwick Me 03908</u>
Federal I.D. # <u>020 498902</u>	Business Telephone Number Fax Number <u>207 384 8249 same</u>
	Seller Certificate # <u>1094739</u>

3. If premises is a hotel, indicate number of rooms available for transient guests: _____
4. State amount of gross income from period of last license: ROOMS \$ 0 FOOD \$ _____ LIQUOR \$ _____
5. Is applicant a corporation, limited liability company or limited partnership? YES NO
- If YES, complete Supplementary Questionnaire
6. Do you permit dancing or entertainment on the licensed premises? YES NO
7. If manager is to be employed, give name: Linda Robinson
8. If business is NEW or under new ownership, indicate starting date: _____
- Requested inspection date: _____ Business hours: Tues sat 430-9
9. Business records are located at: 404 Main St 5 Benwick Me
10. Is/are applicants(s) citizens of the United States? YES NO
11. Is/are applicant(s) residents of the State of Maine? YES NO

12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married:
Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth
Christine Prunier		Andover AFB MD
Linda Robinson		MT

Residence address on all of the above for previous 5 years (Limit answer to city & state)

S Berwick Me

13. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES NO

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

14. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued?
Yes No If Yes, give name: _____

15. Has/have applicant(s) formerly held a Maine liquor license? YES NO

16. Does/do applicant(s) own the premises? Yes No If No give name and address of owner:
Christine Prunier 404 Main St S Berwick Me 02908

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required)
18 seat bistro 2 rooms for dining, full bar

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?
YES NO Applied for: _____

19. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 1000 Which of the above is nearest? Church

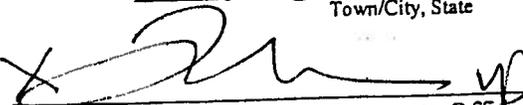
20. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES NO

If YES, give details: _____

The Division of Liquor Licensing & Inspection is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: X S Berwick Me on 12/29, 20 11
Town/City, State Date

X 
Signature of Applicant or Corporate Officer(s)

X Linda Robinson LP
Print Name

Please sign in blue ink

X _____
Signature of Applicant or Corporate Officer(s)

X _____
Print Name

MAINE DEPT OF PUBLIC SAFETY

STATE OF MAINE
Liquor Licensing & Inspection Division
164 State House Station
Augusta ME 04333-0164
Tel: (207) 624-7220 Fax: (207) 287-3424



SUPPLEMENTARY QUESTIONNAIRE FOR CORPORATE APPLICANTS, LIMITED LIABILITY COMPANIES, AND LIMITED PARTNERSHIPS

- Exact Corporate Name: Big Night Productions Inc
Business D/B/A Name: Belish
- Date of Incorporation: 3/26/98
- State in which you are incorporated: MA
- If not a Maine Corporation, date corporation was authorized to transact business within the State of Maine: 2/26/03
- List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percent of stock owned:

Name	<i>Print Clearly</i> Address Previous 5 years	Birth Date	% of Stock	Title
Linda Robinson	404 Main St S Berwick Me	0	vp
Christine Dunier	404 Main St S Berwick Me	100	pres

- What is the amount of authorized stock? 100 shares Outstanding Stock? 0
- Is any principal officer of the corporation a law enforcement official? Yes No
- Has applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of the United States? Yes No
- If YES, please complete the following: Name: _____
Date of Conviction: _____ Offense: _____
Location: _____ Disposition: _____
Dated at: _____ On: _____
City/Town Date

X [Signature]
Signature of Duly Authorized Officer
X Linda Robinson vp
Print Name of Duly Authorized Officer

X 12/29/11
Date

STATE OF MAINE

Dated at: _____, Maine _____ ss
City/Town (County)

On: _____
Date

The undersigned being: _____ Municipal Officers _____ County Commissioners of the
_____ City _____ Town _____ Plantation _____ Unincorporated Place of: _____, Maine

Hereby certify that we have given public notice on this application and held public hearing thereon as required by Section 653 Title 28A, Maine Revised Statutes and herby approve said application.

THIS APPROVAL EXPIRES IN 60 DAYS

NOTICE - SPECIAL ATTENTION

§ 653. Hearings; bureau review; appeal

1. **Hearing.** The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, shall hold a public hearing for the consideration of applications for new on-premise licenses and applications for transfer of location of existing on-premise licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.

- A. The bureau shall prepare and supply application forms. [1993, c.730, §27(amd).]
- B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located. [1995, c.140, §4 (amd).]
- C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premise license, for transfer of the location of an existing on-premise license or for renewal of an on-premise license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph. This paragraph applies to an existing on-premise license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premise license that has been extended pending renewal with 120 days of the filing of the application. [1999, c.589, §1 (amd).]

2. **Findings.** In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:

- A. Conviction of the applicant of any Class A, Class B or Class C crime: [1987, c.45, Pt.A§4 (new).]
- B. Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control; [1987, c.45, Pt.A§4(new).]
- C. Conditions of record such as waste disposal violations, health or safety violation or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner; [1993, c.730, §27 (amd).]
- D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises; [1989, c.592, §3 (amd).]
- E. A violation of any provision of this Title; and [1989, c.592, §3 (amd).]
- F. A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601. [1989, c.592, §4 (new).]

[1993, c.730, §27 (amd).]

3. **Appeal to bureau.** Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2.

A. [1993, c.730, §27 (rp).]

4. No license to person who moved to obtain a license. (REPEALED)

5. (TEXT EFFECTIVE 3/15/01) **Appeal to District Court.** Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt of the written decision of the bureau.

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

TOWN COUNCIL

Agenda Information Sheet

Meeting Date: January 24, 2012	Agenda Item NB 2
Subject: Spring Hill liquor license & special amusement permit	
Information:	
Spring Hill's current liquor license and special amusement permit expires Feb 1st.	
Staff Comments/Recommendation:	
The Chief has been consulted and there are no issues to report.	
Requested Action:	
Motion to approve the renewal of Spring Hill's liquor license & special amusement permit.	
Vote:	

**Department of Public Safety
Division**

Liquor Licensing & Inspection



Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded. To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.

<u>BUREAU USE ONLY</u>	
License No. Assigned:	
Class:	
Deposit Date:	
Amt. Deposited:	

PRESENT LICENSE EXPIRES 2/1/12

INDICATE TYPE OF PRIVILEGE: MALT SPIRITUOUS VINOUS

INDICATE TYPE OF LICENSE:

<input checked="" type="checkbox"/> RESTAURANT (Class I,II,III,IV)	<input type="checkbox"/> RESTAURANT/LOUNGE (Class XI)
<input type="checkbox"/> HOTEL-OPTIONAL FOOD (Class I-A)	<input type="checkbox"/> HOTEL (Class I,II,III,IV)
<input type="checkbox"/> CLASS A LOUNGE (Class X)	<input type="checkbox"/> CLUB-ON PREMISE CATERING (Class I)
<input type="checkbox"/> CLUB (Class V)	<input type="checkbox"/> GOLF CLUB (Class I,II,III,IV)
<input type="checkbox"/> TAVERN (Class IV)	<input type="checkbox"/> OTHER: _____

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

1. APPLICANT(S) - (Sole Proprietor, Corporation, Limited Liability Co., etc.) <u>Spring Hill Incorporated</u> DOB: _____	2. Business Name (D/B/A) <u>Spring Hill Restaurant & Banquet Hall</u>
DOB: _____	Location (Street Address) <u>117 Pond Rd</u>
DOB: _____	City/Town State Zip Code <u>So. Berwick Me 03908</u>
Address <u>117 Pond Rd</u>	Mailing Address <u>117 Pond Rd</u>
City/Town State Zip Code <u>So. Berwick Me 03908</u>	City/Town State Zip Code <u>So. Berwick Me 03908</u>
Telephone Number Fax Number <u>207-384-2693 207-384-8399</u>	Business Telephone Number Fax Number <u>207-384-2693 207-384-8399</u>
Federal I.D. # <u>20-0622559</u>	Seller Certificate # <u>1080464</u>

- 3. If premises are a hotel, indicate number of rooms available for transient guests: 0
- 4. State amount of gross income from period of last license: ROOMS \$ _____ FOOD \$ 441,622.28 LIQUOR \$ 131,541.30
- 5. Is applicant a corporation, limited liability company or limited partnership? YES NO

complete Supplementary Questionnaire, If YES

- 6. Do you permit dancing or entertainment on the licensed premises? YES NO
- 7. If manager is to be employed, give name: _____
- 8. If business is NEW or under new ownership, indicate starting date: _____
Requested inspection date: _____ Business hours: _____
- 9. Business records are located at: 117 Pond Rd So. Berwick, Me 03908
- 10. Is/are applicants(s) citizens of the United States? YES NO

11. Is/are applicant(s) residents of the State of Maine? YES NO

12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married: Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth
Rosalie G. Scharf (Goodwin)		Dover, NH

Residence address on all of the above for previous 5 years (Limit answer to city & state)

South Berwick, Maine

13. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES NO

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

14. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued? Yes No If Yes, give name: _____

15. Has/have applicant(s) formerly held a Maine liquor license? YES NO

16. Does/do applicant(s) own the premises? Yes No If No give name and address of owner: _____

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required) One story building w/ restaurant two function rooms and attached decks - Summer Only an area under a 30x30 tent

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services? YES NO Applied for: _____ *utilized by corporate OUTING*

19. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? ± 3 miles Which of the above is nearest? All in same downtown area

20. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES NO

If YES, give details: mortgage held by Kevinbank Savings

The Division of Liquor Licensing & Inspection is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: South Berwick, Maine on January 12, 2012
Town/City, State Date

Rosalie G. Scharf
Signature of Applicant or Corporate Officer(s)

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

NOTICE – SPECIAL ATTENTION

All applications for NEW or RENEWAL liquor licenses must contact their Municipal Officials or the County Commissioners in unincorporated places for approval of their application for liquor licenses prior to submitting them to the bureau.

THIS APPROVAL EXPIRES IN 60 DAYS.

FEE SCHEDULE

Class I	Spirituos, Vinous and Malt	\$ 900.00
	CLASS I: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB.	
Class I-A	Spirituos, Vinous and Malt, Optional Food (Hotels Only)	\$1,100.00
	CLASS I-A: Hotels only that do not serve three meals a day.	
Class II	Spirituos Only	\$ 550.00
	CLASS II: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; and Vessels.	
Class III	Vinous Only	\$ 220.00
	CLASS III: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	
Class IV	Malt Liquor Only	\$ 220.00
	CLASS IV: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.	
Class V	Spirituos, Vinous and Malt (Clubs without Catering, Bed & Breakfasts)	\$ 495.00
	CLASS V: Clubs without catering privileges.	
Class X	Spirituos, Vinous and Malt – Class A Lounge	\$2,200.00
	CLASS X: Class A Lounge	
Class XI	Spirituos, Vinous and Malt – Restaurant Lounge	\$1,500.00
	CLASS XI: Restaurant/Lounge; and OTB.	
FILING FEE		\$ 10.00

UNORGANIZED TERRITORIES \$10.00 filing fee shall be paid directly to County Treasurer. All applicants in unorganized territories shall submit along with their application evidence of payment to the County Treasurer.

All fees must accompany application, made payable to: **TREASURER, STATE OF MAINE. – DEPARTMENT OF PUBLIC SAFETY, LIQUOR LICENSING AND INSPECTION DIVISION, 164 STATE HOUSE STATION, AUGUSTA ME 04333-0164.** Payments by check subject to penalty provided by Sec. 3, Title 28A, MRS.

STATE OF MAINE
Liquor Licensing & Inspection Unit
 164 State House Station
 Augusta, Maine 04333-0164
 Tel: (207) 624-7220 Fax: (207) 287-3424

SUPPLEMENTARY QUESTIONNAIRE FOR CORPORATE APPLICANTS, LIMITED LIABILITY COMPANIES AND LIMITED PARTNERSHIPS

1. Exact Corporate Name: Spring Hill Incorporated
 Business D/B/A Name: Spring Hill Restaurant & Banquet Hall
2. Date of Incorporation: January 21, 2004
3. State in which you are incorporated: Maine
4. If not a Maine Corporation, date corporation was authorized to transact business within the State of Maine:

5. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list percent of stock owned:

Name	Address Previous 5 Years	Birth Date	% of Stock	Title
Rosalie G. Scharf	117 Pond Rd. So. Berwick, Me.	11	100%	OWNER

6. What is the amount of authorized stock? 10,000 Outstanding Stock? 5,000
7. Is any principal officer of the corporation a law enforcement official? () YES () NO
8. Has applicant(s) or manager ever been convicted of any violation of the law, other than a minor traffic violation(s), of the United States? () YES () NO.
9. If yes, please complete the following: Name: _____

Date of Conviction: _____ Offense: _____

Location: _____ Disposition: _____

Dated at: South Berwick, Maine On: January 12, 2012
City/Town Date

Rosalie G. Scharf Date: January 12, 2012
 Signature of Duly Authorized Officer

Rosalie G. Scharf
 Print Name of Duly Authorized Officer

STATE OF MAINE

Dated at: South Berwick, Maine York ss
City/Town (County)
On: January 24, 2012
Date

The undersigned being: X Municipal Officers County Commissioners of the
City X Town Plantation Unincorporated Place of: South Berwick, Maine

Hereby certify that we have given public notice on this application and held public hearing thereon as required by Section 653 Title 28A, Maine Revised Statutes and hereby approve said application.

THIS APPROVAL EXPIRES IN 60 DAYS

NOTICE - SPECIAL ATTENTION

§ 653. Hearings; bureau review; appeal

- 1. Hearing. The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, shall hold a public hearing for the consideration of applications for new on-premise licenses and applications for transfer of location of existing on-premise licenses.
A. The bureau shall prepare and supply application forms. [1993, c.730, §27(amd).]
B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located. [1995, c.140, §4 (amd).]
C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premise license, for transfer of the location of an existing on-premise license or for renewal of an on-premise license within 60 days of the filing of an application, the application is deemed approved and ready for action by the bureau.
2. Findings. In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:
A. Conviction of the applicant of any Class A, Class B or Class c crime: [1987, c45, Pt.A§4 (new).]
B. Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control; [1987, c.45, Pt.A§4(new).]
C. Conditions of record such as waste disposal violations, health or safety violation or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner; [1993, c.730, §27 (amd).]
D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises; [1989, c.592,§3 (amd).]
E. A violation of any provision of this Title; and [1989, c.592, §3 (amd).]
F. A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601. [1989, c.592, §4 (new).]

[1993, c730, §27 (amd).]

3. Appeal to bureau. Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2.

A. [1993, c.730, §27 (rp).]

4. No license to person who moved to obtain a license. (REPEALED)

5. (TEXT EFFECTIVE 3/15/01) Appeal to District Court. Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

TOWN COUNCIL
Agenda Information Sheet

Meeting Date: January 24, 2012	Item # NB 3
Agenda Item: ROW on Emery's Bridge Road	
Town Manager's Recommendation	
Review correspondence from Barry and Julie Person.	
Requested Action	
Council wishes	
Vote	

Barry A. and Julie L. Person
535 Emery's Bridge Road
South Berwick, Maine 03908
207-676-4014
treefarm52@yahoo.com

January 16, 2012

To: Manager Perry Ellsworth
David Burke, Town Council Chair
Gerald W. MacPherson, Sr., Town Council Vice-Chair
Jean Demetracopoulos
John Kareckas
David Webster

This letter is to request that the Town Council consider relinquishing the easement that was created in 1979 along the discontinued section of Emery's Bridge Road. We believe that the purpose for the easement as originally stated is no longer valid and we would like to obtain full ownership of the old road bed that runs through our property.

When the Town of South Berwick straightened a section of Emery's Bridge Road, the town discontinued the S-curve portion of the road and reserved a public easement "for the purposes of fire, safety and recreational use" (Book 2587, Page 247). It was written in the Certificate of Discontinuance (October 24, 1979) that "the Town Council determined there were no damages due any abutter as the result of discontinuance." The property was owned by the Klaus's who lived in upstate New York so they were not in attendance at the town meeting. The straightening of the road stripped over 400 feet of frontage from the Klaus's. The land sandwiched between the new road and old road remained in the ownership of Sandy Agrafiotis and Murray Rudnick, leaving the 52-acre Klaus parcel with less than 100 feet of frontage.

We have faced several complications that resulted from the 1979 discontinuance and have taken significant steps to rectify some problems.

- When Barry moved to this house in 1991, the old road was not passable. Trees had been growing for 12 years and quite a lot of items were being "stored" along the road bed: bricks, a truck cap, a cement mixer, lumber, and other building materials. To the best of our knowledge, all of the maintenance for at least the past 21 years has been completed by Barry, not the Town of South Berwick.

- The Town of South Berwick built the driveway in 1979 through that strip of land owned by Agrafiotis/Rudnick, but never established a legal right-of-way! In 1997, when re-financing the home, we had to pay the legal fees to have this rectified.

- In 2007, we decided to pay the cost of creating a land swap with our neighbors (Rackliff) along the West side of the driveway. This swap resulted in approximately 125 feet of frontage.

- In 2010, Sandy Agrafiotis deeded us the small triangle-shaped piece of land that bordered the East side of our driveway and then along the old road back to Emery's Bridge Road. Again, more legal fees but we felt we were able to "get back" the section of frontage that was taken from this property back in 1979.

After taking these measures - and assuming the financial/legal costs associated with them --we now own approximately 560 feet of road frontage, running from the boundary with the Rackliff's to the boundary with the MacLeod's. By acquiring full ownership of the strip of land that was the old Emery's Bridge Road, we will eliminate one more complication that has been associated with this property.

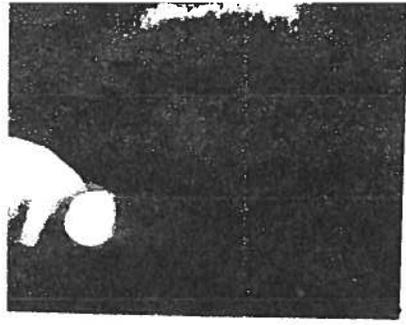
It has been 33 years since the discontinuance and 21 years since Barry has been maintaining the accessibility of this road. Our driveway provides adequate road access for fire and safety vehicles and we are now the only abutters along this old road. If there are legal fees with this process we would certainly pay those fees. We respectfully ask that you consider relinquishing the easement rights.

Thank you for your time and consideration.

Respectfully,

Barry Person

Julie Person



Sgt. DuBois huddles in the warmth of a rescue workers to an awaiting cruiser. (Democrat Photo - DuBois)

...ar geant two weeks ago. "All I could see was my own kid in that water." DuBois recalled. "It's a hopeless and helpless situation. You know if you can get him, you can save him. I couldn't have been more than 2 feet from the back of his head. You wish you were a second earlier or a foot closer. It's so damn frustrating."

Search

...water, he removed his boots and jacket and entered the water. DuBois said he came to within 2 feet of reaching the youth, who appeared to be unconscious.

A curious motorist who stopped on the highway to see what had happened called for assistance minutes later after seeing the trooper lying in his drenched uniform on a small island.

A hospital spokesman said last night DuBois was being treated for immersion. She said his temperature was far below normal and he wrapped in a blanket and given warm drinks. The trooper was later released and is resting.

As the search continued today, Fish and Game Dept. divers were on standby in the early morning. Searchers continued to comb the shores of the river and a 15-foot fire department rowboat swept over the river bottom.

...because he could no longer work with the deputy chief. He testified the charges Lemieux brought against him at the commission hearing last year were false:

The former Rochester probationary officer also testified that he complained to the chief about Lemieux's actions and that Hussey said he couldn't do anything.

"You mean to tell me that the chief of police said there was nothing he could do?" Mullaney asked. "His hands were tied," Roberg said.

Mullaney argued that a number of the statements officers were making were only hearsay, especially when it came to making comments about situations involving third parties.

The commissioners continued the hearing to 7 p.m. Friday in the Rochester District Court room, the sitting Tuesday night's hearing.

Police Commission chairman E. J. Flanagan said both sides had at least 18 or 20 more witnesses to call before the hearing is concluded.

He also said the commissioners won't make judgments about the deputy chief's conduct until they have heard from every witness.

Vandalism probed

SOMERSWORTH

...section of the ballots to town clerk Jane McPherson yesterday.

Residents Robert Fisher, Joanne Ferriter and Kenneth Thompson brought the petition in at 4:40 p.m. Tuesday.

Emery's Bridge Road is So. Berwick topic

SOUTH BERWICK — The town's three-year plan to reconstruct and pave approximately 1 mile of Emery's Bridge Road was discussed with several residents at a special council meeting last night.

Town Manager Rudy Naples, who serves as the town's road commissioner, explained that the 1979 phase will deal with reconstruction of the roadbed and elimination of a sharp "S" curve on the unpaved road. The work, to begin this summer, will extend over approximately one-fourth mile of the road, from the Murray Rodnick residence to the Clayton Boston residence. The entire 1-mile length will be paved some three years from now, he said.

Several abutters of that portion of the road were present. The Rev. Roger Charbonneau called the plan "an answer to our prayers."

Other residents expressed concern that the town's plan for a 50-foot right of way would result in unnecessary cutting of trees, and destruction of the road's "aesthetic features."

Naples explained that when the trees are cut, "sunshine will replace salt in keeping the roads ice-free in winter." He said most of the problems with icy spots on rural roads occur in heavily shaded areas "where salt doesn't work anyway."

The residents also were concerned that "Big Rock," a local landmark, would be blasted away during the reconstruction. Naples said that although the project wouldn't extend as far as "Big Rock" this year, he hoped the road can be engineered around the rock, even if it means moving a nearby intersection east of the area.

Another resident, Ed Smith, was concerned that the 50-foot right of way would adversely affect his farm pond and a 300-year-old oak tree in his front yard. Smith pointed out that the cemetery across the street is at the edge of the present roadbed.

Naples reassured Smith that the 24-foot travel width of the road would probably be narrowed at that point. He pointed out that because the town is doing the work without state aid there is some latitude in reducing the optimum width necessary.

Naples said, "Another reason we decided not to go with state assistance is because their standards are so much higher than the town's that we can do it cheaper by ourselves than we could by funding our share of a state-aid road." He cited the Witchtrot Road as an example, saying that it would have cost the town \$100,000 to complete the road with state aid, but that the town had instead spent \$30,000 of its own funds. The finished Emery's Bridge Road will have a similar appearance.

Abutter Terry Bright was concerned that the town would leave

...Fisher's election, she will notify Fisher in writing of the inspection time.

The inspection, which must be held within five days of receipt of the petition, will be in the town clerk's office.

piles of ledge, as had been done on Ogunquit Road. Naples said the town was trying to "get rid of the ledge on Ogunquit Road." He said there is enough ledge "there to fill 100 ten-wheelers." He added that the Emery's Bridge project would not require nearly as much blasting as the Ogunquit Road had.

Chairman Roland Chase asked the residents if they were opposed to the reconstruction project. The consensus appeared to be that they favored the project but expressed some reservations about appearance and speed limits.

Vandals damage house

SOMERSWORTH — Vandals caused more than \$1,000 damage last weekend to a house on Buf-fumsville Road, police said.

According to Police Chief James Tinker Jr., several radiators and a connecting pipe to a furnace were damaged at the Conrad Breton residence.

The damage was discovered yesterday by an employee of Fortier Oil Co. who was making an oil delivery, Tinker said.

Tinker said that the deliveryman became suspicious when the tank took an abnormal amount of oil. Upon examination, he found the cellar was flooded with oil.

Police said that several radiators in the house were found to be damaged, and water had leaked throughout the house.

North Berwick officials tour P&W plant

NORTH BERWICK — Several local residents are in East Hartford, Conn., today inspecting Pratt & Whitney operations.

Twenty-two officials — selectmen, planning board members, the fire chief, the police chief, and representatives of the conservation commission, the historical society, the sanitary district and the parks and recreation committee are attending the day-long tour, designed to inform localities of the company's activities.

The group will meet with William Berhart, vice president of manufacturing services; Paul Wilhide, vice president of personnel and industrial relations; and North Berwick plant manager Robert P. Azinger.

After touring the East Hartford facility, the group will take a 25-minute ride to the company's North Haven plant where airfoils are manufactured.

By PATRICIA WELLS

NEW YORK (NYT) — markets are worried. Fac consumer hostility brought relentlessly rising food many of them are experit with ways to appease and their customers. The n- proaches include streamline design and unusual techniq providing more services, rai ficiency and offering a fr ambance.

Grand Union took a bold s hired Milton Glaser, a wel New York designer and a develop a new supermarket cept for its Wyckoff, N.J. That Grand Union, which op mid-January, is graphically classy, clean and compu with an emphasis on servi personal attention. It makes vious attempt to satisfy th per, put him back on a fir basis with the butcher, the grocer, the store manager.

The aim is to evoke a fresh, good" feeling, explain Vaillancourt, a spokesman Grand Union chain, the r eighth largest.

Glaser's design encompasses entire store, from a simpler sleek red shopping cart match the red, wood and scheme. To create an atm of "generosity" as well as neess and cleanliness, (flooded the space with l block and oversized graphi coined the slogan "Ask M Here to Help."

Soon a computer will be in at the meat counter, so cus can punch in the cut of m sired and the number of pe be served. The computer w: duce a figure for the quan meat needed, along with th price.

The store also provides a (butcher (shoppers can call h fore leaving home, so the o ready when they arrive), and free coffee and doughnuts; cheese and sausage samples deli counter. It is also o



Bring

By MICHAEL KNIGHT

BOSTON (NYT) — The I sum of Fine Arts will ope: branch at the bustling Fan Hall Marketplace on Bosto waterfront this spring in w the museum believes to be i first move by a major art stitution into a business de

Money facts

WON ITS FAVOR... BUY ITS FLAVOR!

LEGAL NOTICE

THE TOWN COUNCIL OF SOUTH BERWICK WILL HOLD A PUBLIC HEARING ON OCTOBER 24, 1979 AT 7:15 P.M. IN THE MUNICIPAL OFFICE BUILDING FOR THE PURPOSE OF DISCUSSING DISCONTINUING THE ROAD DESCRIBED BELOW:

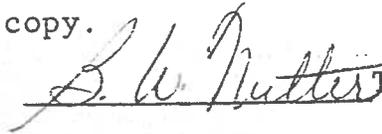
A PORTION OF THE EMERYS BRIDGE ROAD (a/k/a AGAMENTICUS ROAD) IN THE AREA OF THE RUDNICK AND KLAUS RESIDENCES. REPLACED BY A NEW ROAD IN 1979.

SOUTH BERWICK TOWN COUNCIL


Beatrice W. Nutter, Town Clerk

September 26, 1979

A true copy.

Attest:  Town Clerk

C E R T I F I C A T E
O F
D I S C O N T I N U A N C E
O F
T O W N R O A D

I, Rudolph Naples, Town Manager of the Town of South Berwick, County of York, State of Maine, after being duly sworn under oath, hereby certify:

1. That on September 24, 1979 I filed an order of discontinuance with the municipal clerk relative to the discontinuance of a portion of Emerys Bridge Road, said order specifying the location of the way, names of abutting property owners and amount of damages pursuant to 23 M.R.S.A. 3026 (Public Laws, 1976, Ch. 711).

2. That I caused a copy of said action to be delivered to each abutter (See Appendix A) and the South Berwick Planning Board by certified mail, return receipt requested.

3. That a public hearing was held by the South Berwick Town Council at 7:15 P.M. in the Municipal Building in South Berwick on Tuesday, October 24, 1979.

4. That evidence was presented that this portion of Emerys Bridge Road is no longer necessary for public conveyance due to construction in 1979 of a new replacement road.

5. That no abutter appeared and offered testimony for or against discontinuance.

6. That, after the hearing, the Town Council voted on October 24, 1979 to discontinue the following portion of Emerys Bridge Road as more particularly described below:

A portion of Emerys Bridge Road (a/k/a Agamenticus Road) commencing at the property now or formerly of Murray and Sandra Rudnick (York County Registry of Deeds Book 1843, Page 86) approximately 0.8 mile northeasterly of the intersection of Emerys Bridge Road with Rodier and Bennett Lot Roads, and running approximately 0.2 mile in length to the intersection of the end of the new portion of Emerys Bridge Road built in 1979. This road is located on South Berwick Tax Map #10.

Said discontinuance is subject to the RESERVATION by the Town of South Berwick of a PUBLIC EASEMENT in the above portion of road for the purposes of fire, safety and recreational use.

7. That the Town Council determined there were no damages due any abutter as the result of discontinuance.

Dated: October 30, 1979

Rudolph Naples

Rudolph Naples
South Berwick Town Manager

STATE OF MAINE
York, ss

Then personally appeared Rudolph Naples in his capacity as Town Manager of the Town of South Berwick and acknowledged the above to be true to the best of his knowledge and belief.

Before me,

Beatrice W. Nutter

Notary public
MY COMMISSION EXPIRES
NOVEMBER 27, 1981
NOTTEC

ATTESTATION

I, Beatrice W. Nutter, hereby certify the above to be a true and complete copy.

Beatrice W. Nutter

Town Clerk

10-29



South Berwick Municipal Offices

PO BOX 236
 SOUTH BERWICK, MAINE 03908-0236
 TEL 207-384-2263

September 20, 1988

Clarence H. Klaus
 Apt. 385 Box 255 Shinpike
 Clinton Corner, NY 12514

Dear Mr. Klaus:

Enclosed please find some information regarding Discontinuance of Town Ways with respect to our telephone conversation of last week.

If I can be of any further assistance, feel free to contact me at the above address.

Sincerely,

John T. Fogarty
 Code Enforcement Officer

Note 1

§ 3026. Discontinuance of town ways

A municipality may terminate in whole or in part any interests held by it for highway purposes. A municipality may discontinue a town way or public easement after the municipal officers have given best practicable notice to all abutting property owners and the municipal planning board or office and have filed an order of discontinuance with the municipal clerk that specifies the location of the way, the names of abutting property owners and the amount of damages, if any, determined by the municipal officers to be paid to each abutter.

Upon approval of the discontinuance order by the legislative body, and unless otherwise stated in the order, a public easement shall, in the case of town ways, be retained and all remaining interests of the municipality shall pass to the abutting property owners to the center of the way. For purposes of this section, the words "public easement" shall include, without limitation, an easement for public utility facilities necessary to provide service.

1975, c. 711, § 8; 1977, c. 301, § 1.

Historical Note

The 1977 amendment added the second sentence of the second paragraph.

Derivation:

R.S.1954, c. 96, § 33.
Laws 1965, c. 270, § 1.

Laws 1973, c. 456.
Laws 1973, c. 625, § 133-A.
Former § 3004 of this title.

Cross References

Municipal officers defined, see title 30, § 1901.
Termination of right-of-way by adverse obstruction, see title 14, § 313.
Town meeting and warrants therefor, see title 30, § 2051 et seq.

Library References

Highways ⇐ 79(1).
Municipal Corporations ⇐ 657.

C.J.S. Highways §§ 130 to 135.
C.J.S. Municipal Corporations § 1665.

Notes of Decisions

In general 1	Town meetings 7
Acceptance of discontinuance 4	Use of discontinued way 6
Compensation 8	Validity of discontinuance 3
Discretion of municipal officers 2	
Hearing 10	
Jurisdiction 11	I. In general
Petition 9	Provisions of repealed § 3004 of
Right of access 5	this title that town, at meeting called

by warrant containing article for purpose, may discontinue a town way does not apply to discontinuance of town ways as part of approved urban renewal plans. *Lewiston Urban Renewal Authority v. City of Lewiston* (1976) Me., 349 A.2d 763.

R.S.1930, c. 27, § 19 was utterly inconsistent with any contention that a private way laid out under the provisions of R.S.1930, c. 27, § 16 was not a public easement. *Browne v. Connor* (1941) 138 Me. 63, 21 A.2d 709.

Ways created by express grant in deed are not subject to the provisions of R.S., c. 18, § 17, but only such ways as are authorized to be laid out, altered or widened by town under provisions of R.S., c. 18, § 14. *Tibbetts v. Penley* (1890) 83 Me. 118, 21 A. 838.

R.S., c. 18, § 17 related only to such ways as town may lay out, alter or widen under R.S., c. 18, § 14, and not to those created by express grant in deed. *Id.*

The inhabitants of a town were authorized by St.1821, c. 113, § 9, to discontinue a town way at a meeting legally called for that purpose: no previous action of the selectmen being requisite to make such discontinuance effectual. *State v. Brewer* (1858) 45 Me. 606. See, also, *Latham v. Wilton* (1843) 23 Me. 125.

Town way, which had its origin and continuance by virtue of legal location, may be discontinued, although used for more than 20 years. *Larry v. Lunt* (1853) 37 Me. 69. See, also, *Bigelow v. Hillman* (1854) 37 Me. 52.

Under R.S.1841, c. 25, § 33, the commissioners were authorized to discontinue town and private ways when person was aggrieved by the refusal of a town to discontinue them. *Atlantic & St. Lawrence R. R. v. Cumberland County Comms.* (1848) 28 Me. 112. See, also, *Lisbon v. Merrill* (1835) 12 Me. (3 Fairf.) 210.

2. Discretion of municipal officers
Municipal officers exercised their discretion when they and Urban Re-

newal Authority entered into agreement, which included closing of town way, and, after signing, there remained no discretionary authority left to municipal officers; thus it would have been idle ceremony to require them by mandatory injunction to go through procedural steps of repealed § 3004 of this title for discontinuance of town way and it would merely be adjudicated that the city had caused the portion of street described in urban renewal plan to be vacated and discontinued as town way. *Lewiston Urban Renewal Authority v. City of Lewiston* (1976) Me., 349 A.2d 763.

3. Validity of discontinuance

A discontinuance of a public way by the city government of Augusta was legal, notwithstanding there was no determination as to damages, and no previous action taken upon that subject. *Hicks v. Ward* (1879) 69 Me. 436.

4. Acceptance of discontinuance

Portion of street was effectively terminated as town way when, after hearing, urban renewal plan including portion of street was accepted and city, which entered into agreement to vacate and discontinue the street, could not thereafter deny validity of its agreement. *Lewiston Urban Renewal Authority v. City of Lewiston* (1976) Me., 349 A.2d 763.

5. Right of access

Right of access to public way is property right in nature of easement. *Jordan v. Town of Canton* (1970) Me., 365 A.2d 96.

Cases involving loss of access to public way depend on practical and factual consequences of governmental action rather than legal status of highway. *Id.*

Right of "access" means not only right of ingress and egress as between owner's property and public way but also access to general road system to which his property is connected by street or road. *Id.*

Note 6

6. Use of discontinued way

Use by defendant of discontinued town way which had crossed plaintiff's farm gave rise to a cause of action of trespass. *Larry v. Lunt* (1853) 37 Me. 69.

7. Town meetings

An unrestricted vote to discontinue a town way takes effect from its passage, though the meeting at which it is passed may be adjourned to a subsequent day. *Bigelow v. Hillman* (1854) 37 Me. 52.

Whether it would be competent for a town to reconsider unrestricted vote to discontinue town way, at an adjourned meeting after rights of 3rd parties had intervened, *quaere*. *Id.*

8. Compensation

Repealed § 2068 of this title, which permitted governmental entity to avoid expense of maintaining and keeping certain designated roads open for travel and free from dangerous defects without terminating public easement therein and without compensating abutting owners, was unconstitutional. *Jordan v. Town of Canton* (1970) Me., 265 A.2d 96.

When all reasonable access to public way has been destroyed, property right has been "taken" within meaning of constitutional prohibition against taking private property for public uses without just compensation. *Id.*

Discontinuance of right-of-way may destroy abutting owners' property rights for which payment must be made. *Id.*

9. Petition

A petition to the county commissioners to revise the doings of a town, upon an alleged unreasonable refusal to discontinue a townway,

should be presented by one having an interest in the subject matter and in some way connected with the doings before the town, either in procuring the action of the town or being present and voting with the minority. *Brown v. Sagadahoc County Comms.* (1878) 68 Me. 537.

Neither the petition nor the proceedings thereon showed that the petitioners were interested or in any way parties to the proceedings hence it was error to rule that the county commissioners had jurisdiction. *Id.*

10. Hearing

Hearing on proposed urban renewal plan requiring portion of town way to be closed and subsequent approval of plan constituted adequate substitute for procedure required by repealed § 3004 of this title for discontinuance of town ways. *Lewiston Urban Renewal authority v. City of Lewiston* (1976) Me., 349 A.2d 783.

11. Jurisdiction

When the owner of land over which a town way has been laid out by the selectmen and accepted by the town presents a petition to the county commissioners praying for the discontinuance of such way, and the county commissioners, after hearing, affirm the location of such way, and the petitioner appeals to the Supreme Judicial Court, and that court appoints a committee and such committee, after hearing, reports that the judgment of the county commissioners "be wholly affirmed and in no part reversed," the question of jurisdiction of the county commissioners, and any other questions affecting the legality of their proceedings may be raised when the report of the committee is offered for acceptance. *Conant's Appeal* (1907) 102 Me. 477, 67 A. 564.

§ 3027. Vacation of proposed town ways in land subdivision

Where proposed town ways have been described in an approved subdivision plan and lots have been sold with reference to the plan, the municipal officers, with the approval of the municipal planning board or office, may on their own initiative or

petition of the abutting property owners, or on petition of any person claiming a property interest in the proposed way, vacate in whole or in part proposed ways that have not been accepted. The procedures shall be the same as in the discontinuance of accepted town ways, except that damages and reasonable costs as determined by the municipal officers shall be paid by the petitioners.

A dedication of property or interest therein to the municipality described in an approved subdivision plot plan may not be revoked or vacated by the dedicator unless no lot has been sold with reference to the plan, and unless an amended subdivision plan has been approved by the municipal subdivision review authority and filed with the appropriate registry of deeds.

1975, c. 711, § 8.

Library References

Highways ⇨79(1).

C.J.S. Highways §§ 130 to 135.

Notes of Decisions

1. In general

Statutory method of vacating roads shown on plan of plotted land is exclusive and grantor may not usurp

function by reserving the right, and such reservation is void. *Callahan v. Gonneston Park Development Corp.* (1968) Me., 245 A.2d 274.

§ 3028. Abandonment of public ways

It shall be prima facie evidence that a town or county way established prior to January 1, 1946, and not kept passable for the use of motor vehicles at the expense of the municipality or county for a period of 30 or more consecutive years next prior to January 1, 1976, has been discontinued by abandonment. A presumption of abandonment may be rebutted by evidence that manifests a clear intent by the municipality or county and the public to consider or use the way as if it were a public way. A proceeding to discontinue a town or county way shall not prevent or estop a municipality from asserting a presumption of abandonment. No municipality or its officials shall be liable for nonperformance of a legal duty with respect to such ways if there has been a good faith reliance on a presumption of abandonment. Any person affected by a presumption of abandonment, including the State or a municipality, may seek declaratory relief to finally resolve the status of such ways. A way that has been abandoned under this section shall be relegated to the same status as it would have had after a discontinuance pursuant to section 3026, except that this status shall be at all times

Dear Mr. Fogarty
De Bank's Managerial Office 9-2-91
PO Box 236 So. Island, Va

Enclosed is check for cash taken on
property on Emory Bridge Rd. May 10. Set 29
Acct # KE 480R. We will send that
you can now proceed to 522A
Auntie's line - Survey land with
The change in the road and the clearing

will not speak as a surveyor
for the neighbor who up usually tells
that the survey is all good. It is
state the survey land on either side
has equal rights.

Do you see where we are silent
knowing the land owner - anything you
could do would be greatly appreciated
Sincerely
E. H. Wilson

Clinton Corners, NY
9-2-91

So. Berwick Municipal Office
PO Box 236, So. Berwick, ME

Dear Mr. Fogarty

Enclosed is check for our Taxes on Property on Emery Bridge Rd.,
Map 10 Lot 29 Acct # KO480R. We still feel that we are over assessed for 52
A of granite & Pne & Swamp, and with the change in the road and the
claiming of the old roas as a dumping area for the neighbor who apparently
feels that she owns the old road bed. In NY state the owner of the land on
either side has equal rights.

As you are aware we are retired living on a fixed income. Anything
you could do would be greatly appreciated.

Sincerely,
C.H. Klaus

FLOOD HAZARD INFORMATION

FILE NUMBER: 13951
 ATTORNEY: BRUCE WHITNEY, ESQ.
 TITLE COMPANY: NOT APPLICABLE
 LENDER: PORTSMOUTH SAVINGS BANK
 OWNER: BARRY A. PERSON
 APPLICANT: BARRY A. PERSON

FLOOD MAP COMMUNITY NO.: 230157 ZONE: C
 PANEL: 0006 C DATED: 06/05/85

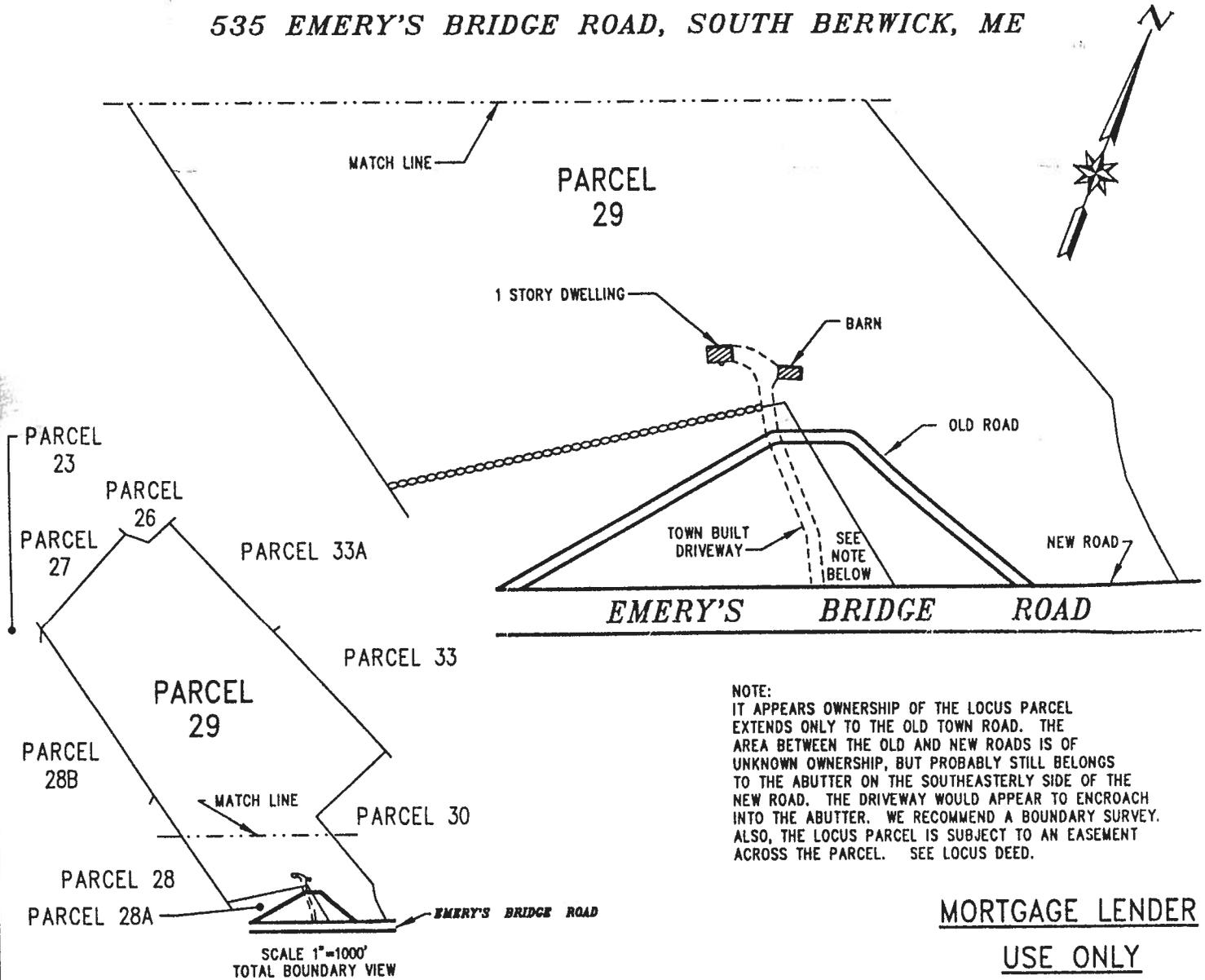
TITLE REFERENCE

DEED BOOK: 7242 PAGE: 77
 PLAN BOOK: N/A PAGE: N/A LOT(S): N/A
 PLAN NUMBER: N/A OF N/A

ASSESSORS MAP

DATE: 03/21/96 SCALE: 1"=200' MAP: 10 BLOCK: N/A PARCEL: 29

MORTGAGE INSPECTION PLAN
535 EMERY'S BRIDGE ROAD, SOUTH BERWICK, ME



NOTE:
 IT APPEARS OWNERSHIP OF THE LOCUS PARCEL EXTENDS ONLY TO THE OLD TOWN ROAD. THE AREA BETWEEN THE OLD AND NEW ROADS IS OF UNKNOWN OWNERSHIP, BUT PROBABLY STILL BELONGS TO THE ABUTTER ON THE SOUTHEASTERLY SIDE OF THE NEW ROAD. THE DRIVEWAY WOULD APPEAR TO ENCROACH INTO THE ABUTTER. WE RECOMMEND A BOUNDARY SURVEY. ALSO, THE LOCUS PARCEL IS SUBJECT TO AN EASEMENT ACROSS THE PARCEL. SEE LOCUS DEED.

**MORTGAGE LENDER
 USE ONLY**

THIS IS NOT A BOUNDARY SURVEY.

THIS IS THE RESULT OF TAPE MEASUREMENT, NOT THE RESULT OF AN INSTRUMENT SURVEY AND IS CERTIFIED TO THE TITLE INSURANCE COMPANY AND ABOVE LISTED ATTORNEY AND LENDER.

THERE ARE NO DEEDED EASEMENTS IN THE ABOVE REFERENCED DEED OR ENCROACHMENTS WITH RESPECT TO BUILDINGS SITUATED ON THIS LOT EXCEPT AS SHOWN.

THE LOCATION OF THE DWELLING SHOWN DOES NOT FALL WITHIN A SPECIAL FLOOD HAZARD ZONE.

THE LOCATION OF THE DWELLING AS SHOWN HEREON WAS IN COMPLIANCE WITH THE LOCAL ZONING LAWS IN EFFECT WHEN CONSTRUCTED (WITH RESPECT TO STRUCTURAL SETBACK REQUIREMENTS ONLY).

PARCEL NUMBERS AND CONFIGURATION FROM ASSESSOR'S MAP.

DES LAURIERS & ASSOCIATES
OF NEW ENGLAND, INC.

200' 0 200' 400'

153 U.S. RT 1, SCARBOROUGH, ME 04074
 TEL..(300)882-2227 FAX..(207)883-1001

[Handwritten signature]

GENERAL NOTES: (1) The declaration made above are on the basis of my knowledge, information, and belief as the result of a mortgage inspection tape survey made to the normal standard of care of professional land surveyors practicing in Maine. (2) Declarations are made to the above named client only as of this date. (3) This plan was not made for recording purposes, for use in preparing deed descriptions or for constructions. (4) Verifications of property line dimensions, building offsets, fences, or lot configuration may be accomplished only by an accurate instrument survey.

TOWN COUNCIL
Agenda Information Sheet

Meeting Date: January 24, 2012	Item # NB 4
Agenda Item: Discuss logging opportunity	
Town Manager's Recommendation	
Review correspondence from Robert Libby & Sons Inc.	
Requested Action	
Council wishes	
Vote	

**Robert W. Libby & Sons, Inc.
483 Old Meetinghouse Road
Porter, Maine 04068
207-625-8285**

January 9, 2012

**Mr. Perry Elsworth
Town Manager
180 Main St.
South Berwick, Maine 03908**

Dear Mr. Elsworth:

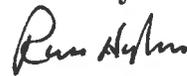
Robert W. Libby & Sons, Inc. has entered into an agreement with Ramsdell Stone and Gravel to harvest timber on the Ramsdell Lot, Map 3 Lot 43-A, in South Berwick where the town is the abutter on most of the northerly side. The town lot is Tax Map 3 Lot 63.

Finding no evidence of property lines there, we contacted a licensed surveyor who does substantial work in and around York County. He agrees to get us started in the right direction without accumulating excessive costs. He will research the old deeds and records in an attempt to direct us to existing markers.

Is the town of South Berwick interested in sharing the portion of the cost that is incurred on that common portion of the line?

Thinking of budget challenges and issues within both municipalities and private business, we would be willing to help the town to generate some income for this project through harvesting some timber off the lot. We have been in the logging business for more than 30 years and can provide many references. We are also enrolled in the Master Logger Program. We do not deduct fees for forestry or other services from the stumpage prices we negotiate with land owners.

Sincerely


**Russ Hughes
Maine LPF #362**

*1-20-2012
Discussion with Russ
will attend the mtg.
1-24-2012*