

Town of North Yarmouth
Select Board
Meeting Minutes of Tuesday, May 18, 2021



Call to Order – Steve Berry, James Moulton, Brian Sites, Austin Harrell, and David Reed were present. Chairperson Berry called the meeting to order at approximately 7:00 PM.

Public Hearings – Animal Control Ordinance – (4:38) Chairperson Berry moved to open the public hearing on the proposed Animal Control Ordinance. Selectperson Harrell seconded the motion. Discussion: none. **Vote: 5 Yes – 0 No.**

Presentation – Chairperson Berry presented the summary of changes to the public. The changes can be found in the meeting materials for this meeting.

Public Participation – Maria Mazorra, Farms Edge Road, shared her concerns with the off-leash times presented in the proposed ordinance. Jennifer Speirs, Marston Way, read comments to the Board. Ms. Speirs shared her concerns with the reasons why the proposed ordinance was created and how it was her opinion that the ordinance was reflective of emotions from the increase in usage, with evidence not considered. Ms. Speirs asked that the Board prepare more evidence before deciding on making changes to the ordinance. Furthermore, Ms. Speirs asked the Board not to put the amendments on the Special Town Meeting Warrant. Ginny Van Dyke, Delwin Drive, spoke about the concerns she had with the behavior of dogs in the parks based on her experiences she had in the past. Ms. Van Dyke suggested the Board consider creating an enclosed area in Old Town House Park for dog use. Sandy Grain, North Road, stated that early morning restrictions that are allowed with the proposed ordinance on some days was too restrictive and that the Board should consider and amendments to allow animal to be off-lease from 6 AM – 9 PM. Anne Lang, Parks and Recreation Committee member, wanted to recognize the information brought forth from the public hearing and the Zoom webinar forum that was hosted by the Parks and Recreation Committee. Ms. Lang stated that that Chandler Brook and Old Town House Parks were proposed to be alternate days; the Town Forest, Sam Ristch Trail, and Knight's Pond were always still off-leash/voice control. Sharp's Field, the Village Green, and Wescustogo Hall & North Yarmouth Community Center were under the direction of the Town Manager. Elizabeth Jacobson, Titcomb Field Road, made a comment that specific times should be considered. An unidentified individual made a comment that the restrictions made it seem that the town was looking to create additional revenue. Ms. Lang responded to the question by stating that there is no ordinance to allow for tracking incidents and that an additional revenue stream was not the intent.

Board Inquiries/Discussions – Selectperson Reed asked why there was a concern on enforcement of the proposed ordinance. Selectperson Moulton stated that any action should be a compromise. Selectperson Sites reiterated Ms. Lang's recent previous comments. Ms. Lang stated that the Parks and Recreation Committee could revisit the issue in the future. Selectperson Reed asked Ms. Lang if bureaucratic requirements were the reason for the proposed ordinance. Ms. Lang responded "no"; reasons included state statute language, Parks and Recreation Committee on-going discussions at meetings, and citizen concerns.

Chairperson Berry moved to close the public hearing on the proposed Animal Control Ordinance. Selectperson Harrell seconded the motion. Discussion: none. **Vote: 5 Yes – 0 No.**

Chairperson Berry moved to place the proposed Animal Control Ordinance on the June 7, 2021 Special Town Meeting Warrant. Selectperson Moulton seconded the motion. Discussion: Selectperson Sites asked if motions could be made from the Town Meeting floor. Chairperson Berry stated that he believed that they were open-ended articles. Selectperson Reed responded that he was in favor if amendments could be made from the floor at the Town Meeting. The Executive Assistant to the Town Manager, Draven Walker, clarified that the ordinance was not amendable on the floor. The Chairperson recognized this and corrected his previous statement. Selectperson Reed asked that a resident be recognized. Chairperson Berry recognized the resident. The resident, Leonard Kaminow, North Road, asked that the Board amend the Animal Control Ordinance.

Selectperson Reed moved to amend the Animal Control Ordinance so that animals would be allowed off-leash from 6 AM – 9 AM at Old Town House Park and Chandler Brook. Selectperson Sites seconded the motion. Discussion: Chairperson Berry recognized Kim Bailey, Walnut Hill Road, who made a comment on her concern with the motion on the floor. Chairperson Berry clarified that the ordinance proposed allowed alternate days for dogs to be off leash. The Executive Assistant to the Town Manager also asked for more clarification to recording

purposes. **Vote: 5 Yes – 0 No.**

Chairperson brought forth the original motion to move that the proposed Animal Control Ordinance be placed on the Special Town Meeting Warrant for June 7, 2021, as amended. **Vote: 5 Yes – 0 No.**

Public Hearing – Regulations for the Use of Parks and Recreation Areas Ordinance – (29:15) Chairperson Berry moved to open the public hearing on the Regulations for the Use of Parks and Recreation Areas Ordinance. Selectperson Reed seconded the motion. Discussion: none. **Vote: 5 Yes – 0 No.**

Presentation – Chairperson Berry clarified that the amended proposed Animal Control Ordinance should reflect this ordinance. Selectperson Harrell clarified that section G would need to be amended.

Public Participation – Judy Potter, Walnut Hill Road, asked for clarification of the language, “shall be under the immediate direction of the Town Manager”. Chairperson Berry responded that the Town Manager would oversee issues of dog use. Linc Merrill asked about hunting hours in the park. Selectperson Moulton responded that state law applies. Elizabeth Jacobson, Titcomb Field Road, asked for clarification if night snowshoeing could be allowed. Selectperson Harrell responded that she would just need to get permission from the Town Manager. Selectperson Sites asked about the time restrictions. Parks and Recreation Committee member, Scott Kerr, stated that littering was an issue at night. Selectperson Reed asked if the littering provision was already enforceable enough. Scott Kerr responded in the negative. Jennifer Speirs stated that dawn can come before 6 AM in some parts of the year. Gay Peterson asked if drug use in the parks were being considered. Selectperson Reed responded that the issue of prohibited activities at night could be addressed without infringing on others use after dusk.

Chairperson Berry moved to close the public hearing on the Regulations for the Use of Parks and Recreation Areas Ordinance. Selectperson Sites seconded the motion. Discussion: none. **Vote: 5 Yes – 0 No.**

Chairperson Berry moved to amend the Regulations for the Use of Parks and Recreation Areas Ordinance to add language in sections 5.1(b) and 5.1(f), “with the exception of 6 AM – 9 AM.” Selectperson Sites seconded the motion. Discussion: Mike Mallory stated that the language “dawn or 6:00 AM, whichever comes first” for open hunting times should be added. **Vote: 5 Yes – 0 No.**

Chairperson Berry moved to amend the Regulations for the Use of Parks and Recreation Areas Ordinance, section 6.1, to read “All Town Parks shall be open to the public only between sunrise or 5 AM, whichever comes first, and 9 PM, unless otherwise stated in this ordinance.” Selectperson Reed seconded the motion. Discussion: Paul Hodgetts inquired on what the difference between dawn and sunrise. Selectperson Moulton responded that state law supersedes this ordinance. The Executive Assistant to the Town Manager also clarified. **Vote: 5 Yes – 0 No.**

Chairperson Berry moved to place the proposed amendments, as amended, to the Regulations for the Use of Parks and Recreation Areas Ordinance on the June 7, 2021 Special Town Meeting Warrant. Selectperson Harrell seconded the motion. Discussion: Selectperson Sites and Chairperson Berry clarified that the amendments will be on the June 7th & 8th Special Town Meeting and were placed there before the Annual Town Meeting was rescheduled. **Vote: 5 Yes – 0 No.**

Public Hearing – Roadway Ordinance – (50:10) Chairperson Berry moved to open the public hearing on the Roadway Ordinance. Selectperson Reed seconded the motion. Discussion: none. **Vote: 5 Yes – 0 No.**

Presentation – Chairperson Berry explained the changes that were intended but not made when the Board last had a public hearing on this ordinance.

Public Participation – Ryan Barnes, Sligo Road, provided a letter to the Board. The letter reads:

In looking at the proposed roadway ordinance I have the following comments:

“Section 6.5 Conditions for Certificate of Compliance

1. Width of Traveled Way - The National Fire Protection Association recommends fire access roads to be a minimum of 20 feet wide, minimum roadway widths should be 20 feet.

2. Bituminous Paving – 2” of hot mix asphalt is not adequate for a roadway that will be accepted by the town the minimum depth of pavement should be 3.5”.
3. Road Crown – ¼” per foot should be specified for paved surfaces and ½” per should be specified for gravel surfaces

Section 6.7 Drainage

1. Drainage plans should be prepared by a licensed engineer.

Section 6.11 Waiting Periods

1. Roads offered to the town should be certified by an engineer to have a pavement condition rating of 85 or better.

Section 8.1.C Private Improvements in the Right of Way

1. Dog Containment Wires should not be allowed in the right of way, unleashed animals should be contained on private property.

Thank you for your time.”

Chairperson Berry moved to close the public hearing on the Roadway Ordinance. Selectperson Reed seconded the motion. Discussion: none. **Vote: 5 Yes – 0 No.**

Chairperson Berry moved to amend the Roadway Ordinance, as presented. Selectperson Sites seconded the motion. Discussion: none. **Vote: 5 Yes – 0 No.**

Chairperson Berry moved to endorse the Roadway Ordinance. Selectperson Sites seconded the motion. Discussion: none. **Vote: 5 Yes – 0 No.**

Minutes of Previous Meeting(s) – (55:14) Chairperson Berry moved to approve the minutes for May 4, 2021, as presented. Selectperson Sites seconded the motion. Discussion: **4 Yes – 0 No – 1 Abstain (Selectperson Reed)**

Public Comment - Non-Agenda Items:

(55:33)

Judy Potter, Walnut Hill Road, expressed concern for historic homes being kept in North Yarmouth. Also, Ms. Potter asked about a proposal to the Planning Board for senior housing development. Chairperson Berry stated that the Board has no jurisdiction over that project and described that the senior housing forum was to discuss the vision residents had for affordable senior housing that would involve the town. Selectperson Sites reiterated Chairperson Berry’s response and added that the discussion between the Economic Development and Sustainability Committee of what topics should be addressed at a senior housing workshop. Judy Potter asked Diane Morrison, Economic Development & Sustainability Committee Chairperson, if she had details on a development being proposed on the Hazelton property. Diane Morrison explained why the EDSC committee chose not to move forward with the Senior Housing Forum. Linc Merrill, North Road, shared his appreciation with the Board’s recent action to invite the town assessor, comments from the public regarding TIF, and the Board including his letter into the record. Mr. Merrill made comments regarding the minutes. Mr. Merrill shared his concerns with parking in the Village Center and the continued projects, specifically the Fire Barn, that have an impact on available space for open green space. The Chairperson stated that he would look into the minutes and parking in the Village Center. Chairperson Berry explained that a committee is currently being considered to discuss recreation. Selectperson Reed made comments on space at the old school as being available for a playground. The Executive Assistant to the Town Manager stated that the minutes will be posted the following day and that draft minutes are included in the meeting materials of the following meeting. Dixie Hayes, New Gloucester Road, stated that she was pleased with the Board’s response to the dog issues and the assessor’s presentation to the Board. Ms. Hayes emphasized the importance of an audio record and stated that the Board should have the public speak at the microphone and state who they are. Ms. Hayes stated that public education is the town’s largest responsibility and that people support the schools. Chairperson Berry stated that the acoustic panels were up and looked forward to hearing resident’s thoughts. Alicia Dostilio, Parsonage Road, asked if Town Meeting could be held outside. The Chairperson responded that it was cost prohibitive. Ms.

Dostilio asked about donations for a playground dedicated to Kristin Westra. Selectperson Sites stated that his wife started the donations some time ago and believed the money was sitting in an account. Ms. Dostilio said that the Parks and Recreation Committee should consider this. Selectperson Sites responded that he believes that the topic will be addressed with the recreation committee. Katie Murphy, North Yarmouth Historical Society, responded to Ms. Potter's concerns regarding the town's action in preserving a historical look of the town and that concerned citizens should join the Historical Society. Ms. Murphy shared that the Historical Society has \$330,000.00 raised in donations and is still looking for funding for the project to move the Old Town House. Selectperson Reed stated that the money donations should be used. Paul Hodgetts, Sligo Road, shared his concerns with the chairperson's three (3) minute rule.

Selectperson Reed moved to discontinue the three (3) minute time limit on public comments. Selectperson Moulton seconded. Discussion: Chairperson Berry stated that he has not told anyone to sit down, to date. Selectperson Moulton stated that he has used the time limit as chair before. Selectperson Sites stated he did not agree with the three (3) minute rule but felt that parameters needed to exist. Selectperson Reed stated that the three (3) minute rule was no longer necessary. Chairperson Berry stated that the rule needed to be consistent to avoid seeming discriminatory and that it was in place to keep the meetings reasonably timed. Selectperson Moulton stated that the action was housekeeping and the decision will not please everyone. Selectperson Reed stated that the Board seems to be working together because of mutual respect. Diane Morrison, Brown Dog Drive, stated that the Board should consider repetition from a core group of individuals an agenda item. Selectperson Sites stated that he noticed that agenda items are being brought up in the agenda. Selectperson Reed and Sites requested that public comment be placed at the end of the agenda. Selectperson Reed amended his motion to instruct the chair to place the public comment section at the end of the agenda. Selectperson Moulton seconded the motion. Discussion: Selectperson Harrell asked to clarify on Chairperson Berry's authority to add the three (3) minute rule to the meeting. Selectperson Moulton stated that the more important thing to do would be to move the public comment section to the end. Mike Mallory, Walnut Hill Road, asked what would stop the Board from stopping the meeting before public comment if put at the end of the agenda. The Chairperson responded that public comment was not required and was allowed through common decency. Selectperson Reed stated that the Board should have votes to adjourn. Chairperson Berry asked that the item be brought as an agenda item. The Board members agreed.

Management Reports & Communications:

(1:33:36)

Acting Town Manager's Report – Chairperson Berry read the Acting Town Manager's report.

Financial Reports – The expense and revenue reports were provided to the Board.

Department Head Reports – The reports were provided to the Board.

Old Business:

(1:41:38)

Sharp's Field Warrant Article Review – Discussion – Chairperson Berry read language proposed by Scott Kerr and Selectperson Moulton to the Board. Selectperson Reed stated his support. Selectperson Moulton stated that Mr. Kerr's language reflects the Board's intent. Diane Morrison, Brown Dog Drive, stated that the use of the field beyond a practice field could be expensive for the town. Selectperson Moulton responded that the cost would be bore by the town as is set currently (mowing, other landscaping related expenses). Selectperson Reed stated that portable bathrooms should be placed on the field. Ms. Dostilio elaborated that the school currently paid for the bathrooms and commented that the field should still be used as it is being used now. Katie Murphy, Mountfort Road, asked for more clarification on if the school was on-board with being the third party. Selectperson Moulton stated that he spoke with Superintendent Porter and he seemed interested in being the third party. Chairperson Berry stated that the Town Manager has tried to reach out to other entities with little success. Alicia Dostilio stated that she has been hosting "girls on the run" at the field. Chairperson Berry moved to acknowledge and support the proposed amendment that reflects the intentions of this Board. Selectperson Moulton seconded the motion. Discussion: Selectperson Sites asked to amend the motion to allow the Board to print off materials for the town meeting. Chairperson Berry moved to amend his motion to acknowledge and support the proposed amendment that reflects the intentions of this Board and to provide paper copies of what would be exhibit "H", which would

be the sketch on the Town's January 2020 survey. Discussion: Gay Peterson, Milliken Road, asked if the vote at town meeting would give the property to MSAD 51. Chairperson Berry stated that the vote at the 2000 town meeting was not clear and that this vote was to stop the field from being altered in the future. Selectperson Moulton stated that the language did to not allow any development beyond the scope of the article. Selectperson Reed stated that the language would allow the field to stay a field. Ms. Peterson responded that she was concerned that the field would be overused if Cumberland had limited open space. The Board responded that the agreement would not allow that to happen. Ms. Peterson asked what would happen if MSAD 51 was not interested in the field. Chairperson Berry stated that the Board would continue to look. Selectperson Moulton also responded that he does not see that happening. The discussed language is as follows:

"ARTICLE 2: To see if the Town will grant a conservation easement or similar instrument to an entity that will ensure compliance with the instrument's terms. The instrument ~~that~~ will have the effect of restricting the use of Sharp's Field, located on town property at 10 Village Square Road, as shown on the sketch on the Town's January 2020 survey in Exhibit "?" to its current condition for its continued use primarily as a lacrosse and other sports playing fields and secondarily for other public recreation and public activities , and authorize and delegate to the Select Board undertaking all action necessary to effect the purposes of this article including the selection of such entity? .

Select Board recommends approval.

Explanation: *The purpose of the article is to ensure that Sharp's Field remains ~~an open outdoor area- a sports field for public recreation use~~ and is not considered or sold for ~~commercial~~ development or building recreation facilities or structure at any time in the future. At this time SAD 51 may be the party to the instrument.*

After the next agenda item (2:30:52), Chairperson Berry read a letter from Steve Palmer, Mountfort Road. The letter was read into the record:

Hello

I realize there is an effort to tighten up the wording on the Sharp's Field article to make it more restrictive as to what can take place there. Although I do not know how much the revised ordinance is expected to change, I would urge the select board, if it has not already done so, to review the Regulations for the Use of Parks and Recreation Areas Ordinance, Sections 2 and 3. The ordinance may help guide your decision and may avoid further issues, be they legal or otherwise.

If the field is regarded as a recreational area, then the ordinance is clear on who within the committee structure of North Yarmouth shall be responsible for its care. Further provisions applicable to the select board in Section 12 provides the "hierarchy" to ensure that the Parks and Recreation committee is adhering to its responsibility granted to it by the select board.

The original article for the warrant should not be altered and no outside third party be given responsibility for this field. Implied in any effort to seek an outside party is to say the town is incapable of managing its own property. Is this the message the select board wishes to communicate to our residents? I write this as a private citizen. Thank you for your time and consideration.

Respectfully,
Steven Palmer
527 Mountfort Road

Chairperson Berry responded that the field will remain the towns and the purpose to bring in a third entity was to keep the field as intended with the acquisition of the property in 2000.

MSAD 51 Vacancy – Appointment Process – Full process included in the meeting materials. Vice Chairperson Moulton (Chairperson Berry abstained from discussion and voting) summarized the process. Selectperson Reed asked if the Board would have the opportunity to ask questions to the candidates. Vice Chairperson Moulton stated that the Board would have the opportunity. Laurie Bachelder, Oak Hill Road, asked how the process was chosen. Vice Chairperson Moulton stated that the procedure was provided by the attorney. Ms. Bachelder suggested that a process be written into the charter for any future appointments to committees or Boards. Ms. Bachelder asked that the appointment process be advertised. Selectperson Sites reiterated Vice-

Chairperson Moulton's comment on how the process came about. Ms. Bachelder asked the Board if the public had input on if the deadline could be before the election. She was concerned with the Board choosing another school board member after an election to choose one for a full term. There was discussion between Ms. Bachelder and Vice Chairperson Moulton. Selectperson Reed made a point of order to structure the conversation. Ms. Bachelder asked who gave the dates for the process outlined in the meeting materials. Vice Chairperson Moulton responded that the dates fell on the meeting dates of the Board (June 15, 2021). Vice Chairperson Moulton also stated that the lawyer presented the dates in the time frame that was appropriate. Vice Chairperson Moulton added that the Executive Assistant to the Town Manager wrote the dates into the packet. Ms. Bachelder wanted more reasoning for the dates. Vice Chairperson Moulton recognized the Executive Assistant. The Executive Assistant explained that the process is solely decided upon by the Board and that the dates for submission could be amended in the motion or simply by consensus. Vice Chairperson Moulton reiterated that the process was reviewed by the Town attorney and that he thought the process was fair. Ms. Bachelder reiterated her previous statements. Selectperson Sites responded that the candidate who loses and applies to be appointed still has to go through the process outlined in the meeting materials. Selectperson Reed suggested that the timeline be moved forward for an appointment due to the summer activity of MSAD 51 and stated that having adequate time to review the applications is more important. Jennifer Speirs, Marston Way, asked if the Board was having a meeting on the first Tuesday of the month as Board members in the past usually did not have two (2) meetings in June. Selectperson Sites responded that there was a planned meeting on June 1st and 15th. Paul Hodgetts, Sligo Road, asked how many people would be voting to appoint. Chairperson Berry stated that he was abstaining.

Vice Chairperson Moulton moved to accept applications for the purposes of appointing a resident to the MSAD #51 School Board of Directors and to consider those applications at the June 15, 2021 regular business meeting. Selectperson Reed seconded the motion. Discussion: Selectperson Reed asked when the School Board would be releasing their reopening plan. Elizabeth Jacobson, Titcomb Field Road, responded that the MSAD #51 has a plan that addresses the COVID-19 situation daily. Selectperson Reed asked if the Board should consider to move the proposed dates forward. Selectperson Sites responded that the dates seemed reasonable. Vice Chairperson Moulton responded that he did not see a reason to move it back or forward. Paul Hodgetts, Sligo Road, asked the Board what would happen if the vote was a tie. Selectperson Sites stated that there will be enough people to choose from to avoid that, in his opinion. **Vote 4 Yes – 0 No – 1 Abstain (Chairperson Berry)**

New Business:

(2:30:43)

Certification of Warrant Articles – Chairperson Berry moved to endorse and provide the Town Clerk with the required certifications of the proposed documents to be voted upon at the Special Town Meeting on June 7, 2021 and June 8, 2021. Selectperson Reed seconded the motion. Discussion: Selectperson Sites asked for clarification of the two ordinances being certified. Chairperson Berry stated that the Animal Control Ordinance and Regulations for the Use of Parks and Recreation Areas Ordinance were being certified. **Vote: 5 Yes – 0 No.**

Signing of the June 7th & 8th Special Town Meeting Warrant

Chairperson Berry moved that the Select Board endorse the Special Town Meeting Warrant for June 7, 2021 and June 8, 2021, as presented. Selectperson Reed seconded the motion. Discussion: none. **Vote: 5 Yes – 0 No.**

Any Other Business – (2:33:40) Selectperson Sites presented to the Board an opportunity to apply for a grant to receive half the funds for invasive plant species control. Selectperson Reed moved to authorize the Acting Town Manager to finalize the application and to pursue it. Chairperson Berry seconded the motion. Discussion: Scott Kerr, Parks and Recreation Committee member, asked that the Board authorize Parks and Recreation Committee to address this application was well. Selectperson Reed amended his motion to add that the Parks and Recreation Committee in conjunction with the Acting Town Manager pursue the application. Chairperson Berry seconded the motion. Discussion: none. **Vote: 5 Yes – 0 No.**

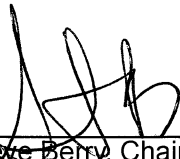
Selectperson Reed suggested that the Board consider brown-tailed moth control.

Accounts Payable – (2:37:20) Chairperson Berry moved to approve accounts payable warrants 48 & 49 in the amount of \$853,076.32 as presented for FY21. Selectperson Moulton seconded the motion. Discussion: none. **Vote: 5 Yes – 0 No.**

Adjournment - Chairperson Berry moved to adjourn at approximately 9:38 PM.

Prepared By: Draven Walker
Executive Assistant/Recording Secretary

Select Board




Steve Berry, Chair



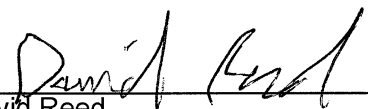
James Moulton, Vice Chair



Brian Sites



Austin Harrell



David Reed