

**South Berwick Town Council
Public Hearing
Planned Growth Ordinance
February 26, 2013**

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

The purpose of the hearing was to receive public comment on the proposed updates to the Planned Growth Ordinance. The Ordinance will sunset unless renewed by Council vote. Amendments are proposed to sections 102-4 Maximum number of permits annually, 102-5 Exemptions, 102-7D Issuance procedure, 102-20 Effective Date.

Mr. Ellsworth also proposed a change to section 102-3 Conformity Required; Exceptions, to exempt senior housing from the ordinance requirements.

No one in the audience wished to address Council.

The hearing was closed at 6:35pm.

Attest:

Barbara Bennett, CCM

South Berwick Town Council February 26, 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 2-12-13: On a motion by Mrs. Demetracopoulos, seconded by Mr. Webster, it was unanimously voted to adopt the minutes as written.
2. Special Council 2-19-13: On a motion by Mr. Kareckas, seconded by Mrs. Demetracopoulos, it was unanimously voted to adopt the minutes as written.

Treasurer's Warrant – Feb 26, 2013

On a motion by Mr. Webster, seconded by Mrs. Demetracopoulos, it was unanimously voted to sign the warrant in the amount of \$134,601.30.

Public Comment

1. Pat Robinson, Conservation Commission, thanked the Public Works Dept for plowing the Town Forest access road.

Reports & Correspondence

1. Mr. Ellsworth read a thank you note from Emma Goodwin. She was presented with a Certificate of Appreciation & a Gift Certificate for Spring Hill from the Town in recognition of her dedication. At the age of 90 she still cooks one day a week at the Senior Center.
2. Commented that he had received an email from Emergency Management reminding everyone of the safety issues created by wet heavy snow on rooftops.

Town Manager's Report

- Stated that he had met with Peter Sherr of Ransom Engineering and Chuck from Southern Maine **Regional Planning Commission to discuss the "Day" property.** Brownfields funding for asbestos removal is an option; however, doing it ourselves may be cheaper and leave us with more options for the future use of the property. This would be a great place for the skating rink.
- Made note that it appears boundary lines have been determined for the properties near the old Ramsdell pit. Initial discussions were to consider logging the property; we could look at selling the property and using the funds for the Eastern Trail, the Mt. A. Coordinator or **projects at the "Day" property.**
- Have had an inquiry into the possibility of the Town selling property located off of the York Woods Road. This could provide another opportunity to help fund specific projects without raising tax dollars.
- Commented that he is trying to organize a meeting with the MDOT and the dam owner regarding the Vine Street Bridge. Waiting for return calls.
- Road postings will be going up on Monday, March 4th.
- Budget workshops start next week. The proposed budget is under the LD1 cap. There will be reductions in force; at least 2 in the Public Works Dept.
- Utility work will begin in mid March for the upcoming mill & fill project on Main & Portland Streets.
- Will be out of the office Thursday, Friday, and Monday.

Unfinished Business

1. The Council discussed the proposed amendments to the Planned Growth Ordinance. It was **agreed to include the Manager's suggestion for section 102-3 to include senior housing as an exempt use. It was also agreed to amend the section by changing the language from "This chapter does not apply to any principal nonresidential uses" to "This chapter does not apply to any of the following uses".**

On a motion by Mrs. Demetracopoulos, seconded by Mr. Kareckas, it was unanimously voted to amend the Planned Growth Ordinance through March 31, 2016, including the amendments to section 102-3 exempting senior housing from the ordinance and the change in language to the 3rd sentence.

New Business

1. The Council discussed the request from the Great Works Regional Land Trust for a Right-Of-Way through the Town Forest. Pat Robinson of the Land Trust stated that the request is being made to **facilitate a land donation from the Gallo's. The Gallo's have certain criteria for the donation, one** being the Town granting the ROW.

-Mr. Webster asked if the Land Trust wanted the land so it could timber harvest. Ms. Robinson replied yes.

-Mrs. Demetracopoulos commented that any agreement would have to be very specific that the Town is not obligated to maintain or plow the ROW for the Land Trust.

-Mr. Ellsworth commented that the agreement would also have to address maintenance and damage issues (such as those created by logging).

-Mr. Kareckas stated that the language and location of the ROW need clear definition.

-Ms. Robinson stated that **the Gallo's would like to have the transaction complete prior to April 1st**. Council consensus was to address the issue again at the next meeting.

2. On a motion by Mr. Kareckas, seconded by Mr. Abell, it was unanimously voted to consent to and sign the application for the Berwick Academy Tuition Raffle for 2013. Note was made that this has been approved in the past.

3. The Council discussed the proposed amendment to the 1996 Lease Agreement with Tomco. The lease has been reassigned several times within the Thompson family and is now being sold to a new owner. The terms of the lease require **the Town's consent** to the sale.

Mr. Ellsworth stated that the new owner has agreed to changes for the parking lot, such as signage. More parking will be available and will now be enforceable.

On a motion by Mr. Abell, seconded by Mr. Kareckas, it was unanimously voted to sign the amendment to the lease with Tomco (new lessee Dana Hall) dated February 12, 2013.

4. **Mrs. Demetracopoulos read the proposed amendment to the Manager's contract.** She also commented that the Council's goal was to raise his salary so it would be comparable with area towns.

On a motion by Mr. Webster, seconded by Mr. Kareckas, it was unanimously voted to amend the **Manager's contract by adding the following language: "As of July 1, 2013 the Town Manager shall receive a salary of ninety thousand dollars (\$90,000) annually"**.

5. On a motion by Mr. Kareckas, seconded by Mrs. Demetracopoulos, it was unanimously voted to transfer \$9,500 from the Undesignated Fund to Social Services – Assistance Grants account #4510-2710.

The transfer of funds is to cover the overages in the account primarily caused by increased rental assistance. Mr. Ellsworth commented that an additional transfer before year end is very likely.

Council Member Comments

1. Mr. Abell:

-Commented that he had just returned from vacation.

2. Mr. Kareckas:

-Questioned the process necessary for the adoption of the Open Space Plan. Mrs. Demetracopoulos stated that the Council should review it, discuss it, accept or not accept it, and if accepted pass it on to Planning and Conservation for use. Mr. Kareckas recommended revisiting it in April.

-Made note that he had not yet received the TIF document from the Manager for editing.

-**Commented that he was glad to hear that movement is happening with the "Day" property.** The property and surrounding area should be looked at as a whole.

-Suggested establishing a DOT page on the website to keep the public informed for the mill & fill project. Mr. Ellsworth made note that regular updates could be podcast also.

3. Mr. Webster:

-Commented that he is looking forward to budgets.

-Commented that he learned a lot at the Vaughan Fund financials workshop.

4. Mrs. Demetracopoulos:

-Thanked the Open Space Committee for their work on the Plan.

-Commented that she may miss at least one of the budget workshops next week.

5. Mr. MacPherson:

-Asked the Manager if the budget workshops would be podcast. Yes.

Adjournment

On a motion by Mrs. Demetracopoulos, seconded by Mr. Kareckas, it was unanimously voted to adjourn the meeting at 7:55pm.

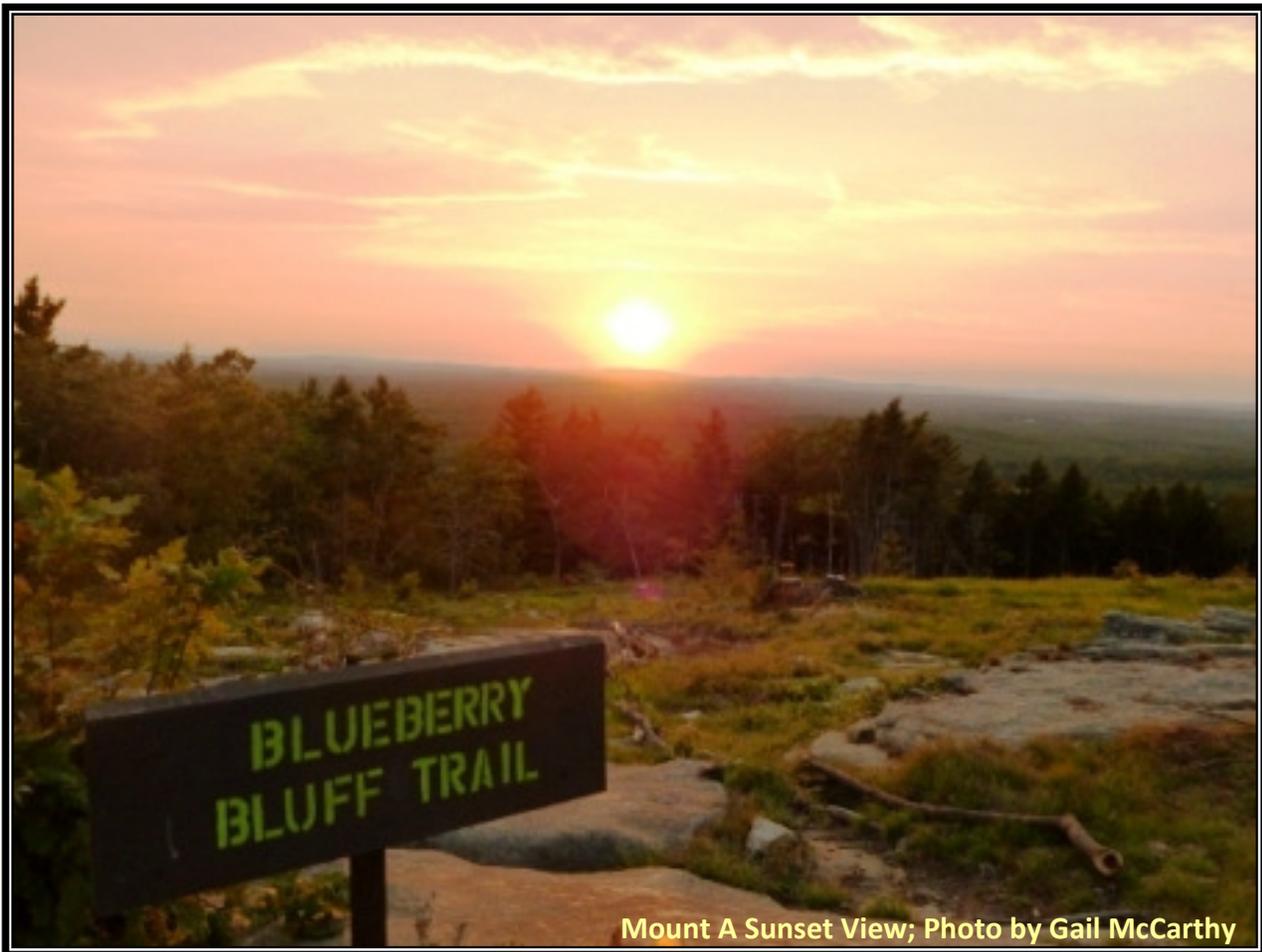
Attested:

Barbara Bennett, CCM

TOWN OF SO. BERWICK
CHECK REGISTER

Check Number	Account	Date Paid	Amount
00032241	132500 SECRETARY OF STATE M/V	03/12/2013	13,434.93
00032242	132500 SECRETARY OF STATE M/V	03/12/2013	19,185.80
00032244	010336 AGGREGATE RECYCLING CORP	03/12/2013	908.97
00032245	010656 AMERICAN SECURITY ALARM INC	03/12/2013	449.00
00032246	010740 AMERIFLEX CLAIMS ACCOUNT	03/12/2013	225.00
00032247	011250 TREASURER, STATE OF MAINE	03/12/2013	73.00
00032248	020225 BAKER & TAYLOR	03/12/2013	74.53
00032249	021250 BERNIER-GELINAS FUNERAL HOME	03/12/2013	530.00
00032250	022240 GARY BOUCHER	03/12/2013	25.00
00032251	030530 CENTRAL TIRE CO INC	03/12/2013	65.40
00032252	030500 CENTRAL MAINE POWER/CREDIT, COLL	03/12/2013	183.27
00032253	030510 CENTRAL MAINE POWER	03/12/2013	1,595.50
00032254	030725 CITIZENS BANK (CHG)	03/12/2013	165.00
00032255	030924 CLEAN HARBORS ENV SERVICES	03/12/2013	2,219.91
00032256	031425 COLONIAL LIFE & ACCIDENT INS.	03/12/2013	1,341.58
00032257	031579 CONSTELLATION NEW ENERGY	03/12/2013	1,540.43
00032258	040130 BOB DEARBORN	03/12/2013	40.00
00032259	040503 DESORCIE EMERGENCY PDTS	03/12/2013	1,075.48
00032260	050500 KAREN EGER	03/12/2013	70.55
00032261	050815 EMPLOYEE HEALTH & BENEFITS	03/12/2013	641.86
00032262	060100 HOWARD P FAIRFIELD INC	03/12/2013	1,446.80
00032263	060750 FIRE TECH & SAFETY	03/12/2013	297.22
00032264	070280 GENERAL CODE PUBLISHERS	03/12/2013	1,195.00
00032265	070565 GORHAM LEASING GROUP	03/12/2013	96.56
00032266	071050 GREAT FALLS CLEANERS	03/12/2013	241.00
00032267	071307 GULF/FLEET FUNDING	03/12/2013	13.86
00032268	191330 HANNAFORD'S	03/12/2013	228.00
00032269	080248 HANSCOM'S TRUCK STOP INC	03/12/2013	22,823.12
00032270	080450 HARVARD PILGRIM HEALTH CARE	03/12/2013	25,218.37
00032271	080998 HOME DEPOT	03/12/2013	68.44
00032272	081305 HSE	03/12/2013	3,990.20
00032273	090375 INTERNATIONAL SALT	03/12/2013	31,078.41
00032274	100150 JANETOS MARKET	03/12/2013	58.87
00032275	100820 FRED KEEN	03/12/2013	75.00
00032276	141367 KONE INC	03/12/2013	140.00
00032277	120510 LAWSON PRODUCTS INC.	03/12/2013	460.00
00032278	120775 DOUGLAS LETELLIER	03/12/2013	100.00
00032279	121130 LIGHTHOUSE JUBILEES	03/12/2013	150.00
00032280	131700 MAINE CHIEFS OF POLICE ASSOC.	03/12/2013	71.50
00032281	133795 MICK BODYWORKS	03/12/2013	191.24
00032282	127000 CORRINE J MAHONY	03/12/2013	1,600.00
00032283	140105 NAPA OF SOMERSWORTH	03/12/2013	287.77
00032284	141400 NORTHERN DATA SYSTEMS INC	03/12/2013	375.00
00032285	133378 NORTON STREET NRLP	03/12/2013	400.00
00032286	159995 HL PATTEN CONSTRUCTION	03/12/2013	132.00
00032287	200700 PIKE INDUSTRIES INC	03/12/2013	356.25
00032288	160320 PINE TREE WASTE INC	03/12/2013	1,701.17
00032289	160900 PORTLAND NORTH TRUCK CENTER	03/12/2013	7.61
00032290	161265 PORTSMOUTH FORD	03/12/2013	973.73
00032291	161295 POWER HAWK TECHNOLOGIES	03/12/2013	1,906.98
00032292	180603 RIVERBEND LANDSCAPE	03/12/2013	2,722.50
00032293	190094 SANEL AUTO PARTS CO	03/12/2013	685.13
00032294	190536 SUSAN SCHWAKE	03/12/2013	200.00
00032295	132525 SECRETARY OF STATE	03/12/2013	50.00
00032296	191533 CRAIG SKELTON	03/12/2013	77.28
00032297	191753 FOREST SMITH	03/12/2013	675.00

Mt. Agamenticus Conservation Program



2012 Stewardship Summary Report

Over the last thirteen years conservation work at Mount Agamenticus has focused on protecting the natural resources of the area by managing recreational use, remediating trails and habitats, and educating the public. Each year, the conservation program builds on the successful work of the past with the help of seasonal trail crews and a growing number of dedicated volunteers.

The 2012 season was highlighted by major improvements to the Mount Agamenticus summit area. Our most significant addition is the creation of a summit loop trail that traverses the open park area and new shrubland habitat of Mount A. This trail is exactly one mile long and has been designed with the intention for most of the trail to be upgradable to meet handicap accessible parameters. (Upgrades will be driven by available funding.) Currently the trail is a gentle meandering single track path that provides scenic and wildlife viewing opportunities and offers the public a hint of its potential.

Thanks to the collaborative conservation efforts of many partners, volunteers and donors, Mount A has become a wonderful place for the local community to enjoy the outdoors, experience its scenic beauty, and to appreciate its significance as one of Maine's Last Great Places.

Mount Agamenticus Conservation Program

2012 Accomplishments

The Mount Agamenticus Conservation Region contains over 10,000 acres of land and is one of the largest remaining unfragmented forests in coastal New England. The region is known for its abundant vernal pools, rich biodiversity, and unique trail system and is home to many of Maine's rare plants and animals. State, local and non-profit landowners are working together to protect this land and to balance wildlife and water quality along with sustainable recreation. These landowners make up the Mount Agamenticus Steering Committee and include: the Towns of York and South Berwick, The York Water District, Maine Dept. of Inland Fisheries and Wildlife, Great Works Regional Land Trust, York Land Trust, and The Nature Conservancy.

A Conservation Coordinator, seasonal Conservation Crews, and volunteers have been implementing the Steering Committee's Public Access and Trail Management Plans since the spring of 2000. Each year these dedicated staff and volunteers conduct successful stewardship and outreach activities and have transformed Mount Agamenticus from a dilapidated old ski area into a valuable scenic and recreational destination while continuing to enhance the ecological resources. Success can be attributed to ground work, direct interaction with visitors and fundraising efforts over the years. Much of the general operating expense and project work has been funded by the Mount Agamenticus Steering Committee partners, granting agencies, and donations from individuals within the community. This year, generous support came from The Rosamond Thaxter Foundation, The Maine Recreational Trails/Education Program, the Nathaniel Wheeler Trust, Norcross Wildlife Foundation, the York Conservation Commission, and private donors.

Over the years Mount Agamenticus has benefited tremendously from dedicated staff and volunteers that have worked together to remediate trails, improve trail signage, enhance visitor understanding, experiences, and safety, and to align recreational activities with environmental quality. This year has been no different as the trail crew and volunteers worked tirelessly to repair poor trail conditions, develop new trail sections, increase directional signage, reroute all first hill trails that intersect with summit, and have made significant enhancements to the summit, lodge and workshop.

Conservation Crews, Internships, and Park Attendant

From late May through October 2012, a Conservation Crew worked on land owned by the Mount Agamenticus Steering Committee partners. The Crew focused on many tasks to include new trail development, trail remediation, trail maintenance, trail signs, invasive plant removal, revegetation, outreach programs and interpretive displays, summit and lodge improvements, trail assessments, GPS mapping, visitor use, soil, and habitat surveys.

Thanks to housing opportunities from the York Water District the seasonal staff included members from near and far. The Conservation Crew consisted of four members: Scott Legg from Thornton, Co; Lindsey Dougherty from Eliot, ME; Brian Van Dam Jr. from Scarborough, ME; and Tracie Bellinger from Portland, ME.

This year we offered two new internship opportunities. Chelsea Auger from Hookset, NH was the Outreach Intern and worked on environmental education and conservation tasks with a focus on invasive plants while assisting with trail crew and volunteer efforts. Stephen McCallum from Chattanooga, TN was the Trail Steward Intern and worked alongside the crew on trail remediation efforts but also focused on a soil surveying project.

Kristina Clements from York, ME returned as the Mount Agamenticus Park Attendant. Kristina has been working in this capacity since 2009 and is charged with overseeing the Outreach Intern and Learning Lodge operations, docent recruitment, and interpretation.

The crew and trail steward intern were supervised by Roger Clements from York, ME who has been working in this capacity since 2008. All staff and volunteers are directed by the Conservation Coordinator, Robin Kerr and supported with a grant from the Recreational Trails Program with matching funds from the Town of York.

The conservation program has just completed thirteen successful years of trail improvements, habitat restoration, and environmental education around Mount Agamenticus. The summit of Mount A in particular has seen some significant changes over the last year. A summit clearing took place during the winter to restore scenic vistas and to create and promote valuable early successional shrubland habitat. The cleared area was then thoroughly cleaned of old trash from past uses and has begun to revegetate, three new overlook picnic areas have been created strategically located to observe sunrise and sunset, and a gentle scenic path has been identified.



Despite initial concern about cutting trees all conservation activities continue to be praised by the public. This year, feedback has been overwhelmingly positive concerning the remarkable summit views and the condition and availability of area trails as we continue to carefully balance the management of water quality and wildlife habitat with recreation opportunities and visitor experience.

The following is a review of the great work accomplished this year at the summit and beyond by the conservation crew, interns and community volunteers:

New Trail Development:

- Built a new 150' woodchip path at the summit. This semi-circle contains large stepping rocks spaced at 10' intervals leading to shaded stone seats and a north facing rock ledge with views of Mt. Washington.
- A new 1.0 mile summit loop trail has been completely mapped and identified. This trail is currently accessible by foot traffic and contained within the summit open canopy area. It is designed with the intention to become handicap accessible (as funding becomes available) with a packed crushed stone and gravel or boardwalk surfaces and will meander thru the open field and shrubland, providing resting and viewing opportunities.
- Built a new 150' trail off of Cedar trail to an old beaver dam. This trail will provide foot access to an interpretive site that is intended to be handicapped accessible. It may have subsequent section to provide a continued loop back to Cedar trail and parking facility.
- Cleared, flagged and GPS mapped a new 0.5 mile trail connector between Notch and Great Marsh trails. This hike/bike trail will provide a southerly connection to a fourth recommended loop trail.



Trail Remediation:

- Repaired and rerouted all 5 1st Hill trails leading to and thru the new shrubland area. Rerouted trails were all marked with new signs and direction. This totals nearly 1 mile of trail and approximately 15 new signs (to include informational signs such as Re-growth Area or New Trail, etc.)
- Repaired and upgraded trail surface on Search & Rescue trails. Deposited 38 tons (5 dump truck loads) of crushed rock and gravel on Norman Mill and Notch (primarily) trails and Great Marsh (beginning) trails to fill mud holes and harden trail surface for multi-use traffic.





- Rock armored over 6 areas along SAR trails: 2 each on Notch, Great Marsh, and Wheel trails and a 20' section on Ring Trail to facilitate better passage.
- Built nearly 30' of ATV supportable boardwalk on Cedar trail and over 70' total of bog bridging on Norman Mill (52'), Fisher and the Summit trails (20') for cyclists and foot traffic.



Trail Maintenance:

- Replaced decking on 7 boardwalks along multiple use trails totaling 50' of repair.
- Re-blazed approximately 7 miles of trails to include touching up existing markers and painting new "reassurance" blazes along the Dragon Fly loop trail and Notch and Great Marsh trails.
- Hurricane recovery: removed nearly 30 trees with chain saw on all trails.

Trail and Habitat Related Work:



- Miscellaneous sign construction (14±): Distance/direction information near 2nd & 3rd hills & loop trails.
- A fourth loop trail and Owl icon was selected and blazed. Corresponding wooded icon signs (20) were constructed.
- All trails (just over 40 miles) were GPS mapped to assist upgrading/updating GIS files and information.
- An invasive plant survey identified 9 species that were mapped and hand pulled. Populations appear to be stable or in decline and 3 seem to have been eradicated.
- An annual soil compaction and erosion survey was conducted. Some point locations

were re-established due to the conversion to shrubland and the relocation of trails.

- Litter/Dumping pick up- many truck loads of trash collected on Mountain Road (primarily), the summit access road and parking areas.

Work resulting from vandalism:

- Rebuilt several platforms and reposted 23 StoryWalk™ stations.
- Rebuilt 3 trail boxes
- Closed spider trails that were purposefully opened



Summit Area Improvements:

- Removed 5 truckloads of trash from cut area as part of 1st Hill trail reconstruction. This included removal of cemented and staked rebar, barb wire, and standard trash & abandoned material.
- 3 new picnic areas were created to include 1 sunset overlook area with bench.
- All 14 picnic areas were mulched, painted, etc.
- 2 new picture post locations were established (1 each on western and eastern shrubland areas).
- 8 new bluebird and swallow birdhouses were built and installed (occupied too!)
- All 16 native garden areas were mulched, weeded, etc.
- Parking areas and driveway were recovered and lined with rock.
- Crew workshop roof was patched 3 times.
- Viewing platforms were sanded (in sections to remove graffiti), painted and railings repaired.



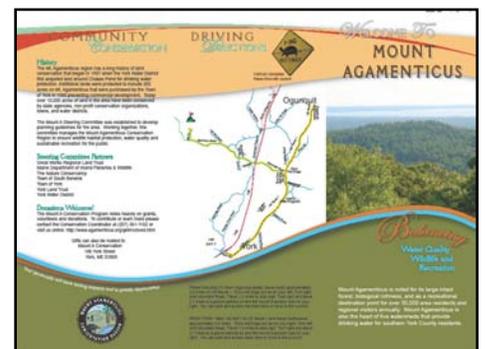
Volunteer efforts:

- More than 12,750 hours of volunteer labor have been contributed since 2000!
- This season, we hosted 15 community volunteer work sessions along with 2 internships and weekly Learning Lodge docents. Combined, volunteers contributed nearly 1,350 hours of time.
- In 2012, local residents and community service groups worked with the trail crew maintaining, rerouting, and building new trails, constructing and installing signs, hauling gravel, picking up trash, maintaining native vegetation, and removing invasive plants.
- Volunteers included groups from Liberty Mutual, Tom's of Maine, Berwick Academy, York Alumni, TD Bank, IDEXX, Boy Scouts, and the Friends of Mt. A along with individuals from neighboring communities and dedicated trail adopters. The outcome is quite an accomplishment from both a work and outreach perspective!



Public outreach / Education:

- Published a new brochure and map featuring 3 recommended loop trails.
- Completed interpretive panels for a 3-D site model that feature rare plant communities located within the Mount Agamenticus Conservation Region. The panels also identify rules for use, how to practice low impact recreation, and identifies the importance of watersheds.





- Coordinated, managed volunteer work with Lodge Docents who interact with visitors each weekend.
- Helped set-up and man display at CFW open house and ECO day at WNERR.

- Agamenticus.org website was re-designed and featured new brochure and updates from the field.
- The Friends of Mount A developed the “Summit View” newsletter and published the first 2 editions.
- 288 people were asked questions pertaining to our annual Visitor Use Survey. This survey is used to gather information, track trends and evaluate public opinion about the area.
- Continued support of several organized functions for diverse groups: Triathlon and cycling race, trail runners, scouting trips, school group visits, etc. Over 2,300 children were identified with summer camp and school groups in group registration forms received in 2012.
- Led or Co-led 18 guided nature walks and educational programs for organized groups and community gatherings.



Several other general tasks such as; trail box repairs, trail brushing, drainage repairs, and monitoring; litter pick-up; boardwalk tread cleaning; tool repair; summit maintenance such as workshop, lodge, and deck repairs; public information sharing; volunteer recruiting; volunteer workday planning, prepping, and clean up supplemented the significant achievements of this season.

In addition, the summit road gate closing/opening trial was continued this season and was managed by the “Mountain Road Trail Crew”. Closing the summit road gate during night hours has been very effective in preventing inappropriate activities at the summit. The

overwhelming success with the gate operations should be directly attributed to the Mountain Road crew and the housing opportunity provided by the York Water District. However, some scheduling modifications will be recommended to continue the program.

Notably, the 2012 seasonal staff, interns, and docents were sited for an exceptional amount of work accomplished and their friendliness while working with our volunteers and interacting with the public.



This conservation work ensures that water quality and wildlife habitat continue to be protected while visitor experience, safety, and awareness are improved within a sustainable trail network. There have been many successes to report thanks in large part to the Recreational Trails Program, the Town of York, and Mt. Agamenticus Steering Committee. It takes a lot of work to take care of this land and a fully funded trail crew is essential to our program.



Phew! Goodnight 2012!

TOWN COUNCIL
Agenda Information Sheet

Meeting Date: March 12, 2013	Item # NB 3
Agenda Item: Amendment to Chapter 140: Zoning	
Town Manager's Recommendation	
<p>The Planning Board has reviewed the attached amendments to Chapter 140 to regulate the outdoor sale of food and merchandise. The Board requests the Council review the amendments and offer any suggested changes before the Planning Board schedules a public hearing.</p>	
Requested Action	
<p>Instruct the Manager to return the proposed amendments to the Planning Board with/or without suggestions.</p>	
Vote	

July 19 2012

**An Ordinance to Amend
Chapters 140-Zoning
of the South Berwick Town Code
To Regulate Outdoor Sales of Food and Merchandise**

Note: The symbol of “ * * * *” indicates that there is missing text that will remain unchanged, which has been left out of this document for the purpose of brevity. Underlines indicate proposed language to add, and ~~strikeouts~~ indicate proposed removals of language.*

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Article II. Construction of Language; Definitions

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§ 140-9. Definitions.

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

* * * * *

RESTAURANT

An establishment, located in an enclosed building, which may provide additional outdoor seating, where meals are prepared on the premises and served to the public for consumption on the premises; and where no food or beverages are served directly to occupants of motor vehicles or directly to pedestrian traffic from an exterior service opening or counter, or any combination of the foregoing; and where customers are not encouraged by the design of the physical facilities, by advertising or by the servicing or packaging procedures to take out food or beverages for consumption ~~outside the off of the premises enclosed building.~~

RESTAURANT, TAKE-OUT/FAST-FOOD

An establishment, located in an enclosed building, which may provide additional outdoor seating, where food is prepared on the premises and where the normal operation of the business is described substantially by the following factors:

- A. The establishment offers both "eat-in" and "take-out" service.
- B. Customers place their orders at a counter or window (including drive-up windows) rather than at a table served by a waiter or waitress.
- C. The predominant method of delivery is that customers pick up their own orders at a counter or window and then either carry the orders to a table or seating area within the restaurant or take the orders out of the restaurant for consumption outside of the building (table service by the

establishment's staff during limited hours or occasional delivery of food items to a customer table or seating area will not be deemed to be the predominant method of delivery).

D. The manner in which the food is prepared, presented and packaged is essentially the same whether the customer chooses "eat-in" or "take-out."

RETAIL BUSINESS

A business establishment operating from an enclosed building on the premises, engaged in the sale, rental or lease of goods or services to the consumer for personal use or household consumption and not for resale.

* * * * *

Article VA. Performance Standards for Specific Uses

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§ 140-58. Restaurants and take-out restaurants

A. The application for a permit shall state the maximum seating capacity of the restaurant, including outdoor seating, if any is proposed. Any expansion or enlargement over the stated capacity shall require a new permit.

B. Any restaurant located within 500 feet of an existing public sewer line shall connect with the sewer system at the expense of the owners. When subsurface wastewater disposal is probed, completed soil evaluation forms (HHE-200) shall be submitted. All proposed subsurface disposal systems shall meet the Maine State Subsurface Wastewater Disposal Rules.

C. All parking and loading facilities shall be located to the side or rear of the building, and shall be screened from abutting residences within 200 feet. Screening shall be comprised of a continuous landscaped area not less than eight feet in width, containing evergreen shrubs, trees, fences, berms or any combination, forming a visual barrier not less than six feet in height.

D. Rest room facilities for the patrons shall be provided on the premises

E. Restaurants and take-out restaurants shall operate from an enclosed building on the premises.

[Note: Insert the following after section 140-58:]

§ 140-58A Outdoor Sales of Food or Merchandise

A. Restaurants, Take Out/Fast Food Restaurants, and Retail Businesses, as defined by this Chapter, shall operate and sell food or merchandise only from an enclosed building located on the premises. The building in or from which said items of food or merchandise are sold, shall be

so constructed as to be permanently attached to the land on which it is located and not of a movable or portable nature.

B. The use of vacant lots, streets, sidewalks, public properties and parks for sales and displays of food or merchandise shall be prohibited.

C. Exceptions. The following types of outdoor sales of food and merchandise shall be exempted from the provisions of Subsections A and B above:

1. Outside seating at approved restaurants or take out/fast food restaurants on private property so long as such seating complies with all other codes, ordinances and laws.
2. Outdoor sales of merchandise from displays located outside of a building, on the premises of an approved retail business.
3. Sales of food and merchandise at special events or festivals authorized by the Town Council of South Berwick.
4. Outdoor vending machines accessory to a commercial use.
5. Seasonal sale of produce and plants grown locally, at farm stands, farmers markets, and the like

* * * * *