

Chapter 102. PLANNED GROWTH

[HISTORY: Adopted by the Town Council of the Town of South Berwick 2-9-2004.
Editor's Note: This ordinance superseded former Ch. 102, Planned Growth, adopted 6-1-1988, as amended. Amendments noted where applicable.]

GENERAL REFERENCES

Aquifer protection — See Ch. 56.

Building construction — See Ch. 60.

Numbering of buildings — See Ch. 61.

Floodplain management — See Ch. 77.

Historic districts — See Ch. 84.

Subdivision of land — See Ch. 121.

Zoning — See Ch. 140.

Planning Board Bylaws — See Ch. A148.

§ 102-1. Purpose.

The purposes of this chapter are in compliance with the Town of South Berwick's Comprehensive Plan and the State of Maine's Growth Management Act and are as follows:

- A. To provide for the local housing needs of South Berwick residents while accommodating growth at a rate that will ensure the safety and general welfare of the citizens of South Berwick.
- B. To provide for continued residential growth while also enabling the Town to provide for long-range natural resource protection and the future orderly growth of the Town.
- C. To provide for capital improvements in a manner which will tend to stabilize the rate of change in the tax rate.
- D. To avoid large-scale fluctuations in growth which could outstrip the Town's ability to provide adequate services.

E. To provide for growth at a rate compatible with the orderly expansion of community services, including but not limited to sewage treatment, schools, municipal services and roads.

F. To ensure fairness and equity in the distribution of building permits.

G. To exempt from the provisions of this chapter the repair, replacement reconstruction or alteration of any existing building or structure.

H. To maintain designated rural areas and promote infill development in designated growth areas.

§ 102-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:
ANNUAL or ANNUALLY Referring to a period of one year from the effective date of this chapter or from an anniversary of the effective date.

CONVEY To seal, lease, rent, give, or allow occupancy of a dwelling unit.

DWELLING UNIT A building or portion thereof providing complete housekeeping facilities for one family and which contains independent areas for living, cooking sleeping, bathing and sanitary facilities. The term shall not be deemed to include a recreational vehicle.

GROWTH PERMIT APPLICATION An application designed to collect information about proposed residences, to be used as a basis for rating them for approval. Information includes but is not limited to length of ownership, location, size, soil conditions and relevant construction details. (See Appendix 1. Editor's Note: This appendix is on file in the office of the Town Clerk.)

MOBILE HOME A factory-fabricated structure designed as a dwelling unit, mounted on a permanent chassis, with or without wheels, whether or not placed on a foundation. Mobile homes may be either singlewide or doublewide units. This term shall not include travel trailers, motor homes, or recreational vehicles.

STANDBY The time period in which an applicant within a subdivision or multifamily dwelling unit must wait until he is eligible to draw additional growth permits.

§ 102-3. Conformity required; exceptions.

All new dwelling units, including new mobile homes, within South Berwick, whether permanent or seasonal, shall conform to the provisions of this chapter. No new dwelling unit, which fails to meet the requirements of this chapter, shall be constructed or placed within the Town of South Berwick. This chapter does not apply to any principal nonresidential uses, including hotels, motels, inns, lodging homes, commercial, office, institutional, or industrial uses. This chapter does not apply to a dwelling unit built on a lot to replace an existing dwelling unit that will subsequently be removed from the site. However, this chapter does apply to new accessory dwelling units attached to any principal nonresidential use, which shall conform to the requirements of this chapter.

§ 102-4. Maximum number of permits annually.

[Amended 1-8-2007; 3-9-2010]

The maximum total number of growth permits to be issued annually shall be ~~2636~~, with a maximum number of ~~1348~~ within a subdivision and a maximum number of ~~1348~~ not within a subdivision. These numbers shall be subject to the review procedure set forth in § 102-11. ~~Three~~ Two of the permits are set aside for affordable housing, as defined by the Rules of the Maine Executive Department, State Planning Office, Chapter 100.

§ 102-5. Exemptions.

[Amended 1-8-2007; 3-9-2010]

The provisions of this chapter shall not apply to valid, unexpired building permits issued prior to April 1, 201~~30~~.

§ 102-6. Application procedure.

A. Applications for growth permits must be completed by the lot owner of record. Each growth permit application must be accompanied by a complete application for a building permit, demonstrating that the applicant has met all the requirements for issuance of a building permit under all other applicable ordinances, laws, rules, and regulations.

B. Applications shall be on forms provided by the Town of South Berwick (Appendix 1 Editor's Note: This appendix is on file in the office of the Town Clerk.). The Code Enforcement Officer may request additional information and shall have the authority to require that the application be revised or supplemented in order to meet state or local requirements.

C. Growth permit applications may be submitted to the Code Enforcement Officer during regular business hours, beginning with the morning after the effective date of this chapter.

§ 102-7. Issuance procedure.

The Code Enforcement Officer shall review all applications for completeness and accuracy; and, if found to be in order, he shall complete his entries, including the date and time of receipt.

A. Applications received by the Code Enforcement Officer by 5:00 p.m. on the last Monday of the month shall be rated in accordance with the point system outlined in Subsection G. The three highest rated applications for dwellings proposed to be built shall be identified and approved for a growth permit on the first Monday of the following month.

[Amended 3-9-2010]

B. Applications received between regular business hours on the first Monday of the month and regular business hours on the last Monday of the month shall be rated as in Subsection A above.

C. The Code Enforcement Officer shall rate and approve permit applications. A maximum of three permit applications shall be approved per month.

[Amended 3-9-2010]

D. In the event that fewer than ~~three~~two applications are received in the first month, or cumulative totals do not reach an average of ~~two~~three per month, applications may be approved up to the ~~two~~three per month cumulative total (carried over) until the end of one year after the effective date of this chapter, or after the most recent anniversary date of this chapter, providing the cumulative total does not exceed ~~36~~26 total permits in each year.

[Amended 1-8-2007; 3-9-2010]

E. Applications for multifamily dwelling units shall be rated and approved in the same manner as single-family dwelling units in accordance with § 102-7G; and for the purposes of this chapter, they shall be classified as dwelling units proposed to be built within a subdivision.

F. Multifamily dwelling units require a separate growth permit application for each dwelling unit. Rating and approval shall be consistent with the system used for single-family dwelling units.

G. The point system for ranking growth permit applications shall be as follows:

(1) Soil suitability: one point shall be given if the depth to seasonal water table, to bedrock, to a restricting layer, or to any other limiting factor on original soil, documented on the HHE 200 form, is greater than 20 inches, and another one point shall be given if a second reserve septic leach field area on original soil is greater than 20 inches to any limiting factor documented on the HHE 200 form (this applies to single-family and duplex houses).

(2) On Town sewer: one point.

(3) On Town water: one point.

(4) On a road meeting Town standards, according to the South Berwick Subdivision Ordinance, Editor's Note: See Ch. 121, Subdivision of Land. or on a Town road: two points.

(5) Months since complete application received, for each full month: two points.

(6) Bonus point when in standby for each full month: one point.

NOTE: Any person submitting false information on an application shall void such application and not be eligible to apply for a growth permit application for a period of one year.

H. Growth permits which are not approved shall be automatically re-ranked and reconsidered during the following month(s).

I. After six growth permits for dwelling units have been issued in a subdivision through the provisions of this chapter, a standby period of three months shall elapse before growth permits may be issued again in that particular subdivision. Those growth permit applications in standby shall earn one bonus point per month in addition to the longevity point [see § 102-7G(5)] until claimed. Subdivision or nonsubdivision growth permit applications may be left voluntarily in standby and shall continue to earn points in like manner.

§ 102-8. Growth permit application to include building permit application; expiration.

Each growth permit application must be accompanied with a complete building permit application. The building permit application will not be effective until a growth permit has been granted. It shall be the responsibility of the applicant to convert the approved growth permit to a building permit, including the payment of all fees. Any growth permit not converted to a building permit within 90 days of approval will expire. The applicant must then reapply for a growth permit. The expiry of the building permit shall be in conformity with the South Berwick Zoning Ordinance. Editor's Note: See Ch. 140, Zoning.

§ 102-9. Title.

This chapter shall be known as the "Planned Growth Ordinance of South Berwick" and will be referred to herein as the "chapter."

§ 102-10. Authority.

This chapter is adopted pursuant to the home rule powers as provided for in Article VIII-A of the Maine Constitution and to 30-A M.R.S.A. § 3001 through § 3007, and also to the South Berwick Town Charter, Article II, Section 3, and Article VIII, Section 2.

§ 102-11. Periodic review.

[Amended 1-8-2007]

The operation and administration of this chapter shall be subject to review by the South Berwick Town Council on a yearly basis to ensure that the distribution of permits is occurring in a fair and equitable manner, and also to review the maximum growth rate and the Town's responsibility in planning, developing and implementing those municipal systems to accommodate growth in an orderly fashion so as to maintain the public health, safety and welfare, in accordance with the Town's Comprehensive Plan.

§ 102-12. Nontransferability; exception.

Growth permit applications shall be site-specific and shall be valid for construction only on the lot specified on the application. However, said applications shall be transferable to new owners of the lot should the property be conveyed.

§ 102-13. Conflict with other provisions.

This chapter shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulation, bylaw, permit, or provision of law. Where this chapter imposes a greater restriction upon the use of land, buildings or structures, the provisions of this chapter shall prevail.

§ 102-14. Sunset provision.

This chapter shall automatically terminate on the third anniversary of its effective date, unless specifically extended by a vote of the South Berwick Town Council, following the procedures outlined in the South Berwick Town Charter Article II, Section 11.

§ 102-15. Amendment procedure.

Any amendment to this chapter must follow the procedures outlined in Article II, Section 11, of the South Berwick Town Charter.

§ 102-16. Appeals.

An appeal may be taken from any decision of the Code Enforcement Officer to the Board of Appeals in accordance with Article VI of the South Berwick Zoning Ordinance Editor's Note: See Ch. 140, Zoning. and from the Board of Appeals to the Superior Court as provided by Maine Revised Statutes Annotated.

§ 102-17. Prohibited acts.

A. It shall be a violation of this chapter for any person, firm, or corporation to build or place a dwelling unit within the Town, without first having obtained a growth permit from the Code Enforcement Officer, unless such construction or placement constitutes an exception under this chapter.

B. If a dwelling has been constructed or placed without a growth permit, it shall also be a violation for any person, firm, or corporation to convey such dwelling.

§ 102-18. Enforcement; violations and penalties.

A. Any person, firm, or corporation owning or controlling any dwelling units being constructed in violation of this chapter commits a civil violation and, upon being found liable, shall be subject to fines and penalties as set forth in 30-A M.R.S.A. § 4452. Each day the violation continues after notice from the Code Enforcement Officer shall be a separate violation.

B. If a dwelling unit has been built in violation of this chapter and is occupied, the builder commits a civil violation, and upon being found liable, shall be subject to fines and penalties as set forth in 30-A M.R.S.A. § 4452. Each day the violation continues after notice from the Code Enforcement Officer shall be a separate violation.

§ 102-19. Applicability.

Notwithstanding the provisions of 1 M.R.S.A. § 302, this chapter shall apply to actions and proceedings, including, without limitation, applications for building permits, applications for subdivision approval, applications for conditional use permits, applications for shoreland zoning permits, and applications for variances, pending on the effective date of this chapter.

§ 102-20. Effective date.

[Added 2-26-13]

March 26, 2013

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[Added 3-9-2010]

Due to the fact that the existing Planned Growth Ordinance is due to expire on March 26, 2010, and in order to remain consistent with the dates in this chapter, the updated Planned Growth Ordinance shall take effect on April 1, 2010.

South Berwick Town Council February 12, 2013

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

Approval of Minutes

1. Council 1-22-13: On a motion by Mr. Kareckas, seconded by Mrs. Demetracopoulos, it was unanimously voted to adopt the minutes as written.

Treasurer's Warrant – Feb 12, 2013

On a motion by Mrs. Demetracopoulos, seconded by Mr. Abell, it was unanimously voted to sign the warrant in the amount of \$804,528.27.

Public Comment

1. Scott Landis, Academy St, and Ginny Alterio, Vine St, addressed the Council in regard to the Vine Street Bridge. Mr. Landis stated that a group of 15 residents met to discuss what would be involved in re-opening the bridge for walking and bicycle traffic. Not only is the area around the bridge historically significant; re-opening the bridge would help increase economic development in the area with increased recreational usage. Mrs. Alterio stated that the group was very enthusiastic about the project. Note was made that there are a number of stakeholders that would need to be involved including the Town, the MDOT, and the dam owner.

Reports & Correspondence

1. Mr. MacPherson read a letter from Mark Eves, Speaker of The House: Mr. Eves responded to the **letter sent by the Council in regard to the Governor's proposed biennial budget.** [A copy of the letter is attached to the minutes in the official book]

Town Manager's Report

-Recently attended a meeting of the Maine Municipal Association Legislative Policy Committee. Mr. **Ellsworth stated that he believes that the Governor's proposed cuts won't happen and has not** removed the revenues from our budget. He added that he has not been able to schedule a regional meeting on the issue, but is planning to meet with Rep. Mark Eves.

-Met with Avesta on Monday. We need to start lobbying to help in obtaining funding for the project.

-We have started our budget process. Department heads have turned in their requests and they are being reviewed. The county change to a fiscal year will mean paying 18 months of county taxes in the upcoming 12 month municipal budget.

-Congratulated the highway crew for their efforts in cleaning up the recent record snow fall.

-There will be an item on the next agenda regarding the reallocation of the post office lease. The change will increase the availability of downtown parking.

-Will be meeting again on Thursday to discuss the union contracts. It appears to be headed to arbitration.

-He and Councilors MacPherson and Demetracopoulos are continuing their review of the Personnel Policy.

Unfinished Business

1. The Council discussed the Punkin Town Road & CMP Corridor Municipal Development & Tax Incremental Financing District.

Mr. Kareckas stated that the language in the TIF needs to be revisited. It should be clear that the Council sets policy and the Manager administers policy.

Mrs. Demetracopoulos stated that she is fine with Mr. Kareckas' proposed changes; it would make roles and responsibilities clear for future councils.

Mr. MacPherson and Mr. Abell both stated that they would like to see the full document with the proposed changes incorporated.

Mr. Ellsworth stated that he would get an electronic version of the documents to Mr. Kareckas for editing.

New Business

1. On a motion by Mr. Webster, seconded by Mrs. Demetracopoulos, it was unanimously voted to **approve the renewal of Waste Management's Solid Waste Hauler License through January 31, 2014.**

2. Mr. Ellsworth explained that if we place a lien on a property and the owner subsequently pays it off, we would file a quitclaim deed. Release deeds are filed when the Town has actually taken ownership of the property for non-payment of taxes and the owners have paid all back taxes and taxes assessed during the redemption period.

On a motion by Mr. Kareckas, seconded by Mrs. Demetracopoulos, it was unanimously voted to approve and sign release deeds for Map 14, Lot 11 (Wittner, Dennett Rd), Map 32, Lot 68 (Kingsley, Beaver Dam Rd), and Map 31, Lot 136 (Whicker, Norton St).

3. The Council discussed the Planned Growth Ordinance and its current sunset date of April 1, 2013. Maine statute requires the ordinance be updated every three years.

Mr. Ellsworth recommended that the ordinance be allowed to sunset. There could be problems with issuing the required number of permits for the senior housing project. Also, we are well under the maximum number of permits allowed. The ordinance could be reenacted in the future if necessary.

Mr. Kareckas stated that he was still in favor of holding the hearing; the ordinance is a good tool and the number of permits can be adjusted.

On a motion by Mrs. Demetracopoulos, seconded by Mr. Webster, it was unanimously voted to hold a public hearing on Tuesday, February 26, 2013 at 6:00pm to receive comment on the proposed changes to the Planned Growth Ordinance.

4. Mr. Kareckas made a motion to purchase a tanker from Fouts through tax exempt leasing. Mr. Abell seconded the motion.

Mrs. Demetracopoulos stated that she would prefer to go to special town meeting for voter approval of the purchase. She added that although the tanker is in the capital improvements budget, it was not scheduled for purchase this year. Mr. Ellsworth stated that we currently are without a tanker truck.

Mr. Kareckas stated that the Council is adhering to the budget; sometimes priorities change.

Mr. Abell asked what the contingency plan is without the tanker and if scheduling a town meeting would delay the acquisition. Fire Chief Gorman stated that we are currently relying on mutual aid for a tanker. Mr. Ellsworth stated that the delay could mean that someone else buys the truck before we commit.

Mr. MacPherson stated that he is willing to forego the special town meeting and authorize the purchase.

Mr. Webster asked what happens if the capital plan gets voted down. Mr. Ellsworth stated that there is always a chance the plan gets voted down. However, a sustainable plan was instituted and the voters were in favor of the plan.

Mr. Kareckas and Mr. Abell both made comments regarding the necessity of the tanker truck for public safety reasons and were ready to authorize the purchase.

The motion to authorize the purchase of the tanker passed with a 3-2 vote (Mrs. Demetracopoulos and Mr. Webster opposed)

The Clerk recommended that the Council reconsider the time set for the public hearing on February 26th since there would not be a special town meeting [New #3]. On a motion by Mrs. Demetracopoulos, seconded by Mr. Webster, it was unanimously voted to reconsider the vote taken setting the time of the public hearing.

On a motion by Mrs. Demetracopoulos, seconded by Mr. Abell, it was unanimously voted to hold the public hearing on February 26th at 6:30pm instead of 6:00pm.

Council Member Comments

1. Mrs. Demetracopoulos:

-Thanked the highway crew for a job well done during the recent storm.

2. Mr. Webster:

-Stated that he had received both positive and negative comments about the highway crew.

3. Mr. Kareckas:

-Made note that he had supplied a summary of the discussion that residents had regarding the re-opening of the Varney Bridge aka Vine Street Bridge **at Leigh's Mills Pond**. [As discussed under Public Comment] An interested group of citizens have begun the process of studying what is involved in the restoration of at a minimum, a pedestrian and bicycle crossing at the Great Works River. A significant amount of research will be involved. Mr. Kareckas added that it did not appear that a state funded access bridge would happen. He urged supporting the legislative initiative to fund **safe routes to school as well as transportation grants**. **"This may be the most logical and best shot for financing at this time"**. Recommended that the Council consider setting aside some seed money in the upcoming budget.

-Pleased to see the positive response from the Eastern Trail **stating that it's willing to shift the** focus of the organization. Past practice has been from north to south; it is now recognizing our different demographic and involvement from the start.

-Stated that he was ok with the language for the Post Office parking lot lease.

-The skate rink is up and running and has been "well used".

4. Mr. Abell:

-Commented that he heard from residents commending the highway crew.

-Stated that he has also heard from people that have been enjoying the skate rink. He added that he would be bringing his scout troop out for skating.

5. Mr. MacPherson:

-Made note of the Marshwood Cheerleading Squad's achievement of reaching 2nd place in the State competition. They missed 1st by only 1.3 points.

Adjournment

On a motion by Mr. Kareckas, seconded by Mrs. Demetracopoulos, it was unanimously voted to adjourn the meeting at 7:47pm.

Attested:

Barbara Bennett, CCM

**South Berwick Town Council
Special Meeting
February 19, 2013**

The following was reported to the Clerk:

Chairman Gerald W. MacPherson, Sr. called the meeting to order at 7:47pm. Councilors present included Jean Demetracopoulos, David H. Webster, and John C. Kareckas. Town Manager Perry Ellsworth was also in attendance. Russell Abell was not present.

New Business

1. On a motion by Mr. Webster, seconded by Mr. MacPherson, it was unanimously voted to enter executive session at 7:47pm pursuant to 1 MRSA §405.6A to discuss the Manager's contract.

On a motion by Mr. Webster, seconded by Mr. Kareckas, it was unanimously voted to end the executive session at 8:29pm.

Adjournment

On a motion by Mrs. Demetracopoulos, seconded by Mr. Webster, it was unanimously voted to adjourn the meeting at 8:30pm.

Attested

Barbara Bennett, CCM

TOWN OF SO. BERWICK
CHECK REGISTER

Check Number	-----Account-----	Date Paid	Amount
00032144	133107 TREAS,STATE OF MAINE/DEP	02/26/2013	-411.00
00032153	132500 SECRETARY OF STATE M/V	02/26/2013	11,079.65
00032154	032750 DAMAGES	02/26/2013	34.97
00032155	010585 AMAZON	02/26/2013	72.68
00032156	011422 KERA ASHLINE	02/26/2013	11.97
00032157	011495 ATLANTIC RECYCLING EQUIP LLC	02/26/2013	7,616.70
00032158	020225 BAKER & TAYLOR	02/26/2013	254.25
00032159	021300 BERNSTEIN SHUR	02/26/2013	440.00
00032160	021576 JANETTE BIRCH	02/26/2013	32.02
00032161	021668 BLOW BROS	02/26/2013	56.55
00032162	022300 BOWS AND BALLOONS BY BRINA	02/26/2013	321.96
00032163	022503 SHARON BRASSARD	02/26/2013	26.56
00032164	030530 CENTRAL TIRE CO INC	02/26/2013	122.22
00032165	030500 CENTRAL MAINE POWER/CREDIT,COLL	02/26/2013	90.00
00032166	030510 CENTRAL MAINE POWER	02/26/2013	1,521.03
00032167	030725 CITIZENS BANK (CHG)	02/26/2013	95.57
00032168	030920 CLEAN-O-RAMA	02/26/2013	262.52
00032169	031430 COMCAST	02/26/2013	102.00
00032170	031485 COMMUNICATION TECHNOLOGIES INC	02/26/2013	317.08
00032171	031579 CONSTELLATION NEW ENERGY	02/26/2013	786.64
00032172	031915 CRANMORE MOUNTAIN RESORT	02/26/2013	1,468.00
00032173	040120 DEAN & ALLYN INC	02/26/2013	95.00
00032174	040300 DEMCO	02/26/2013	44.42
00032175	040525 DINEEN COACH COMPANY	02/26/2013	995.00
00032176	040530 DEDE DIONNE	02/26/2013	9.99
00032177	040800 DOUCETTE EXCAVATING	02/26/2013	3,080.00
00032178	060260 FASTENAL COMPANY	02/26/2013	132.26
00032179	060750 FIRE TECH & SAFETY	02/26/2013	319.18
00032180	010525 G&K SERVICES	02/26/2013	863.54
00032181	070200 P GAGNON & SON INC	02/26/2013	4,015.48
00032182	070600 GEORGE GORMAN	02/26/2013	90.12
00032183	070907 GRANITE STATE RACE SERVICES	02/26/2013	750.00
00032184	191330 HANNAFORD'S	02/26/2013	431.91
00032185	080248 HANSCOM'S TRUCK STOP INC	02/26/2013	12,133.69
00032186	080501 BRUCE HASTY'S PLUMB/HEATNG	02/26/2013	148.11
00032187	080635 HIGGINS	02/26/2013	7.34
00032188	022665 C.E. HOLMES CONSTRUCTION	02/26/2013	2,560.00
00032189	081394 HUSSEY EXCAVATION INC	02/26/2013	2,010.00
00032190	090375 INTERNATIONAL SALT	02/26/2013	10,266.85
00032191	090460 INTERSTATE BATTERY/MAINE	02/26/2013	209.90
00032192	100175 JENKINS FUEL INC	02/26/2013	2,708.03
00032193	100870 KENNEBUNK SAVINGS BANK	02/26/2013	25,000.00
00032194	141367 KONE INC	02/26/2013	200.27
00032195	140500 LABORATORY CORP/AMERICA HOLDIN	02/26/2013	60.45
00032196	120190 DANA LAJOIE	02/26/2013	32.00
00032197	071170 MARTIN GRENIER	02/26/2013	79.97
00032198	131698 MAINE BETTER TRANSPORTATION	02/26/2013	75.00
00032199	132400 MAINE SAD #35	02/26/2013	924.49
00032200	133195 MAINE TURNPIKE AUTHORITY	02/26/2013	14.40
00032201	133376 LUKE MARTIN	02/26/2013	656.23
00032202	133795 MICK BODYWORKS	02/26/2013	348.31
00032203	134200 MAINE MUNICIPAL ASSO (INS)	02/26/2013	2,493.25
00032204	134300 MAINE MUNICIPAL EMPLOYEES	02/26/2013	4,182.91
00032205	134400 MAINE MUNICIPAL ASSOCIATION	02/26/2013	8.00
00032206	134450 MMTCTA	02/26/2013	100.00
00032207	134601 EXXON/MOBIL	02/26/2013	305.31

Check Number	-----Account-----	Date Paid	Amount
00032208	180117 RAE LYNN MOORE	02/26/2013	108.00
00032209	135110 MAINE RECREATION & PARK ASSO	02/26/2013	45.00
00032210	133194 MAINE TOWN/CITY MGMT ASSN	02/26/2013	40.00
00032211	140797 NATURE'S WAY MARKET	02/26/2013	33.59
00032212	150280 ORIENTAL TRADING CO	02/26/2013	56.99
00032213	150785 PARIS FARMERS UNION	02/26/2013	2,089.80
00032214	150830 PARSHLEY STEEL FABRICATORS INC	02/26/2013	300.00
00032215	150930 M H PARSONS & SONS LUMBER CO	02/26/2013	1,250.00
00032216	200700 PIKE INDUSTRIES INC	02/26/2013	125.00
00032217	160320 PINE TREE WASTE INC	02/26/2013	4,339.29
00032218	160692 POLAND SPRING	02/26/2013	82.71
00032219	160900 PORTLAND NORTH TRUCK CENTER	02/26/2013	7.95
00032220	161265 PORTSMOUTH FORD	02/26/2013	280.57
00032221	150715 PPL/SMLD	02/26/2013	65.00
00032222	170000 QUILL CORPORATION	02/26/2013	101.98
00032223	180433 DAN REMICK	02/26/2013	900.00
00032224	132500 SECRETARY OF STATE M/V	02/26/2013	9,098.16
00032225	191900 SO BERWICK EMERGENCY RESCUE	02/26/2013	6,514.69
00032226	193619 SPRING HILL	02/26/2013	612.00
00032227	193640 STAPLES	02/26/2013	707.48
00032228	194225 SULLIVAN TIRE INC	02/26/2013	924.48
00032229	200100 TARASON ENTERPRISES INC	02/26/2013	250.00
00032230	201150 ANN MARIE TOWNSEND	02/26/2013	66.58
00032231	133150 TREAS:STATE OF ME:SAFETY	02/26/2013	245.00
00032232	133107 TREAS,STATE OF MAINE/DEP	02/26/2013	166.00
00032233	201300 TWO-WAY COMMUNICATION SERV INC	02/26/2013	2,120.50
00032234	210380 UNITED PARCEL SERVICE	02/26/2013	11.45
00032235	211500 VERIZON WIRELESS	02/26/2013	641.05
00032236	230300 WALMART COMMUNITY BRC	02/26/2013	367.57
00032237	231295 WINDHAM WEAPONRY	02/26/2013	89.88
00032238	231345 WINTER EQUIPMENT CO	02/26/2013	2,380.00
00032239	231500 WITMER PUBLIC SAFETY GROUP	02/26/2013	816.80
00032240	240900 YORK COUNTY REGISTRY OF DEEDS	02/26/2013	111.00
Total Not Prepaid			123,897.68
Total Prepaid			10,703.62
Grand Total			134,601.30

TOWN COUNCIL
Agenda Information Sheet

Meeting Date: February 26, 2013	Item # UB 1
Agenda Item: Amendment to Planned Growth Ordinance	
Town Manager's Recommendation	
<p>The Planned Growth Ordinance has been updated to reflect the new permit numbers in accordance with state law. This Ordinance will sunset on April 1, 2013</p> <p>Lee Jay Feldman from SMRPC suggested the following:</p> <ol style="list-style-type: none">1. Revisit the entire chapter to determine if it is still needed in the community at all.2. Consider Avesta as exempt under the definition of Institutional to address this immediate issue. <p>I suggest the Council allow the Ordinance to sunset. If growth becomes a concern in the future, the Town Council may choose to reconsider the ordinance at that time.</p>	
Requested Action	
None	
Vote	

TOWN COUNCIL
Agenda Information Sheet

Meeting Date: February 26, 2013	Item # NB 1
Agenda Item: ROW Request from GWRLT	
Town Manager's Recommendation	
<p>The Land Trust has been entertaining a donation of land from Patti and Mike Gallo. The Gallo's wish to donate substantial acreage to the Land Trust. One of the requirements of the Gallo's donation is to provide access through the Town Forest.</p> <p>The Land Trust is requesting the Town Council grant the required ROW in order to facilitate this donation.</p>	
Requested Action	
Council wishes.	
Vote	



GREAT WORKS Regional Land Trust

www.gwrlt.org

*..striving to conserve
working landscapes and wildlife lands,
...saving the best for our children and theirs.*

Board of Directors

Tin Smith, President
Keith Fletcher, Vice-President
Doug Mayer, Treasurer
Pat Robinson, Secretary

Berwick

Kevin Gray 603-767-7574
Michael Wright 698-7627

Eliot

Jennifer Fox 439-9679

North Berwick

Annie Cox 232-6151
Tom Gilmore 232-5494
R. Todd Hoffman 457-3905
Virginia Reusch 676-3164

Ogunquit

Doug Mayer 361-1308

South Berwick

Bob Eger 384-5440
Jack Kareckas 384-2584
John Pazdon 603-661-2171
Pat Robinson 384-4243

Wells

Keith Fletcher 641-2866
Tin Smith 676-2209

Staff

Stewardship Coordinator

Darrell DeTour dfdetroit@gwrlt.org

Development Coordinator

Anne Gamble
agamble@gwrlt.org

Administrative Coordinator

Patti Mitchem pmitchem@gwrlt.org

Administrative Assistant

Galen Mott

To South Berwick Town Council:

February 19, 2013

Patti and Mike Gallo, 8 Tara Lane intend to donate 134.8/- acres of land to Great Works Regional Land Trust. They hope to complete this transaction by or before April 1, 2013.

With the donation they have certain criteria that they want the land trust to adhere to. The land trust has written a management document that the Gallo's have agreed to. One criterion is to allow for forest management.

They have also asked that the Right of Way (ROW) be through the town forest road and the town forest land. Included is the tax maps (12, 8, 9) that show the land and the access.

I am here to ask the town for a ROW to this land through the town forest road for walking and parking as well as for emergency response vehicles, timber harvesting equipment or vehicles authorized by GWRLT for trail and property management and habitat maintenance.

Thank you for your consideration

Pat Robinson

Great Works Regional Land Trust

207-646-3604

Mailing address: P.O. Box 151, South Berwick, ME 03908
Office: Beach Plum Farm, 610 Main Street, Ogunquit, ME 03907

info@gwrlt.org

Providing conservation options to landowners and communities in the Berwicks, Eliot, Ogunquit & Wells since 1986

Assessor's Maps



Map Number: 17

Legend:

- Property Boundary
- Lead Road
- Private Road
- Fire Access Road
- Traverse
- Map Number

Map 17

Legend:

- City of Madison
- City of Sun Prairie
- City of Waubesa
- City of Watrous
- City of Monona
- City of Dodgeville
- City of Port Washington
- City of Friesland
- City of Verona
- City of Sun Prairie
- City of Waubesa
- City of Watrous
- City of Monona
- City of Dodgeville
- City of Port Washington
- City of Friesland
- City of Verona

Scale: 1 inch = 400 feet

North Arrow

MAP 17

Copyright © 2011 by the City of Sun Prairie, Wisconsin. All rights reserved. This map is the property of the City of Sun Prairie, Wisconsin. It is to be used for informational purposes only. It is not to be used for legal purposes. The City of Sun Prairie, Wisconsin, is not responsible for any errors or omissions on this map.



TOWN COUNCIL
Agenda Information Sheet

Meeting Date: February 26, 2013	Item # NB 2
Agenda Item: Game of Chance Approval	
Town Manager's Recommendation	
<p>This is the 2nd year this request has come to the Town. There is no public hearing required for this game of change. The State Police only require municipal approval.</p>	
Requested Action	
<p>Motion to consent to the Berwick Academy Tuition Raffle for 2013 and to sign the application.</p>	
Vote	



STATE OF MAINE
DEPARTMENT OF PUBLIC SAFETY GAMING & WEAPONS SECTION
 164 STATE HOUSE STATION, AUGUSTA, MAINE 04333-0164
 (207) 624-7210

Application for a License to Operate Beano/Bingo or a Game of Chance

The Gaming & Weapons Unit must receive this application at least eight days before Beano or a Game of Chance may begin

1. For what license are you applying (please check one): **BEANO** **OR GAMES OF CHANCE**

IF YOU CHECKED GAMES OF CHANCE:

2. Organization Name: Trustees of Berwick Academy Name of Game: Tuition Raffle

Organization Number: 1057 Number of Games: 1

Federal Tax ID # (EIN): 01-0223755 Open to Public? Yes No

Business Address: 31 Academy St South Berwick ME 03908

Mailing Address: _____ Phone: 207-384-2164

3. Current Officers:

<u>Mark Tay - President Board of Trustees</u>	<u>1 Charles Dr Stratham NH</u>	<u>603-772-7676</u>
<small>NAME & TITLE</small>	<small>ADDRESS</small>	<small>PHONE</small>

<u>Matthew Friel - Treasurer Board of Trustees</u>	<u>50 Garland Rd Rye NH</u>	<u>603-379-2104</u>
<small>NAME & TITLE</small>	<small>ADDRESS</small>	<small>PHONE</small>

<u>Eric Katz - Secretary Board of Trustees</u>	<u>18 Becker Ln New Castle NH</u>	<u>603-427-5100</u>
<small>NAME & TITLE</small>	<small>ADDRESS</small>	<small>PHONE</small>

<small>NAME & TITLE</small>	<small>ADDRESS</small>	<small>CITY/ZIP</small>	<small>PHONE</small>	<small>DATE TERM EXPIRES</small>
---------------------------------	------------------------	-------------------------	----------------------	----------------------------------

4. Location where Beano/Bingo or Game of Chance is to be conducted:

<u>Berwick Academy</u>	<u>31 Academy St</u>	<u>South Berwick ME 03908</u>
<small>BUILDING</small>	<small>ADDRESS</small>	<small>CITY/ZIP</small>

5. Person responsible for operation of Beano or Games of Chance:

<u>Diane Walker</u>	<u>603-942-5667</u>
<small>NAME</small>	<small>DAYTIME PHONE & EVENING PHONE</small>

Name & Address where Licenses will be sent: Betsy Richburg Berwick Academy 31 Academy St

E-Mail Address: brichburg@berwickacademy.org South Berwick ME 03908

6. Circle the days of the week you expect to operate: Mon Tue Wed Thu Fri Sat Sun

What are the hours of operation? 8-4:30

7. For Tournaments and Beano Only:

What time do the doors open? n/a What time does the game start? n/a

8. Dates to be licensed – Please specify weeks (Monday through Sunday) or full months. You may apply in advance for up to **6 months of licenses for Beano** and **12 months for Games of Chance**. See back of this form for rates.

Feb 2013 _____

March 2013 _____

April 2013 _____

FOR OFFICE USE ONLY
Check # _____
Amount \$ _____

9. Does the organization own all the equipment used in operating this amusement? Yes No

If "NO", please explain the circumstances under which the equipment was acquired:

10. Has any current officer of this organization or association ever been convicted of or have any charges currently pending for violating the gambling or lottery laws of the United States or the State of Maine? Yes No

If "YES" give the person's name, address, and date and place of conviction or date and location of pending charge:

11. If the Applicant is a Fair Association, attach a list of the names and home addresses of the persons operating or assisting in the licensed activity. Please write your organization name and number on the list.

-----APPLICANT SIGNATURE-----

12. The applicant agrees to obey the laws of the State of Maine and the United States and the rules and regulations governing Beano or Game of Chance promulgated by the Chief of the State Police. The applicant warrants the truth of the foregoing statements on penalty of perjury.

Signed: [Signature] Age 18 or older: Yes No

Name: Seth A. Hurd Title: Director of Finance & Operations Date: 2/14/13
(Please print - must be duly authorized officer of this organization - title is required)

-----BLANKET LETTER-----

13. The following consent must be completed by the municipal officers of the city or town where the Beano/Bingo or Game of Chance will take place unless a separate "Blanket Letter of Approval" is filed with the Chief of the State Police.

- Check here if you have previously filed a "Blanket Letter of Approval" with us, which is still valid
- Check here if you have attached a "Blanket Letter of Approval".

-----CONSENT-----

The undersigned being municipal officers of the City/Town of South Berwick hereby certify that we consent to this application for a license to operate Beano/Bingo or a Game of Chance in accordance with the provisions of 17 M.R.S.A. Chapter 13-A (Beano) or Chapter 62 (Games of Chance) and in accordance with the Rules and Regulations promulgated by the Chief of the State Police governing the operating of Beano/Bingo or Games of Chance.

Name: _____ Date: _____
Name: _____ Date: _____
Name: _____ Date: _____
Name: _____ Date: _____

-----FEES-----

Beano: \$5.00/one game; \$12.00/Week; \$36.00/Month; \$400.00/Year Game of Chance: \$15.00/Week; \$60.00/Month; \$700/Year
Video Poker: \$15.00/Week or \$60.00/Month Card / Cribbage: \$30.00 Per Calendar Year
Tournament Game (up to 100 players): \$150.00/Per Tournament or \$250.00/Month (Two Tournaments)

Make check payable to Treasurer, State of Maine

**Return your signed and completed application to: Department of Public Safety
Gaming and Weapons Section
164 State House Station
Augusta, ME 04333-0164**

TOWN COUNCIL
Agenda Information Sheet

Meeting Date: February 26, 2013	Item # NB 3
Agenda Item: Sign Lease Amendment	
Town Manager's Recommendation	
The final amendment to the lease with Tomco (original date of 4.22.96) is presented for your signatures.	
Requested Action	
Motion to sign the amended lease with Tomco dated 2.12.13.	
Vote	

Return to:
Bruce A. Whitney, Esq.
PO Box 187
South Berwick, ME 03908

Amendment to April 22, 1996 Lease Agreement

I. Background

On April 22, 1996, the Inhabitants of the Town of South Berwick, Maine ("the Town") entered into a lease agreement ("the Lease") with Don G. Thompson and Stanley H. Thompson. The Town, as Lessor, leased property located at the intersection of Norton and Main Streets in South Berwick. The premises include the land now occupied by the People's United Bank, as well as the parking lot between the Bank and Main Street. The Thompsons, through an entity known as Tomco Realty, Inc., also owned adjoining parcels of land.

II. Lease and sublease

The lease agreement, which was recorded in the York County Registry of Deeds in Book 7903, Page 301, provided that:

Lessor leases to Lessees and Lessees lease from Lessor, for the purpose of conducting therein any lawful business, together with parking spaces to be used by patrons of the South Berwick post office, patrons and employees of the business that Lessees shall rent their building to and for business people and patrons of the South Berwick business district, and for no other purpose. The use of said premises by Lessees is subject to Lessees: a) [demolishing the fire station and building the bank]; and b) constructing not less than 30 automobile parking spaces on the Premises and on the adjoining Grant property.

The initial term of the lease was for 50 years, commencing on April 22, 1996 and ending on April 22, 2046.

The Lessees created 37 total parking spaces on the premises.

The Lease also provided that "Lessees may sublet the premises in whole or in part without Lessor's consent." On July 9, 1996, Don G. Thomspson and Stanley H. Thompson executed a sublease to The Ocean National Bank of Kennebunk as tenant. The term of the sublease was 5 years with renewal periods. The Lease further states that "Lessee shall not assign or transfer this lease, or any interest herein, without the prior written consent of Lessor."

III. Change of Lessees' Entity Name

On September 24, 1996, Don G. Thompson and Stanley H. Thompson assigned the April 22, 1996 Lease to T & T Partnership. Don and Stanely were the sole partners of this partnership. On December 31, 1996, T & T Partnership assigned the Lease to Tomco Realty, Inc. Stanley and Don were the sole stockholders of Tomco Realty, Inc. On December 30, 1999, Tomco Realty, Inc. assigned the Lease to Tomco Realty, LLC. Tomco Realty, LLC is a limited liability company of which Stanley is the sole member. Through oversight, the Lessee failed to secure the Town's express consent to these assignments.

IV. Sale, Assignment, and Transfer of Lease to Dana Hall

Tomco Realty, LLC wishes to sell, assign, and transfer all of its interest in the April 22, 1996 lease to Dana Hall of Berwick, Maine. By Agreement dated on or about January 2, 2013, Dana Hall entered into an agreement with Tomco Realty, LLC to purchase all of Tomco's interest in the April 22, 1996 Lease, subject to securing approval from the Inhabitants of the Town of South Berwick.

V. Retroactive Consent

The Town, acting through its council, is prepared to retroactively consent to the past assignments and give its consent to the assignment by Tomco Realty, LLC to Dana Hall, provided certain changes are made to the Lease.

VI. Consideration

In consideration of the Town consenting to Tomco Realty, LLC's sale, transfer, and assignment of the April 22, 1996 Lease to Dana Hall, the parties agree that upon the assignment and sale of the Lease from Tomco Realty, LLC to Dana Hall the Lease shall be automatically amended as follows:

The Lease is amended to incorporate the municipal parking ordinance as it currently exists and as it may be amended from time to time in the future. See Art. III §130-14 *et seq.* Said ordinance shall take into consideration the Lease's goal of providing parking spaces for patrons of the South Berwick post office, patrons and employees of the existing bank or any future business that may occupy said bank building and for patrons of the South Berwick business district.

The Lessee will work with the Town to implement and enforce said ordinance and will allow the Town and its agents reasonable access to the leased property to enforce the parking ordinance.

The current custom of the Town's contributing to the removal of Lessee's plowed snow shall continue.

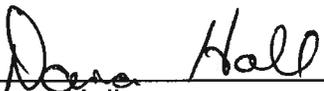
The Lessee shall permit the erection, repair and replacement of a directional sign for the South Berwick Public Library to be erected on a corner of the leased premises at such place as is designated by the Town.

The council shall retroactively approve and consent to the earlier inter-family assignments of the Lease by Don G. Thompson and Stanley H. Thompson as specified in Paragraph III above.

All other provisions of the April 22, 1996 lease shall remain in full force and effect.

Dated at South Berwick, Maine on February 12, 2013.


Witness


Dana Hall

Town of South Berwick

Witness to all Council Members

By: _____
Gerald W. MacPherson, Sr.
Council Member

By: _____
Jean Demetracopoulos
Council Member

By: _____
David Webster
Council Member

By: _____
John Kareckas
Council Member

By: _____
Russell H. Abell
Council Member

STATE OF MAINE
COUNTY OF YORK, ss

February 12, 2013

Then personally appeared the above-named Dana Hall and Gerald W. MacPherson, Sr., and acknowledged the foregoing instrument to be their free act and deed, with Gerald W. MacPherson, Sr. signing in his capacity as council member, before me.

Bruce A. Whitney
Attorney at Law

TOWN COUNCIL
Agenda Information Sheet

Meeting Date: February 26, 2012	Item # NB 4
Agenda Item: Amend Town Manager's Contract	
Town Manager's Recommendation	
As per our discussion in Executive Session on February 19 th , I have drawn up the attached amendment to my contract.	
Requested Action	
Motion to sign Amendment #1 to the Town Manager's Contract.	
Vote	

EMPLOYMENT AGREEMENT AMENDMENT FEBRUARY 26, 2013

THIS AGREEMENT ADDENDUM dated as of February 26, 2013 by and between the Town of South Berwick, a Maine Municipal Corporation having its location in South Berwick, County of York and State of Maine ("Town"), and Perry A. Ellsworth ("Employee"), of Strong, County of Franklin and State of Maine amends sections of a contract signed by those parties on an AGREEMENT dated as of December 14, 2010.

AMENDMENT #1 : **3. Compensation: ADD**

As of July 01, 2013 the Town Manager shall receive a salary of ninety thousand dollars (\$90,000) annually.

TOWN OF SOUTH BERWICK

Date

Gerald MacPherson Sr. Chairman

David Webster, Vice Chair

Jean Demetracopoulos

Russell Abell

John Kareckas

Date

Perry A. Ellsworth

TOWN COUNCIL
Agenda Information Sheet

Meeting Date: February 26, 2013	Item # NB 5
Agenda Item: Approve Council Transfer for General Assistance	
Town Manager's Recommendation	
The General Assistance line of the Social Services budget is overspent. Recommend a Council Transfer in the amount of \$9,500 from the Undesignated Fund to account number 4510-2710.	
Requested Action	
Motion to transfer \$9,500 from the Undesignated Fund to Social Services-Assistance Grants (account number 4510-2710).	
Vote	