

**TOWN OF KENNEBUNK  
BOARD OF SELECTMEN  
TUESDAY, JULY 12, 2016 – 6:15 P.M.  
KENNEBUNK TOWN HALL  
3<sup>rd</sup> FLOOR/ROOM 301  
AGENDA**

**SPECIAL MEETING – 6:15 P.M.**

**Interview the following Candidate for Committees:**

<u>Name</u>	<u>Committee</u>
Daniel Lyons	Comprehensive Plan & Zoning Ord. Update Comm. no terms

Note: Bob Metcalf, Chairman of the Comprehensive Plan & Zoning Ordinance Update Committee, recruited Dan Lyons to this committee because of his background and interest in the community. Bob noted Dan had provided support during the first plan in the 1990's as Chairman of the Planning Board; Dan also has a keen interest in transportation and bikeways.

**REGULAR MEETING – 6:30 P.M.**

**1. Call to Order & The Pledge of Allegiance**

*I pledge allegiance to the flag of the United States of America, and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all.*

**2. Minutes (2-3 minutes)**

a. June 28, 2016 Regular Meeting

**3. Items to be Signed (3-5 minutes)**

a. Items as Presented

**4. Public Hearing(s)**

a. The Municipal Officers of the Town of Kennebunk will hold a Public Hearing to act on the following:

**Jean Krull d/b/a Mainely Meatballs  
for new Victulater License  
located in Federal Jack's parking lot, 8 Western Avenue**

*Town Manager's Note (not part of the public hearing notice):*

*Fire Department/Codes Office: mobile vendor – inspected by the State; no local fire inspection required*

*Police Department: new license – nothing to report from police*

*MOTION: To approve the new Victualer License for Jean Krull d/b/a Mainely Meatballs subject to final approval of site location by the Safety Committee and conformance with their approved plan.*

**5. Public Comments (5-10 minutes)**

**6. Acknowledgements/Announcements (5-10 minutes)**

**7. Time Sensitive Business**

- a. Take up the Election of the 2016-17 Board of Selectmen Officers (5-7 minutes) – Each year, at the first meeting in July, the Board elects its new officers for the coming year.

**MOTION:** To elect \_\_\_\_\_ as the Chairman.

**MOTION:** To elect \_\_\_\_\_ as the Vice Chairman.

**MOTION:** To elect \_\_\_\_\_ as the Secretary.

- b. Review the Board of Selectmen By-Laws (5-7 minutes) – Attached are the current by-laws for the Board. With a newly elected member on the Board, the by-laws should be reviewed.

No motion required.

- c. Review the Board of Selectmen Code of Ethics (5-7 minutes) – Attached is the Code of Ethics previously adopted and amended by the Board of Selectmen. Should the Board decide to continue with this practice, a new form is attached for signatures.

**MOTION:** To sign the Code of Ethics.

**8. Old Business (2<sup>nd</sup> Reading)**

- a. Discuss a Park Use Ordinance (5-7 minutes) – The draft Park Use Ordinance has been amended to identify the parks, define drone usage and place the setting of fees by the Board of Selectmen. The changes made (since the last meeting) are shown in red. This ordinance summarizes the park usage for the public and will assist staff with enforcement.

**MOTION:** To forward the proposed Park Use Ordinance to the Town attorney for review.

**9. New Business (1<sup>st</sup> Reading)**

- a. York County Public Works Mutual Aid Agreement (5-7 minutes) – This mutual aid agreement between Public Works Departments of different towns affords municipalities the opportunity to share resources in an emergency, as necessary. The agreement defines the role of the participating communities.

**MOTION:** To move to a second reading on August 9<sup>th</sup>.

- b. Discuss a Violation in the Resource Protection and Shoreland Overlay Districts on Great Hill Road (10-15 minutes) – The Town’s Code Enforcement Officer issued a Notice of Violation for the cutting of vegetation on land adjacent to “Strawberry Island” that was cut during the late winter/early spring of this year (violation observed on February 23, 2016).

The properties involved are owned by the Kennebunk Land Trust (KLT) Tax Map 97, Lot 37 and Kennebunk Beach Improvement Association (KBIA) Tax Map 97, Lot 38. The properties are both located in the Resource Protection District (flood zone) also subject to Shoreland Overlay standards. The cutting was done in violation of Shoreland Zoning regulations within the Town’s Zoning

Ordinance [Article 4, Section 1 E and Article 10, Section 3 D. (1) & (2) (d)], which strictly limit the amount of cutting that may occur within the Resource Protection and Shoreland Overlay Districts of the Town.

After an investigation of the activity, it was determined that the cutting of the vegetation was contracted solely by KLT. KBIA is included in the Notice of Violation as the cutting infraction incurred on their property as well, though it does not appear that they were a willing participant in the violation. For the purposes of an enforcement action, any party in violation is included in the Notice of Violation and then the Town may decide how to resolve the Land Use violation with each party. The parties may be subject to a consent agreement in lieu of court action and the Town may wish to assess penalties on an individual basis, depending on the level of involvement and nature of the violation.

According to KLT, Boiling Spring Landscape was contracted to cut the vegetation and did so in February of 2016. The cutting involved 5 to 6 foot tall beach roses that, as a result of the activity, were left at about 6 inches high. The area that was disturbed is approximately 12,000 square feet and had no original growth (trees) other than the beach roses. The Town did not witness the work, but based on our observation it does not appear to have been done with any heavy equipment, nor was there significant damage to the root structure.

A copy of the Notice of Violation has been provided to the KLT and to KBIA since they are the subject to the enforcement action.

Included in the attachments are a copy of the Notice of Violation, a response letter from KLT, a response letter from Shepard & Read (Attorneys at Law on behalf of KBIA), a photo of the beach rose vegetation in question, an aerial of the approximate extent of cutting, and a Tax Map depicting the approximate location of the property.

This item is being forwarded to the Board of Selectmen for options on how to proceed with enforcement action as a result of this violation. This land use violation can be remedied as an administrative action (consent agreement) or under the Maine Rules of Civil Procedure as an 80K Land Use violation, whereby the Town would attempt to have the violation and resulting enforcement action adjudicated at the District Court level. It has not been the practice of the Town to rush to court and the Town Attorney has often suggested the Town seek to remedy land use violations as an administrative matter, rather than rely on the Court system.

Paul Demers will be available at the meeting to discuss the situation, options to resolve the matter and answer any questions the Board may have.

**MOTION:**

- c. Hear a Brief Presentation on Board of Selectmen Relations, Roles and Freedom of Access Act (FOAA) (30-45 minutes) – The Town’s attorney, Bill Dale, will be present to share the FOAA rules for Maine and how they apply to municipalities, elected and appointed officials, and staff. The presentation will include a discussion on Board relations and roles within the scope of the Town’s Charter.

**MOTION:**

- d. Discuss Selectmen Liaisons to Committees (5-7 minutes) – The attached spreadsheet lists the various Town committees that include Selectmen Liaisons. Board members should review the list and indicate the committees they are interested in working with. Selectmen should not be expected to attend all committee meetings, but Selectmen should sign up for committees they expect to be able to attend on a quarterly or as-needed basis.

**MOTION:**

- e. Discuss Selectmen Subcommittee Assignments (5-7 minutes) – The subcommittees are listed at the bottom of the Selectmen Liaison spreadsheet. Subcommittees have no more than three members and meet as necessary.

**MOTION:**

- f. Election of MMA’s 2016-2018 Legislative Policy Committee (5 minutes)–MMA’s member municipalities have made their nominations for the 2016-18 Legislative Policy Committee. Last month, as you will recall, the Board nominated Richard Morin to represent Kennebunk in District 34. For your review, we have attached the memo from MMA as well as the ballot and candidate information. The deadline for retuning our ballot is August 5<sup>th</sup>.

Our district may vote for two candidates. You will notice there are two names on the ballot as well as a place for a write-in. The names are:

- Richard Morin, Selectman, Town of Kennebunk
- Larissa Crockett, Warrant and Finance Committee Chair, Town of Acton

After voting, a majority of the Board can sign the Ballot or the Board can designate the Town Manger to sign on their behalf.

**MOTION:** To vote for Richard Morin and Larissa Crockett to represent District 34 on MMA’s Legislative Policy Committee.

**MOTION:** To authorize the Town Manager to sign the ballot on the Board’s behalf.

- g. Election of Maine Municipal Association’s Vice President and Directors (5 minutes) – Attached you will find a Voting Ballot for MMA’s Officers as well as a brief biographical sketch on each nominee. Deadline for voting is noon on Friday, August 12<sup>th</sup>.

- The first election is for the Vice-President, for a 1-year term. There is one person running for this seat.
- The second election is for Directors, for 3-year terms. There are three running and the Board needs to vote for three.

After voting, a majority of the Board can sign the Ballot or the Board can designate the Town Manger to sign on their behalf.

**MOTION:** To vote for Linda Cohen (Councilor, City of South Portland) **for Vice President** and James Gardner, Jr., (Town Manager, Town of Easton), Christine Landes (Town Manager, Town of Bethel), and Mary Sabins (Town Manager, Town of Vassalboro) **for the three Director positions.**

**MOTION:** To authorize the Town Manager to sign the ballot on the Board’s behalf.

- h. Set a Workshop Date to Discuss Town Committees (2-3 minutes) – As discussed at the last meeting, we tentatively set Tuesday, October 4<sup>th</sup> as the date to hold a workshop on committees, i.e. number of committees, number of members, terms of members, committee structure, etc. We would also invite committee members to the workshop to receive their input.

**MOTION:** To set a workshop date for Tuesday, October 4<sup>th</sup> at 6:30 p.m. to discuss Town Committees.

- i. Discuss Boards and Committees (resignations/appointments, if any) (2-3 minutes)

• **Accept the Following Resignation(s):**

Teri Collard – CDBG Façade Advisory Committee, Resident Representative (no term)

**MOTION:** To accept the resignation of Teri Collard from CDBG Façade Advisory Committee and send a letter thanking her for her service.

• **Appointment of Resident(s) being interviewed at the beginning of the meeting:**

Daniel Lyons, Comprehensive Plan & Zoning Ordinance Update Committee (no term)  
If the Board wishes to make the appointment(s), the motion could be as follows:

**MOTION:** To appoint Daniel Lyons to the Comprehensive Plan & Zoning Ordinance Update Committee (no term).

- j. Discuss Any Other Business (2-3 minutes)

## 10. Selectmen's Comments

- a. Subcommittee Reports (if any)  
b. Individual Selectmen Comments

## 11. Town Manager's Comments/Notes

a. **Upcoming Events and Workshops:**

• Selectmen's Summer Meeting Schedule:

July 12	6:30 p.m.	<b>July 26</b>	<b><u>Canceled</u></b>
August 9	6:30 p.m.	<b>August 23</b>	<b><u>Canceled</u></b>

The regular meeting schedule (2<sup>nd</sup> and 4<sup>th</sup> Tuesday) will resume in September.

- **Tuesday, September 6** – Board of Selectmen Workshop on TIFs will be held at 6:30 p.m. on the third floor of the Town Hall.
- **Tentative: October 4** – Board of Selectmen Workshop on Committees

## 12. Executive Session(s)

- a. Discuss an Economic Development Matter with the Town Manager, Economic Development Director and Finance Director regarding an economic development matter where premature disclosure of the same would prejudice the competitive bargaining position of the Town relative to the same - Title 1 MRSA Sec. 405(6)(C)

## 13. Adjournment