

TOWN OF KENNEBUNK
BOARD OF SELECTMEN MINUTES
MAY 24, 2016 - 6:00 P.M.

SPECIAL MEETING – 6:15 P.M.

Interview the following Candidates for the new Committee on Aging:

Edward Trainer	Barbara Yates	Donna Curtis-Binette
Bevan Davies	Christina Bronzetti	Marti Hess-Pomber
S. Sassy Smallman	Susan LeBlanc Malley	(unable to attend interview)
Susan Pettit	Alice White	

DISCUSSION:

Donovan explained the selecting of various candidates and Beal asked if anyone wanted a one year term. Barbara Yates did. Morin asked if anyone had questions about the job. He views the committee as a resource committee. He finds it to be a resource tool for the community. Karytko expressed his opinion on what functions the possible future members will have on the Committee. One candidate expressed their desire to serve seniors. She said that she can share much information because she was on an Aging committee in Scarborough. The candidates said how they can work together. Boothby thanked them for their service.

Other Committee Considerations:

- Edward Trainer has attended all the Comprehensive Plan & Zoning Ordinance Update Committee meetings. The Committee would like to have him appointed to the committee as a Resident Representative.
- Sandy Tillman, one of the West Kennebunk community gardeners would like to become a Community Garden Committee “Associate Member”. The Community Garden Committee’s by-laws allows for this position. The Chairman, Leslie Lindgren, is requesting the Selectmen appoint her to this position. FYI, Ms. Tillman was a Community Garden Committee member in 2013 and is familiar with the committee’s mission.
- Thomas Wellman is interested in joining the Budget Board. He is unable to attend this meeting; however, the Board should be familiar with Tom Wellman, who is a former Selectman.

These three appointments will be taken up at the end of the meeting under Boards and Committees (resignations/appointments).

DISCUSSION:

Trainer explained how he enjoys attending all of the meetings and helping the community as well as learning about it. Karytko agreed and said that the committee is a solid group. Donovan thanked all of the candidates present at the meeting (as they obviously care about the community).

1. REGULAR MEETING – 6:30 P.M.

On May 24, 2016, at 6:30 P.M., in Room 301 of the Town Hall, Kevin Donovan, Chairman of the Board of Selectmen for the Town of Kennebunk, called to order the Regular Meeting of the Board of

Selectmen. Present were Selectmen Kevin Donovan, Richard Morin, Edward Karytko, Daniel Boothby, Christopher Cluff, Shiloh Schulte and Deborah Beal.

Also in attendance were Town Manager Barry Tibbetts and Finance Director Joel Downs.

2. MINUTES

a. May 10, 2016 Regular Meeting

There was no Board/Public input or comments.

A motion was made to accept the Minutes of the May 10, 2016 Regular Meeting.

MOVED: Cluff

SECONDED: Karytko

MODIFICATIONS: None

VOTE: 6 in favor, 1 abstained (Donovan). The motion passed.

The Chair proceeded to the next item.

3. ITEMS TO BE SIGNED

None.

The Chair proceeded to the next item.

4. PUBLIC HEARING(S) –

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

**Elio Qirushi d/b/a Toppings Pizza
located at 8 York Street
for a renewal Malt Liquor License**

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

Fire Department: nothing found in the inspection that would interfere with the renewal of the license.

Police Department: no calls for service that would interfere with the renewal of the license.

DISCUSSION:

None.

There were no public comments.

A motion was made to approve the renewal Malt Liquor License for Elio Qirushi d/b/a Toppings Pizza.

MOVED: Karytko

SECONDED: Cluff

MODIFICATIONS: None

VOTE: 7 in favor, 0 opposed. The motion passed.

The Chair proceeded to the next item.

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

**M & J Resort Corp d/b/a Kings Port Inn
located at 18 Western Avenue
for a renewal Malt, Spirituous and Vinous Liquor License**

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

Fire Department: nothing found in the inspection that would interfere with the renewal of the license.

Police Department: no calls for service that would interfere with the renewal of the license.

DISCUSSION:

None.

There were no public comments.

A motion was made to approve the renewal Malt, Spirituous and Vinous Liquor License for M&J Resort Corp d/b/a Kings Port Inn.

MOVED: Cluff

SECONDED: Karytko

MODIFICATIONS: None

VOTE: 7 in favor, 0 opposed. The motion passed.

The Chair proceeded to the next item.

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

**Merrilee and David Paul d/b/a 50 Local
for a renewal Malt, Spirituous and Vinous Liquor License
located at 50 Main Street**

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

Fire Department: nothing found in the inspection that would interfere with the renewal of the license.

Police Department: no calls for service that would interfere with the renewal of the license.

DISCUSSION:

None.

There were no public comments.

A motion was made to approve the renewal Malt, Spirituous and Vinous Liquor License for Merrilee and David Paul d/b/a 50 Local.

MOVED: Karytko

SECONDED: Cluff

MODIFICATIONS: None

VOTE: 7 in favor, 0 opposed. The motion passed.

The Chair proceeded to the next item.

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

**Knight Co, LTD d/b/a Beach Dawgs Hot Dogs
located at 2 Harbor Lane
for a NEW Victualer License**

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

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

Police Department: new license – nothing to report from police

DISCUSSION:

None.

There were no public comments.

A motion was made to approve the new Victualer License for Knight Co, LTD d/b/a Beach Dawgs Hot Dogs.

MOVED: Schulte

SECONDED: Karytko

MODIFICATIONS: None

VOTE: 7 in favor, 0 opposed. The motion passed.

The Chair proceeded to the next item.

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

**Kylie Raymond d/b/a The Spirit Restaurant
located at 4 Harbor Lane
for a NEW Special Amusement permit**

**KYICK Charters, LLC d/b/a The Spirit Restaurant
located at 4 Harbor Lane
for a Victualer License**

**KYICK Charters, LLC d/b/a The Spirit Restaurant
located at 4 Harbor Lane
for a Malt Spirituous and Vinous Liquor License**

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

Fire Department and Code Enforcement Office: The Fire Chief's and Code Officers recommendation is to issue the licenses subject to the following: Code Enforcement Officer's issuance of all required permits and final inspection and Occupancy Permit issuance, as well as the Fire Department's Fire & Life Safety Inspection. We are in continued communication with the applicant and his architect to develop a plan to comply with all State and local codes.

Police Department: new license – nothing to report from police

DISCUSSION:

Karytko asked why they were proceeding before issuing permits. Tibbetts said that they have been doing it this way for a long time and that they try to accommodate the businesses' schedules and

required posting. Paul Demers, Code Enforcement Officer, explained that they were close to finishing up things that were still pending, thus they should move forward.

There were no public comments.

A motion was made to issue the above three licenses for The Spirit Restaurant subject to the following: Code Enforcement Officer's issuance of all required permits and final inspection and Occupancy Permit issuance, as well as the Fire Department's Fire & Life Safety Inspection.

MOVED: Cluff

SECONDED: Karytko

MODIFICATIONS: None

VOTE: 7 in favor, 0 opposed. The motion passed.

The Chair proceeded to the next item.

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

**The 2016 Annual Town Meeting Warrant
which includes the FY 2016-2017 Municipal Budget**

Additional information is available in the Town Clerk's Office.

The Warrant is attached for your review.

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

- *The Warrant articles and Budget amounts cannot be changed.*
- *This public hearing is to answer questions the public may have.*
- *No vote is needed.*

DISCUSSION:

Tibbetts explained the budget by presenting a slideshow. He explained how new projects and facilities would be added. The gross budget is \$12,216,550 (4% increase, \$474,077). The Net Budget is \$8,016,450 (4.5% increase, \$344,727). The Town's revenues are deducted in order to come up with the Net Budget. Beach passes, permit fees and ambulance revenues (from calls that go out) are all a part of the Town's revenues. He explained the various revenue and expense increases. He showed the breakdown (through five categories) of the budget. The LD 1 Municipal Property Tax Levy Limit FY 16-17 was explained.

The requested additional staff positions were discussed.

The Projected Tax Bill Allocation was shown and residents were asked to vote on a 21 cent increase in the Town's part of the mil rate for the previously explained items. The School's mil rate increase is projected to be 49 cents. Therefore, 21 cents plus 49 equals 70 cents (the projected total increase). 4.3% of resident's tax bills go to the county, 23.3% to Municipal services and 72.4% to the school.

Also explained were the uses of the Unassigned General Fund Balance. The Budget Board and the Board of Selectmen have such reserve accounts. The total amount of money expected to be used

from the General Fund Balance is \$954,080. The total proposed new debt is \$2,570,000. A full list of how much money will be spent on various things can be found on the Town website.

The budget timeline was also given. Voting on the budget will occur on the 14th of June, and all were encouraged to vote.

Donovan sought confirmation from Tibbetts that the Warrant articles and budget amounts couldn't be changed at the time of this meeting. He also assumed and sought confirmation from Tibbetts that it is open for public comments and that the Board does not take a vote on it. Tibbetts told Donovan that he was correct.

There were no public comments.

The Chair proceeded to the next item.

g. The Municipal Officers of the Town of Kennebunk will hold a Public Hearing to take public comment on a proposal to seek interim relief from the Maine Superior Court regarding the use(s) that may be made this summer of the so-called Marina Lot, located at or about 2 & 4 Doane's Wharf in the Lower Village. The purpose of seeking such interim relief from the Court is to allow some practical use(s) of the property for the summer of 2016 until the pending Superior Court appeal from the recent ZBA decision on the same is resolved.

Note: The discussion for this public hearing may be delayed until the arrival of the Town Attorney, at approximately 7:30 pm.

Since public hearing 4g required the attendance of the Town Attorney, the Board proceeded to the next item(s) until the arrival of the Town Attorney, which occurred at the conclusion of Article 12.

The Chair proceeded to the next item.

5. PUBLIC COMMENTS

There were no public comments.

The Chair proceeded to the next item.

6. ACKNOWLEDGEMENTS/ANNOUNCEMENTS

- a. Reminder – Upcoming Annual Town Meeting, Primary Election and RSU 21 Budget Validation Election:

Tuesday, June 14th from 6:00 a.m. to 8:00 p.m. in the Town Hall Auditorium

The Warrant for the Annual Town Meeting with backup documentation can be viewed in the Town Clerk's Office and on our website (see election information in the center bar of our home page or check the homepage calendar for June 14th). The Warrant can be viewed, under Public Hearing #4f. Absentee voting is now available. If you have any questions, please feel free to call the Town Clerk's office at 985-2102 x 1326.

DISCUSSION:

Merton Brown, the Town Clerk, explained where absentee ballots were available (now that such voting is underway). He explained that people can obtain an absentee ballot by calling his office at 604-1326 and asking him to mail it to them or people can come in and pick one up. People can vote every day from 8-4:30, but also on Saturday, June 4th and Sunday, June 5th, Merton will be in his office from 11-4. He will also be open on Monday, Tuesday, Wednesday and Thursday (the 6th, 7th, 8th and 9th) until 7:30 P.M. People can also register to vote and then vote at the same time. Finally, he explained that a voter guide is on the Town website under the Departments tab. Then, one should click on Town Clerk (upcoming elections) and the voter guide is there. Someone can also obtain the guide in person by seeing the Town Clerk.

The Chair proceeded to the next item.

- b. Community Garden Committee Presentation Community Garden Chairperson Leslie Lindgren will be offering a brief update on the status of the community garden. The presentation will include a short history of the past seven growing seasons as well as on-going plans for the gardens.

DISCUSSION:

Lindgren asked how many of the Selectmen have been to the gardens. She challenged them all to visit both gardens. Updates on the garden were given. She explained the locations of the gardens and some of the costs. The first garden is their workhorse garden, located in West Kennebunk, at the end of Holland Road. The second garden is the Park Street School Community Garden (started in 2013). One can rent a garden plot through the Town Clerk's office for a fee. Each garden renter is asked to volunteer back 6 to 12 hours in the garden. About 30% of the gardens' produce goes to charity. This is their 8th year with the garden. She gave a brief history of the gardens. Community gardens were first established in Detroit, Michigan to provide land and technical assistance to the unemployed. The gardens were important during the Great Depression (the unemployed grew their own food). Actually, someone came in front of an earlier Board of Selectmen, in 2008, and proposed the idea for a community garden.

The garden on Holland Road, in West Kennebunk, was named Kiuna, meaning "ours" in Abenaki. The colors on the sign were chosen to represent a bright, sunny feeling. There are eleven active and involved committee members. On some days they harvest between 300 and 500 pounds of produce! The produce is delivered to St. Martha's on Friday mornings. Alternative education students from the high school built a shed for the Parks Street garden. Lindgren stated that 621 pounds of produce was harvested from the Park Street garden and 2,714 pounds was harvested from the garden in West Kennebunk, bringing their total amount of produce to 3,300 pounds, from just last year. Their grand total of pounds of produce raised and donated is 15,000 pounds (in the last 7 years). Finally, she expressed how glad she was to be a part of it all!

Donovan expressed his amaze (he said that they are always amazed). Cluff asked about the plans for this year. There is a volunteer of the month award given out. She said that the volunteers were all very committed. You don't need a plot to be a volunteer. Schulte asked about the opportunity for expansion. Perhaps at Park Street, said Lindgren and possibly in West Kennebunk too. She doesn't want too many open spaces. Beal wanted there to be more talk of the bees (her daughter loved it).

The Chair proceeded to the next item.

7. TIME SENSITIVE BUSINESS

- a. Appoint Members to the New Committee on Aging At the last meeting, the Board formed this new committee, which would begin to address the needs for Kennebunk’s senior residents. We advertised for volunteer committee members and potential members were interviewed at the beginning of the meeting. Those interested in being appointed to the committee are:

Edward Trainer	Barbara Yates	Donna Curtis-Binette
Bevin Davies	Christina Bronzetti	Marti Hess-Pomber
S. Sassy Smallman	Susan LeBlanc Malley	(unable to attend interview)
Susan Pettit	Alice White	

The Board should decide on how many members this committee would have. In addition to the residents who submitted their names for this committee, the committee may be aided by representatives from the Chamber of Commerce as well as Town staff representatives from Social Services, Planning, and the Police Department. All Town staff would serve as ex-officio members.

Our current committees range in size from three to eleven members. The majority of committees have five regular members and two alternate members, for a total of seven.

If it would help, the Board could be provided with a list of names (ballot) of those that submitted volunteer forms to aid them in voting or the Board could simply appoint all 10 volunteers to the committee.

DISCUSSION:

None.

There were no comments from the public.

A motion was made to appoint the following ad hoc (ex-officio) members to the committee:

- **Representative from the Chamber of Commerce**
- **Karen Winton, General Assistance Administrator**
- **Judy Bernstein, Town Planner**
- **Representative from the Police Department**

MOVED: Karytko

SECONDED: Cluff

MODIFICATIONS: None

VOTE: 7 in favor, 0 opposed. The motion passed.

DISCUSSION:

None.

There were no public comments.

A motion was made to set the number of committee members at 10 for the new Committee on Aging (excluding ad hoc members).

MOVED: Karytko
SECONDED: Schulte
MODIFICATIONS: None
VOTE: 7 in favor, 0 opposed. The motion passed.

DISCUSSION:
None.

There were no public comments.

A motion was made to appoint the following members to the new committee:

Members:	Terms:	Members:	Terms:
Edward Trainer	3	Christina Bronzetti	2
Bevan Davies	3	Susan LeBlanc Malley	2
S. Sassy Smallman	3	Alice White	3
Susan Pettit	2	Donna Curtis-Binette	1
Barbara Yates	1	Marti Hess-Pomber	1

MOVED: Donovan
SECONDED: Cluff
MODIFICATIONS: None
VOTE: 7 in favor, 0 opposed. The motion passed.

The Chair proceeded to the next item.

8. OLD BUSINESS (2ND READING)

- a. Discuss Amending the Parking Ordinance on High Street and Route One South (York Street)
At the last meeting, the Board heard information on amending the parking ordinance to accommodate a 30-minute parking allowance for walk-in customers (in front of Cherie's Bakery at 7 High Street). The enclosed map indicates additional potential 30-minute parking locations on Route One South/York Street beginning at the intersection of High Street/York Street up to Friend Street/York Street on the southwesterly side.

The current ordinance, with the proposed amendment, is as follows:

2-2 Limited Parking, 2-1

N) High Street: Parking on High Street from York Street to Friend Street (where designated) shall be limited to 2 hours between the hours of 8:00 AM and 6:00 PM- excluding the designated parking space at 7 High Street which shall be a 30-minute allowance.

The proposed amendment for Route One/York Street is as follows:

2-2 Limited Parking, 2-1

M) York Street: Beginning 50 ft. from the intersection of High Street and York Street heading southwesterly to Friend Street, parking shall be 30 minutes. Heading northeasterly on the opposite side of the street beginning at Friend Street to the intersection of High Street and York Street, the parking shall be limited to 2 hours between the hours of 8:00 AM and 6:00 PM.

DISCUSSION:

None.

There were no public comments.

A motion was made to send the proposed changes to a Public Hearing on June 14th.

MOVED: Karytko

SECONDED: Cluff

MODIFICATIONS: None

VOTE: 7 in favor, 0 opposed. The motion passed.

The Chair proceeded to the next item.

- b. Discuss Amending the Policy for Placing Minutes on the Town's Website At the previous meeting, the Board discussed modifying the current policy on "Placing Meeting Minutes on the Website".

After further discussions at the last meeting, the proposed amendments are shown below:

Policy for Placing Meeting Minutes on the Town's Website

3. All minutes for Town binding committees must be filed with the Town Clerk's office in their final, approved form with the necessary signature(s) and date of approval ~~on that final form~~ within ~~two weeks~~ 30 days of being accepted the original meeting date. An additional 30 days may be extended for meetings that are exceptionally long or complicated with notice to the Town Clerk.

All minutes for Town non-binding committees must be filed with the Town Clerk's office in their final form within ~~two weeks~~ 45 days of the ~~date of approval~~ original meeting date.

- a. For most boards, commissions, or committees the signature(s) will be that of the secretary of the board, the chairperson or a majority of the board, commission or committee.

The full policy (with amendments) was included in the packet.

DISCUSSION:

None.

There were no public comments.

A motion was made to amend the Policy for Placing Meeting Minutes on the Town website as shown above.

MOVED: Karytko

SECONDED: Cluff

MODIFICATIONS: None

VOTE: 7 in favor, 0 opposed. The motion passed.

The Chair proceeded to the next item.

9. NEW BUSINESS (1ST READING)

- a. Update the Special Event Policy In reviewing the procedures for the special events held in Kennebunk and the process currently used for the collection of payment for Town services provided, I am recommending additional language be added to the policy for the pre-pay of any Town-required services.

The language added to page three of the policy would be as follows:

T. Should any road closure or Town department assistance be noted through the application process, the Town will require payment in advance for services of Police, Fire and Public Services (Public Works) based on the Town's estimate, before the permit will be issued.

With the weather getting nicer, special event applications are coming in quite rapidly; therefore, we would like to approve this minor change at this meeting.

DISCUSSION:

Karytko asked what was needed to be done next. Tibbetts said that they give them an estimate (then send a bill) and that most pay, but some don't. If the applicant's deposit for services is not spent, it would be returned. Cluff and Schulte both expressed concern. Tibbetts explained his belief that the deposits will make it easier and quicker to cover the costs than trying to chase people down. Morin agreed with Cluff's earlier statement that people seem to put a lot of pressure on the Town and that they should have to pay before an event occurs.

A motion was made to update the Special Event Policy with the addition of item T (as shown above).

MOVED: Karytko

SECONDED: Cluff

MODIFICATIONS: None

VOTE: 7 in favor, 0 opposed. The motion passed.

The Chair proceeded to the next item.

- b. Set the Date for the Committee Volunteer Appreciation BBQ – We have selected Wednesday, June 22nd as the date of the committee volunteer appreciate BBQ. This year’s event will be held at the Waterhouse Center, beginning at 5:30 p.m. Invitations will be mailed shortly.

DISCUSSION:

Karytko asked Tibbetts how much the event would cost. Tibbetts explained that the cost was calculated based on estimates of how many people would attend (they have to buy food in advance). The estimates are partially calculated based on how many people attended in years past. Tibbetts estimated the cost of the food to be somewhere between \$2,700 and \$3,300 (sometimes \$3,500). Cluff found such a cost very reasonable for 150 people. Tibbetts also explained that gifts are given to people. The costs for such are sometimes as small as \$1,100 and other times it costs around \$2,500 or \$2,800. Different budgets are used to pay for the gifts for the volunteers. The total expenses, said Tibbetts, is somewhere from \$4,500 to as much as \$6,000.

Karytko understood the premise of the BBQ, but expressed concern about the cost, worrying about the taxpayers, helping to pay for such. Schulte noted that much money is saved for the budget because of these volunteers, thus doing something like throwing a BBQ to appreciate them is important. Beal noted that this is simply a way of thanking the volunteers and found it to be a small price for all of what the volunteers have done. Boothby also noted how important it is to thank the volunteers for all they have done (they do so much for no pay).

A motion was made to set the Date for the Committee Volunteer Appreciation BBQ for Wednesday, June 22nd at 5:30 p.m. at the Water House Center.

MOVED: Cluff
SECONDED: Schulte
MODIFICATIONS: None
VOTE: 7 in favor, 0 opposed. The motion passed.

The Chair proceeded to the next item.

c. Discuss Upcoming Workshops

1. At the next meeting (June 14th), the Board will be presented with the results of the portion of the recent survey for strategic planning. To move forward with the strategic planning process and include any newly elected officials, a 3.5 hour work session on Saturday, June 18th (from 8:30 a.m. to noon) is recommended. This would allow the new Selectman (men) to participate.

The Selectmen Outreach Session for June (to be held on June 18) will be canceled.

2. To set a workshop to discuss the TIF program on Tuesday, June 21st. Items to be discussed include valuation changes from inception, boundary examination, long-term project prioritization, and income projections.

DISCUSSION:

Tibbetts noted that Beal and Boothby would rather have the workshop on an evening, rather than a Saturday. Karytko agreed with the idea because with the nicer weather arriving he predicts less people to show up on a Saturday. Morin noted that the Selectmen Outreach Sessions are still new and

that moving them around is problematic. He suggested suspending such workshops for the summer, altogether, and to come together during the winter months. Boothby interjected and said that suspending the workshop should not be done.

Beal and Boothby agreed to host the next Selectmen Outreach Session on Wednesday, June 15th from 6-8 p.m.

A Motion was made to schedule a Strategic Planning for Tuesday, June 21st, at 6:30 p.m.

MOVED: Cluff
SECONDED: Karytko
MODIFICATIONS: None
VOTE: 7 in favor, 0 opposed. The motion passed.

A motion was made to schedule the TIFs Workshop on Tuesday, September 6th, at 6:30 p.m.

MOVED: Karytko
SECONDED: Cluff
MODIFICATIONS: None
VOTE: 7 in favor, 0 opposed. The motion passed.

The Chair proceeded to the next item.

d. Discuss Boards and Committees (resignations/appointments, if any)

- **Accept the Following Resignation(s):**
 - Kathryn Susan Leathers, Dog Advisory Committee (no term)
- **Appointment of Residents for various committees:**
 - Edward Trainer
Comprehensive Plan & Zoning Ord. Update Comm. as a Resident Rep. (no term)
 - Sandy Tillman
Community Garden Committee “Associate Member” (no term)
 - Thomas Wellman
Budget Board (Regular 2018)

DISCUSSION:

Morin feared that this will be talked about again in a month, depending on the results of the upcoming elections. He wondered if it wasn't a better idea to wait another month. Tibbetts told him that there would be an additional vacancy as one of the Budget Board members was not seeking re-appointment. Boothby felt like they should go ahead with filling the position; Beal concurred, adding that the candidate was well-qualified.

A motion was made to accept the resignation of Kathryn Susan Leathers from the Dog Advisory Committee and send her a letter thanking her for her service.

MOVED: Donovan
SECONDED: Karytko
MODIFICATIONS: None
VOTE: 7 in favor, 0 opposed. The motion passed.

A motion was made to appoint Edward Trainer as a Resident Representative (no term) on the Comprehensive Plan & Zoning Ordinance Update Committee as a Resident Representative, Sandy Tillman as an Associate Member (no term) on the Community Garden Committee and Thomas Wellman as a Regular Member on the Budget Board with a term expiring in 2018.

MOVED: Donovan

SECONDED: Cluff

MODIFICATIONS: None

VOTE: 6 in favor, 1 opposed (Morin). The motion passed.

The Chair proceeded to the next item.

e. Discuss Any Other Business

Discuss Two Requests to Waive the Beach Parking Permit Requirements (5 minutes) –

- 1.) Special Surfer's Nights – We received a request from Aquaholics Surf Shop to waive the beach parking permit requirements to allow the attendees and volunteers of their "Special Surfer's Nights" access to park at Gooch's Beach and Middle Beach. This non-profit program, organized through Aquaholics and facilitated by volunteers from the community, was developed to teach physically and mentally challenged children and adults how to surf.

They are requesting to have the permit requirements waived on the following three dates for this event:

2:00 p.m. to 7:00 p.m. (at Gooch's Beach and Middle Beach)

- **Tuesday, June 21**
- **Tuesday, July 19**
- **Tuesday, August 16**

Note: There are no road closures for this event

- 2.) Nicole's 5K Walk/Run – We received a request from Amanda Morris, Race Director of Nicole's 5K Walk/Run, to waive the beach parking permit requirements on the following date:

Saturday, July 16th from 6:00 a.m. to noon. (all three beaches)

Note: There are no road closures for this event

DISCUSSION:

None.

A motion was made to waive the beach parking permit requirements for the Special Surfer's Nights on Gooch's Beach and Middle Beach for the dates and times listed above.

MOVED: Karytko

SECONDED: Cluff

MODIFICATIONS: None

VOTE: 7 in favor, 0 opposed. The motion passed.

A motion was made to waive the beach parking permit requirements for Nicole's Run at all three beaches for the date and times listed above.

MOVED: Cluff

SECONDED: Karytko

MODIFICATIONS: None

VOTE: 7 in favor, 0 opposed. The motion passed.

The Chair proceeded to the next item.

10. SELECTMEN'S COMMENTS

a. Subcommittee Reports

Donovan said he signed warrants prior to the meeting. He then thanked the Finance Director.

A discussion on trash will ensue on Tuesday, June 7th at 6:30 p.m. The discussion is open to the public. Karytko asked how much it would cost the Town if they were to use a type of billing process. He was told that such information could be given to him outside of this Board meeting.

Resident Arlene Poisson commented on the future 7th meeting on trash (she mentioned that she will most likely be at the meeting). In case she is not at the meeting she wanted to say that she took out trash the other morning, at a place that she is renting, and realized that the trash container was full of recyclables.

The Chair proceeded to the next item.

b. Individual Selectmen Comments

Selectman Beal

None.

Selectman Schulte

- Will miss the next two meetings because he will be out of the country for work.
- The event for the Cocoon's 5k and 10k run went well (held on last Sunday).
- Trash and recycling containers at Parson's field (near both little league fields) are old and they need new ones.
- Mentioned that adding permanent bathrooms (instead of having portable ones) at Mother's Beach and/or Gooch's Beach was something to consider. At the very least, a foot-washing station could be added.

Selectman Cluff

- Received a question from a resident about striping crosswalks.
- Mentioned that he used a kiosk in Florida last week where you could leave your cellphone number and then they would text you when your time runs out, asking you if you wanted to renew. He added that this was something to consider.

- Mentioned the Selectmen outreach sessions (some positive feedback on various topics as well as ways to improve such). He talked about concerns about parking on Ridge Ave and the condition of the road. Mentioned that you don't need a permit to park there.
- Told of concerns about people running early in the morning and making noise.

Selectman Boothby

None.

Selectman Morin

- He took notes at the Selectmen outreach sessions, but didn't have them at this meeting. Noted that people seemed to like the sessions.

Selectman Karytko

- Noted that he tried to call into the outreach session on Saturday, but didn't get an answer.
- Asked about the progress on the crosswalks on Route 9. Tibbetts explained the difficulty of adding a crosswalk on that part of Route 9 because the speed limit is fairly high.
- Wanted to commend the Public Works Department for making improvements on potholes. He noted that they did a great job on potholes near American Legion and the high school.
- Noted that the cemetery on Route 1 has a tree (or limb) down and it has been that way for some time. Tibbetts said that their crew was actually there today.
- Got a comment from someone watching candidate's night, saying that the quality of the recording was poor.
- Watered grass on Town property (in front of his house). Noticed that the trash contractor picked up a tipped over trash container, put another bag into the container, and left the spilled-over trash. He wondered why one would do this.
- Cited an article about the trash in Portland which said that they were putting recyclables into the trash (recycled materials are at an all-time low).
- Asked for an update on the road plans.
- Asked when the crack sealing would be dealt with.
- Mentioned that many complain about their taxes, but said that if people voted "no" their taxes would not go up. Encouraged people to vote.

Selectman Donovan

None.

The Chair proceeded to the next item.

11. TOWN MANAGER'S COMMENTS/NOTES

- a. **Wednesday, June 15 – Board of Selectmen Outreach Session** – The next session will be held on Wednesday, June 15th on the 3rd floor of the Town Hall from 6 p.m. to 8 p.m. Selectmen Cluff and Morin will host this session.

These sessions will provide residents with a chance to meet and talk with Selectmen on a one-on-one basis. They will be informal gatherings attended by two Selectmen. Refreshments will be available.

- b. **Monday, May 30 – Memorial Day Parade 2:00 pm – Main Street Veterans Appreciation Concert (after parade, approx. 3:00 pm) –Waterhouse Center (all are welcome!)**

This year, a free Memorial Day Veterans Appreciation Concert will be held at the Waterhouse Center. The concert features the Don Campbell Band with a special tribute to local veterans. Please join us for this special concert. This year marks the 150th Anniversary of the celebration of Memorial Day (1866-2016).

- c. **Tuesday, May 31 – Survey Deadline**

We want to hear from you! Complete our Online Survey (or paper version available at Town Hall) Deadline extended to May 31st ! The Town is developing a strategic planning process to guide their future activities. The survey is divided into three sections:

1. Strategic planning questions for the Board of Selectmen and Town Manager
2. Comprehensive planning and land use questions for the Update Committee
3. Demographic information about you to help us better understand trends in the community

Please take the time to participate in this important effort. Your comments and observations will be anonymous and we encourage you to be open and candid.

The online survey can be found on the homepage of the Town's website (under News & Announcements) or at www.kennebunkmaine.us/planningsurvey. Printed copies are also available at the Town Clerk's Office. Surveys must be completed by May 31st.

DISCUSSION:

Schulte asked about opportunities for people who want to be more involved in the planning and direction of the Town. Tibbetts explained that there are several ways that people can get involved, such as attending different public meetings like the Comprehensive Plan and Zoning Ordinance Update Committee meetings.

The Chair proceeded to the next item.

At 8:07 p.m. the Board members went into Executive Session to wait for the Town Attorney, who needed to be present in order to conduct public hearing 4.g.

12. EXCECUTIVE SESSION(S)

- a. Discuss an Economic Development Matter with the Town Manager, Economic Development Director, Finance Director and Community Development 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).
- b. Discuss Pending Litigation with the Town Manager, Finance Director and Human Resource Director - Title 1 MRSA Sec. 405(6)(E)

At the conclusion of the executive sessions, the Board had nothing to report.

With the arrival of the Town Attorney, the Chairman opened public hearing 4.g. (at 8:43 P.M.).

g. The Municipal Officers of the Town of Kennebunk will hold a Public Hearing to take public comment on a proposal to seek interim relief from the Maine Superior Court regarding the use(s) that may be made this summer of the so-called Marina Lot, located at or about 2 & 4 Doane's Wharf in the Lower Village. The purpose of seeking such interim relief from the Court is to allow some practical use(s) of the property for the summer of 2016 until the pending Superior Court appeal from the recent ZBA decision on the same is resolved.

DISCUSSION:

Bill Dale, the Town Attorney, suggested having reasonable time limits for both sides on this issue so that the meeting wouldn't go on too long, noting that nothing really gets done too late at night. He noted that neighbors were upset with the suggested interim relief for the summer and wanted to have the Selectmen, after the hearing, decide if they would allow the issue to be settled in Superior Court in Alfred.

Bruce Reed, an Attorney, stated that he represented a group called Concerned Citizens of Kennebunk Lower Village Inc (which consists of about 10 members). He believed that the seeking of Interim relief was nonsense because the Town of Kennebunk's own Zoning Board of Appeals already made a decision not to allow such. He believes that the Court does not have the authority to re-write a decision made by the Zoning Board of Appeals. Reed said that the proper way to change such a decision is to ask the voters. Reed is ready to go to court, but wanted to go in front of this Board first. He questioned why the Town was involved in this matter.

Earl Freeman, a resident of Lower Village, cited Forsley's past proposal of a hotel and believed it to be a way for Forsley to see what kind of resistance would appear, as a kind of test. He suggested that Forsley was threatening. As an abutter, Freeman was concerned about his lot being in the middle of commercial activity (which would be the case if interim relief was given). He could not understand how Mr. Forsley could go against the Zoning Regulation (the area in question is in a residential zone, not a commercial zone).

Robert Lions thanked the Kennebunk Police Department for helping him with a water problem. He was offended by the interim relief proposal. He strongly opposed it.

Betsy Smith is a resident on Beach Avenue, and is on the water-quality testing team for the Kennebunk River and beaches. They test the beaches twice a week all summer and the river at six different places, every two weeks for the whole summer. When it rains an inch in 24-hours she said there is evidence that bacteria levels rise to unhealthy levels. She didn't want another parking lot on the riverbank, thus she opposes the interim relief.

Greg Burke mentioned that he purchased his home in a coastal zone, not a business zone, thus he does not want to give interim relief in this matter. Burke noted that the Board of Selectmen stated that they would not get involved, but would rather leave it up to the Zoning Board of Appeals. He questioned how the Town can go against the Zoning Board of Appeals.

Dick Lambert, a resident of Doane's Wharf's Road, said that he was told that this would give them more security, and that it could be much worse (for example, more parking spaces could have been added). He was very concerned that anyone could change a decision made by the Zoning Board of Appeals (what is their authority, then?).

David Plass, from Lower Village, thought that points were still to be made, but wanted to give time to others to speak. He too was against giving interim relief in this matter.

John Richardson represents BR2LLC and Forsley. He disagrees with the Zoning Board of Appeals on the matter. He said that they filed an appeal. They met three times with the Zoning Board of Appeals, and such meetings were public hearings. He expressed his want, from the beginning of the matter, to avoid litigation and to allow people to express their needs. Richardson said that he reached out to representatives of the neighbors and was told that the neighbors had no interest in meeting with him about the current issue. He suggested that the neighbors wanted to wait until now, after the Town and BR2 made an agreement, to cause a stir. He noted that his side of the argument had to give up certain things that they thought they were entitled to.

Richardson has no doubts, whatsoever, that they will get interim relief from a Court. He feels like the argument from the other side is a “strong man” argument and bringing it up now is an attempt to put doubt into the minds of the people on the Board. He expressed his disgust at those who say that the neighbors had no say (stake) in regard to the matter. He said that the neighbors got a lot from the deal, thus it is fair, and added that they could have done much more to get additional parking spaces out of the deal. He asked the Selectmen to agree to give interim relief. He also wanted to make it clear that this was interim relief, intended for the summer, not forever. He noted that the order contains much of what they cannot do. Furthermore, he said that he invited the neighbors into the process, but was rejected.

Fred Forsley thanked the Town. He wanted to go in front of the voters in June, but didn't have enough time. He said that they did indeed go to the neighbors, and that he was slandered. He does not want to go into litigation with the Town, but paid a lot of money for the property and wants to use it how he pleases. He noted different ways that he compromised with the neighbors by withholding on certain things like putting in a Marina. He noted the difficulty of having a business in Maine as well as having a business in a neighborhood and to have minimum impact, but felt like in this case there was minimum impact (he cited a husband and wife, neighbors, who didn't even know that anything was going on on the property during perhaps the busiest time of the cited year for Forsley's business, fourth of July weekend, as evidence of the minimal impact that his business had). He will be here for a long time and really does not want to be in conflict with the Town.

At this time, the Selectmen, Town Attorney and Town Manager conversed.

Boothby asked if the specifics of the interim relief could be explained for anyone who did not already know the specifics of the suggested relief.

Donovan told the Town Attorney that he believed that anyone could ask for such relief, but that only the judge could grant it. The Town Attorney told him that he was correct.

Furthermore, the Town Attorney, Bill Dale, explained that the Forsley's did lose with the Zoning Board of Appeals, but did what they are allowed to do: they appealed the decision under the Maine Superior Court. He reiterated what Forsley himself said which was that they had tried to get the issue on the ballot for June, but could not do so in time. However, he also said that the matter should be on the November ballot (there should be a big turnout because it is a Presidential election). Thus, Dale asked what they are to do in the meantime (for the summer)? Nothing? Go to court, seeking interim relief? He wanted to make sure that it was known that they planned on going to court to ask, not tell. He went over the “6 points,” to use his words, in regard to the interim relief:

1. Overflow parking for the restaurant can be used on the Marina Lot for up to thirty cars; and two more parking spaces for a single family house on the Marina Lot. Thus there can be a total of thirty two cars on the Marina Lot. Under the Zoning Ordinance, people can park for Marina purposes, but not for the restaurant.
2. The entrance to the Marina Lot must be gated or barricaded in order to eliminate any through traffic.
3. There are to be no outdoor special events on the Marina Lot other than ones related directly with a boat tied to the Marina.
4. There can't be any sales or rentals of small boats or kayaks. Such is a compromise, said Dale. They figured allowing it would create a lot of traffic in the area.
5. There can't be any whale watching boats or Harbor cruise boats. Again, because he felt like allowing such would create much traffic in the area. Boats that have no more than six guests, however, are allowed in the area being referred to.
6. The interim relief, if granted by a judge, will be good through November 8th, the date of the Presidential election.

He noted that the Forsley's must get working on their contract zone (the meant-to-be long term solution). He added that they need to get it ready sometime around the first of September. Then, he told the Board of Selectmen that it was up to them to decide what he should do next in regard to this matter.

Richardson spoke again and asked the Board of Selectmen for support and to let the judge decide on the issue. Again, he made it clear that litigation was something that he really wanted to avoid.

Arlene Poisson, said that she is not a resident of the particular neighborhood in question, but as a 26 year resident of Town, she detested the idea of any tax dollars being spent in support of the particular request for interim relief. She suggested that their actions (over last summer) were based on greed. She also agreed with everything that attorney Bruce Reed said at the beginning of the public hearing. She added that she hoped that the Board of Selectmen would not be influenced by the, what she called, "bullying tone" of Fred Forsley's Attorney.

The public hearing portion was closed and Donovan asked for comments from the Board of Selectmen.

Karytko said that he has been very vocal on this matter and was concerned about the time spent on this (the cost adds up), though he understands that interim relief can indeed be asked for. He commented that the Zoning Board of Appeals has already made a decision. He also noted that everyone seemed far from agreement at the meetings (he got such information from Dale). He felt the need to follow what the Zoning Board had said in its decision. He spoke of the importance of the residents and said that he did not like the Town helping people with a contract zone.

Schulte agreed with Karytko, for the most part. He understands all of the compromises included in the interim relief, to try to protect the residential zone, but felt like if residents are at tonight's meeting saying that they do not want this, then they should most certainly not go forward with trying

to receive interim relief. He wanted to try to find a compromise, which is why they spent money on trying to do such, but added that it does not seem that any successful compromise was reached.

Cluff said that they had been talking about this very much and that meetings with the residents have been occurring. Others spoke to debate how much meeting actually took place. An audience member expressed his opinion on the matter, giving somewhat of a timeline of the meetings.

Karytko asked Dale why they had to get involved. Dale agreed that the Forsley's could go to court, etc., but that it made sense to go forward with it. He even suggested that this interim relief (for the summer) could possibly be a test for Forsley, who some of the neighbors are perhaps not trustful of. Then the people can vote on the matter in November. He mentioned that they need court permission to do this.

Boothby said that if nothing was done there would be many things that the Forsley's could do and thus he believes that interim relief makes sense to come to a kind of conclusion. He wanted to try it out and let the voters decide in November.

Beal asked if she was right in her explanation (alternate wording) of what Boothby said above: that if they went ahead with seeking interim relief there will be some protection, but if they do nothing there will be no protection. Boothby agreed, but others said that it only was the case if it was granted by a judge. Beal asked about the protections.

Schulte realized that the neighbors don't want this to happen. He mentioned that they are the very people who they are trying to protect. Why not stay with the Zoning Board of Appeals? Boothby agreed that it was a good point.

Cluff asked Dale when they would need to go to court if they decided to do so. Dale said that it could be in court by noon on Friday, but he could not guarantee it. He also noted that there is no time limit for how long a judge can take to decide on a matter.

Finally, Morin said that trying to find an agreement was the right idea, but that it obviously did not work out. He felt like the interim relief would "stack the deck" against the neighborhood. It is not for them to be involved in, said Morin. He did not want any more time or money spent by the Board or the Town Attorney on the issue.

Donovan felt like the request was reasonable and that they are simply allowing a Superior Court Justice to decide on the issue. He stated their responsibility to citizens and businesses. He noted that there were most certainly reasonable arguments from both groups on the matter.

A motion was made to authorize the Town Attorney, through the Town Manager, to file the proper paperwork with the Superior Court in Alfred on temporary relief for the Forsley's.

MOVED: Donovan
SECONDED: Cluff
MODIFICATIONS: None
VOTE: 3 in favor, 4 opposed (Morin, Karytko, Beal, Schulte). The motion failed to pass.

The Chair proceeded to the next item.

13. ADJOURNMENT

A motion was made to adjourn the meeting at 10:04 P.M.

MOVED: Donovan

SECONDED: Morin

MODIFICATIONS: None

VOTE: 7 in favor, 0 opposed. The motion passed.


Deborah Beal, Secretary
Kennebunk Board of Selectmen

Date: 6/14/16