

TOWN OF KENNEBUNK
BOARD OF SELECTMEN MINUTES
OCTOBER 11, 2016 - 6:15 P.M

SPECIAL MEETING – 6:15 P.M.

Interview the following Candidates for Committees:

Planning Board - vacancies: (1) Alternate 2017

David Lee Hardwick (applied on 7/31/12 and 7/21/16)

Fred F. Castle, Jr. (applied on 9/14/16) Fred served on our Planning Board from 10/22/13 to 9/23/14

West Kennebunk Village Committee - vacancies: (1) Regular 2017

Morgan Moran (applied on 8/1/16)

Downtown Committee - vacancies: (1) Regular 2018 (resignation on agenda), (2) Alternate 2017

Melissa Shatney (applied on 8/23/16) Non-resident, however, she owns a business in Kennebunk

Angus Macaulay (applied on 9/19/16)

Lower Village Committee - vacancies (1) Regular 2018 (resignation on agenda), (2) Alternate 2017

Miriam Whitehouse (applied on 10/4/16)

Economic Development Committee - vacancies (after membership restructuring: 1 Regular 2017 and 4 Alternate 2017 (3 of these are slotted for representatives of the 3 village committees)

Miriam Whitehouse (applied on 7/12/16)

Jonathan Johnson (applied on 7/15/16)

Wendy Ross (applied on 7/16/16)

DISCUSSION:

The candidates were interviewed in regard to their various interests in being on committees.

For example, Fred F. Castle, Jr. talked about his interest in the Planning Board. He has worked with many and has paid attention, and would like to contribute even further to the Town.

David Lee Hardwick was not present to offer his reasons for wanting to be on the Planning Board.

Morgan Moran was not present to offer his reasons for wanting to be on the West Kennebunk Village Committee.

Angus Macaulay declared his interests.

Melissa Shatney spoke about her interest in the Downtown Committee. She said that she owns a business in town. Karytko asked what she owns. Shatney said that the business started as a massage therapist business. Schulte asked why she was interested in being on the Downtown Committee. She responded by saying that she truly loves Kennebunk. It was decided that her not being a resident of Kennebunk is not a problem.

Miriam Whitehouse was interviewed for her interest in both the Lower Village Committee and the Economic Development Committee. Morin asked if she had a preference between the two committees that she wants to be on. She said that she got time off from work to be involved in the Lower Village Committee and wants business to thrive and to preserve the historical atmosphere of Kennebunk.

Finally, Wendy Ross was interviewed regarding her interest in the Economic Development Committee. She has a strong background in business (she has an MBA from Boston College, for example).

Morin said that Ross arrives early at meetings of the Lower Village Committee.

1. REGULAR MEETING – 6:30 P.M.

On Tuesday, October 11th, 2016, at 6:30 P.M., in Room 301 of the Town Hall, Richard Morin, 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 Blake Baldwin, Richard Morin, Edward Karytko, Daniel Boothby, Christopher Cluff, Shiloh Schulte and Deborah Beal.

Also in attendance were Town Manager Barry Tibbetts, Finance Director Joel Downs, and Town Attorney Bill Dale.

Morin asked for a moment of silence for Dr. Wesley Mills, who passed away last week. He was a prominent man in Kennebunk and contributed greatly to the Town. A moment of silence occurred.

The Chair proceeded to the next item.

2. MINUTES

- a. September 13, 2016 Regular Meeting
- b. September 27, 2016 Regular Meeting

DISCUSSION:

None.

A motion was made to approve the meeting minutes from September 13, 2016 and September 27, 2016.

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

The Chair proceeded to the next item.

3. ITEMS TO BE SIGNED

- a. Items as Presented

The Town Clerk provided the Town Meeting Warrant for the Board to sign.

DISCUSSION:

None.

The Chair proceeded to the next item.

4. PUBLIC HEARING(S)

None.

The Chair proceeded to the next item.

5. PUBLIC COMMENTS

Susan Walker spoke about fireworks. She is aware of the upcoming public hearing on such but will not be able to attend it so she decided to talk about fireworks at tonight's meeting. She commended the Town's fireworks but noted the problem and annoyances she has with other, individual people, using fireworks. She said that her dog is petrified of fireworks and has lost 5 pounds in two months. She also noted that

many pet owners make similar complaints. She hears dogs from other houses barking whenever fireworks go off. Among other things, she noted that on July 3rd, fireworks continued to go off until well after 11:30 p.m. Her daughter-in-law went to the beach and found a man who was setting off illegal fireworks and told him that such was illegal. The man said he was going to launch them anyway. She cited other nights when she had to deal with fireworks going off very late at night. One time she heard fireworks at 2:45 a.m. She believes that people are taking advantage of the current law in Kennebunk that allows fireworks to be set off. She wonders if she has the right to have a healthy dog and peace of mind. She talked to an officer who told her that there is nothing they can do when one complains about fireworks because of the current law. Walker suggested either a complete ban on fireworks or to prohibit fireworks in the Coastal Residential Area. Finally, she said they could put up signs on the beach to stop fireworks from being present on the beach. She knows that bringing in jobs and money from tourists was a big part of allowing fireworks in Kennebunk but thinks that such reasons should not be put ahead of the peace of mind sought by Kennebunk residents.

Jeff Rowe, the Fire Chief, invited everyone to attend an open house at the West Kennebunk station on Thursday, October 13, 2016 from 5:30-8:30 p.m. Much information will be provided at the event and the Police Department will help. There will also be activities at the event such as demonstrations of the fire trucks and he believes that they will make time for a few rides in fire trucks for kids attending the event. John Thyng, a member of the Fire Department for 55 years, retired last week. Rowe congratulated John Thyng.

John Costin said that the Board of Selectmen received an email which demanded an apology from them to Costin and to residents of the Town of Kennebunk. Costin said that the police were called to a "disturbance" which was apparently Costin asking the Selectmen to honor the Charter. His understanding of a section of the Charter was that residents of the Town are allowed to speak on every item on the Board of Selectmen's agenda. He said that he knows others (he knows of two) who were not allowed to do such. He does not want to shame the Selectmen but is afraid of a pattern within the Town of picking and choosing laws to follow. He said that he believes that sometimes, in pursuing interests, they go against the Charter, etc. He had also asked Town Attorney, Bill Dale, to apologize to him. He had asked Dale to explain why the Freedom of Access Law overrides the Town Charter.

Bill Dale, the Town Attorney, responded to Costin. He did not apologize to Costin. Rather, he noted that the Town Charter allows the people of Kennebunk to respond to anything except things provided by law (which is a State Statute which allows the Board of Selectmen to go into Executive Session without needing to allow the public to speak regarding the matter). He said that he cited this Statute to Costin before this meeting. He wanted to let the Selectmen know that they followed the law.

Schulte asked if the public couldn't comment on an executive session.

Dale said that discussing such ruins the point of an executive session.

Karytko made it known that the Board tries to do the right thing but that doing what was right, at the time, was hard to determine. He also said that he will never try to hide anything from the public.

Merton Brown, Town Clerk, discussed absentee voting and noted that they had a very busy day and thanked everyone who came in. The easiest way for people to obtain a ballot is to call the Town Clerk's office at 604-1326. An absentee ballot will be mailed to those that call in search of one. Brown said that people can also pick up ballots in person. The Town Clerk's website has the packet of information which explains the Town and State ballot as well as additional hours that they will be open to manage absentee ballots if people cannot make it to the office during the day.

The Town Manager explained where political signs are allowed and are not allowed in Kennebunk. He said that political signs can be placed in grassy areas, in the medians, etc. but that they cannot be placed in planted areas. Such is made very clear in the Zoning Ordinance. Signs placed in planted areas will be removed by the Code Officer.

The Chair proceeded to the next item.

6. ACKNOWLEDGEMENTS/ANNOUNCEMENTS

- a. Accept the Following Donation – The Town received a \$400.00 donation from the Kennebunk Farmers Market. They requested this donation, in lieu of rent for use of the Town’s parking lot for their Market, be applied to the Community Garden Committee for their garden program.

DISCUSSION:

Karytko asked Tibbetts why the donation was made in lieu of rent.

Tibbetts said they have never really charged the Farmers Market because they wanted the Market to be successful. He also said that the Farmers Market used to make a donation to the Town anyway, even when they were at a different location.

After the motion was made, Beal said, as the liaison to the Community Garden Committee, that they are thrilled and will accept the donation and use it wisely.

A motion was made to accept the donation from the Kennebunk Farmers Market and send a letter thanking them for the generous donation.

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

The Chair proceeded to the next item.

- b. Accept the Town Manager’s Notice of Contract Non-Renewal – The Town Manager has announced that he will not seek renewal of this existing contract, which expires on June 30, 2017. He will work with the Board of Selectmen and staff toward a transition during the remaining months of his contract as necessary.

DISCUSSION:

Tibbetts said that it has been a pleasure to serve the Board, the Committee members, and the residents, and hopes for a smooth transitioning process.

Schulte thanked Tibbetts for the early notice because it will not be easy to replace Tibbetts.

A motion was made to accept the Town Manager’s notice of the non-renewal of the contract.

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

The Chair proceeded to the next item.

7. TIME SENSITIVE BUSINESS

a. Discuss Boards and Committees (resignations/appointments)

- **Accept the Following Resignation(s):**
 - Angus Macaulay, EDC, Regular 2019
 - William Macdonald, EDC, Regular 2017
 - Bonnie Clement, LVC, Regular 2018
 - Sylvia Cavanaugh, Downtown Committee, Regular 2018
 - Susan LeBlanc Malley, Committee on Aging (no term)
 - Barbara Yates, Committee on Aging (no term)

- **Appointment of Residents being interviewed at the beginning of the meeting:**

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Jonathan Johnson (applied on 7/15/16)

Wendy Ross (applied on 7/16/16)

The Restructuring of the EDC is being discussed later in the agenda (Old Business). It makes sense to wait until this is discussed before making these appointments.

DISCUSSION:

One person, David Lee Hardwick, who wants to be on the Planning Board, was not able to attend today's meeting so Morin asked how they should proceed. In other words, should the Board make an appointment to the Planning Board or wait?

Schulte thinks that the Board should wait until they can interview Hardwick and believes that he had a good reason for missing tonight's meeting.

Boothby agreed with Schulte, stating that the Board should see the applicants before appointing them to committees.

Baldwin, however, noted that he believes that Hardwick has missed the interview twice.

Karytko noted that people interested in other committees were also absent so if they didn't vote on the appointments to the Planning Board, they should not vote on the appointments of people to any committees when an interested applicant is not present for their interview.

However, Schulte said that this case is an exception because the missing applicant took effort to call and say that he had a family emergency.

Because Morgan Moran was not present for the interview for an appointment on the West Kennebunk Village Committee and because no one else wanted to be on the committee, it was decided that no action was necessary.

Boothby wanted to reconsider the vote on tabling the appointment of the Planning Board until the next Board of Selectmen meeting. He feels as though, since there is only one vacancy, Fred F. Castle, Jr should be appointed to the Planning Board because he was present at tonight's meeting.

A motion was made to accept the resignations of Angus Macaulay and William Macdonald from the EDC, Bonnie Clement from the Lower Village Committee, Sylvia Cavanaugh from the Downtown Committee and Susan LeBlanc Malley and Barbara Yates from the Committee on Aging and send letters thanking them for their service.

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

A motion was made to table the appointment to the Planning Board until the next Board of Selectmen meeting.

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

A motion was made to appoint Angus Macaulay as a Regular Member on the Downtown Committee with a term expiring in 2018 and Melissa Shatney as an Alternate Member on the Downtown Committee with a term expiring in 2017.

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

A motion was made to appoint Miriam Whitehouse as a Regular Member with a term expiring in 2018 for the Lower Village Committee.

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

A motion was made to reconsider the tabling of the appointment to the Planning Board until the next Board of Selectmen meeting.

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

A motion was made to appoint Fred F. Castle to the Planning Board as an Alternate Member with a term expiring in 2017.

MOVED: Boothby
SECONDED: Baldwin
MODIFICATIONS: None
VOTE: 6 in favor, 1 opposed (Schulte). The motion passed.

The Chair proceeded to the next item.

- b. Sign the Warrant for the Special Town Meeting for the November 8, 2016 Election This was discussed at the September 13th meeting; however, the warrant was not available for signatures.

DISCUSSION:

The Selectmen already signed the warrant (at the beginning of the meeting) but Karytko wanted to make such official via making a motion.

A motion was made to sign the Warrant for the Special Town Meeting for the November 8, 2016 Election.

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

The Chair proceeded to the next item.

- c. Award the Crack Sealing – We received the following bids for this service.

- Sealcoating, Inc., Braintree, MA

Description	Unit	Quantity	Unit Cost	Total Cost
Polymer Modified Asphalt Sealant – Config. H	Pound	8,200	\$1.06	\$8,692.00

Description	Unit	Quantity	Unit Cost	Total Cost
Polymer Modified Asphalt Sealant – Config. B	Pound	500	\$4.16	\$2,080.00

- Coastal Road Repair, Inc., Windham, ME

Description	Unit	Quantity	Unit Cost	Total Cost
Polymer Modified Asphalt Sealant – Config. H	Pound	8,200	\$1.98	\$16,236.00

Description	Unit	Quantity	Unit Cost	Total Cost
Polymer Modified Asphalt Sealant – Config. B	Pound	500	\$13.80	\$6,900.00

- Nicom Coatings Corporation, Barre, VT (sent via fax and did not comply with the bid instructions)

Description	Unit	Quantity	Unit Cost	Total Cost
Polymer Modified Asphalt Sealant – Config. H	Pound	8,200	\$2.05	\$16,810.00

Description	Unit	Quantity	Unit Cost	Total Cost
Polymer Modified Asphalt Sealant – Config. B	Pound	500	\$4.50	\$2,250.00

The Public Services Director and Town Engineer have reviewed the bids and recommend awarding the bid to Sealcoating, Inc. of Braintree, MA at the prices listed above.

DISCUSSION:

Tibbetts said that they reviewed the bid specifications and they recommend Sealcoating Inc. of Braintree, MA. They can be here in the first week of November.

Schulte asked why the prices from this company were so much cheaper than those from other companies.

Tibbetts believes that such is the case because they are a higher volume operation, etc.

Cluff knew what Schulte was talking about, noting that sometimes something is too good to be true and asked if they received references for the company.

Tibbetts said that they have references for the company.

Beal had Tibbetts confirm that he has met with the people representing the company personally.

Tibbetts said that he spoke with the Vice- President and their division person for New Hampshire and Maine at a recent conference (Finance Director Joel Downs and Human Resources Director, Mike Pardue also met with them).

Tibbetts assured Karytko that roads on the list will be completed and they hope that they can add more roads to the list.

Karytko said that completing the roads early in the spring and late in the fall is good because the material is not soft due to heat and will stick better. Others confirmed his comment after he asked Tibbetts to correct him if he was wrong. Karytko also wanted pot holes to be filled.

A motion was made to award the bid to Sealcoating Inc. of Braintree, MA at the prices listed above.

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

The Chair proceeded to the next item.

- d. Discuss the Public Services Travel Bus Bid Award – At the August 9th meeting, this was discussed and moved to a second reading. However, after further discussion, it was decided to re-bid this vehicle. On September 28th, the following two bids were received:

Company	Bids	
1. W.C.Cressey & Son, Inc.	Base Bid (per vehicle):	\$96,535.00
Kennebunk, ME	Deduct Alt. 1 (allowance for trade-in)	\$2,500.00
2018 - Body Manufacturer: Freightliner Chassis,	Add Alt. 2 (extended warranty)	\$1,690.00
Thomas Body, model 340 TS – 78 passenger	Add Alt. 2 (roof mount a/c)	\$9,300.00
2. W.C.Cressey & Son, Inc.	Base Bid (per vehicle):	\$97,910.00
Kennebunk, ME	Deduct Alt. 1 (allowance for trade-in)	\$2,500.00
2018 - Body Manufacturer: Freightliner Chassis,	Add Alt. 2 (extended warranty)	\$1,690.00
Thomas Body, model 341 TS – 82 passenger	Add Alt. 2 (roof mount a/c)	\$9,300.00

The Public Services Director (with Recreation Director and Fleet Manager) recommends the 2nd bid from W.C. Cressey & Son, Inc. at the following price:

Base Bid	\$97,910.00
Minus Trade in	-2,500.00
No extended warrant (recommend basic 3 yr. warranty)	0.00
Premium Fleet Shield Anti Corrosion Package	+993.00
Also Rear Air Suspension package	+575.00
Roof Mounted A/C	+9,300.00
Total Price	\$106,278.00 with A/C

Since this bid came in higher than anticipated, we could put aside additional monies in next year's budget for the roof mounted A/C, which can be added on at that time.

-9,300.00
\$96,978.00 without A/C

Federal laws have changed on seatbelts for busses since the budgetary discussions last year. This bus includes 3-point harness seatbelts which are now required for non-school busses, thusly increasing the cost of this replacement bus. Additionally, the number of passenger seats and year/make comprises the increase.

We budgeted \$88,000.00 for a 72 passenger bus. After reviewing the capital budget, the \$8,978.00, gap with no A/C or the \$18,278.00 with A/C would come from that fund.

DISCUSSION:

Tibbetts gave more details in regard to this item. The original bids were looked at and there was a price difference between the two vendors because there are Federal laws applied to the year of busses. For example, a 2017 bus does not need to have 3 point harnesses but a 2018 bus does need to be equipped with 3 point harnesses. They looked at this and feel like they should get the bus with the seatbelts to save them trouble down the road. New bid specifications were sent to all vendors and W.C Cressey and Son, Inc. were the only ones who responded.

Schulte asked why they decided to go for an 82 passenger bus when they were looking for a 72 passenger bus and a 78 passenger bus is available.

Tasha Pinkham, the Recreation Director, said that buses with seatbelts did not come with the 72 passenger busses. She said that because an 82 passenger bus seats more than a 78 passenger bus they can fill trips up faster and can make the extra money, spent on an 82 passenger bus, up within a season. Their transit bus died and it had a lot of storage capacity. An 82 passenger bus will help. For example, on skiing trips they can use the extra seats for skiing equipment.

Boothby asked if the bus will be paid for by user fees instead of taxpayer money. Tibbetts explained, saying that such is paid for by user fees.

Boothby also said that they should get a bus with air conditioning now instead of waiting until next year. Beal agreed with Boothby.

Morin asked if the bus is bonded or purchased out of surplus. Joel Downs, the Finance Director, said that the bus is bonded.

Karytko asked when they will get this bus. The response to Karytko's question was that they will receive the bus in 6 months.

Beal feels as though waiting to get the air conditioning for the bus will take the bus out of commission for a while, letting revenue be lost. Therefore, she thinks that they should get a bus with air conditioning now. Schulte added that they have enough money in the Capital Budget to get a bus with air conditioning.

John Costin, from the public, spoke. He thinks that this is a great purchase for the Town and wants the purchase to be made but worries about the way that they plan on funding this purchase. He thinks that they are getting too close to using the Capital fund as a kind of “cash reserve.” Cluff responded by saying that they have under spent enough so that they will not go over budget.

Morin tried to clear things up by saying that the total does not change, only the allocation.

It was also explained that the money for this bus purchase is coming out of the Capital Budget but not their Capital Fund. After this was explained, confusion was eliminated.

A motion was made to award the Travel Bus Bid to W.C. Cressey & Son, Inc. for the 2018 82 passenger Freightliner Chassis, Thomas Body (model 341TS) for the amount of \$106,278 which includes Air Conditioning.

MOVED: Cluff
SECONDED: Karytko
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 the Economic Development Committee Restructuring – At the September 13th meeting, the Board heard comments from EDC Chairman Bob Georgitis concerning the restructuring of the committee.

Currently, the committee consists of the following members:

- **13 members:**
 - 11 Regular members (5 current vacancies)
 - 2 Alternate members (2 current vacancies)
 - and
 - 4 ex-officio members:
 - 3 Utility District Representatives
 - 1 Chamber of Commerce Representative

Proposed: At the EDC’s September 1st meeting, the EDC voted on the following committee structure:

- **11 members**
 - 7 Regular members
 - 4 Alternate members –
Bob Georgitis had previously indicated that 3 of these members would include representatives from the three village committees involved with economic issues in their committee membership:
 - Lower Village Committee
 - Downtown Committee
 - West Kennebunk Village Committee

New structure:

Regular		
1	Robert Georgitis, Chair	2019
2	Heather Harris, Vice Chair	2018
3	J. Steve Hrehovcik	2017
4	Gary Dugas	2019
5	John Daamen	2019
6	Rachel Phipps	2018
7	Regular (vacant)	2017
Alternate		
1	Alternate (vacant)	2017
2	Alternate (vacant) LVC member	2017
3	Alternate (vacant) Downtown Comm. member	2017
4	Alternate (vacant) WKVC member	2017
Ex-Officio		
	Laura Dolce, Chamber of Commerce Rep. (Ex-officio)	
	Norm Labbe, KKWWD Rep. (ex-officio)	
	Michael Bolduc, KSD Rep. (ex-officio)	
	Todd Shea, KL&PD Rep. (ex-officio)	

With the two resignations accepted earlier tonight, there are 6 active (regular) members on the committee.

If this new committee resizing is approved as recommended, in addition to the 6 members currently serving, the EDC will have openings for 1 regular member (2017), 4 alternate members (2017) (with 3 of those alternate positions comprised of representatives from the Lower Village Committee, Downtown Committee, and West Kennebunk Village Committee).

DISCUSSION:

Rachel Phipps, from the public, spoke. She said that at the committee's meeting last week most agreed that it does not make sense for non-binding committees to have alternate members. If they go with the proposed structure, they will have 4 alternate members out of a total of 11 members on the Economic Development Committee. She thinks that this makes no sense. For example, how do they decide who moves up from an alternate position to a regular position? An alternate member may have to wait for years before becoming a regular member.

Morin asked if she would be content if they say "Village Committee members" instead of "alternate members" in the proposal. Phipps asked if such people would not be voting.

Betsy Smith, from the public, spoke. She cited an email to the Chair of the Downtown Committee saying that they can perhaps get the Chairpersons of various committees to meet on a quarterly basis.

Cluff said that he believes that there is no huge rush on this item.

Schulte wants changes to be made across the board.

Baldwin agrees that the committees should be looked at as a whole (especially non-binding ones). He disagrees with Phipps. He said that a person should be on a committee to work, not just vote. He agrees with Schulte that they should look at committees across the board and come up with some kind of standardization for the various committees of Kennebunk.

Sharon A. Staz, from the public, spoke. She said that she was an ex-officio member on the Economic Development Committee. She feels like she had a pretty good attendance record too. She still, out of interest, attends the meetings, as a resident of the Town. She encouraged the Board of Selectmen to table the restructuring of the Committee and the appointment of anyone to the Committee. This way, the Economic Development Committee can spend more time discussing this matter.

A motion was made to table the Economic Development Committee restructuring.

MOVED: Cluff

SECONDED: Baldwin

MODIFICATIONS: None

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

The Chair proceeded to the next item.

- b. Discuss the Town's Board of Selectmen Strategic Plan – In late June, the Board held a workshop with staff to review the survey results and identify the elements for developing a strategic plan. Our consultant, Don Jutton, from Municipal Resources Inc., has compiled that data and the information has been prioritized by the Board and staff. If the Board finds these overall priorities to be applicable, staff will further define them for the November 22nd meeting.

DISCUSSION:

This agenda item is postponed due to a family emergency of Mr. Jutton's.

The Chair proceeded to the next item.

- c. Discuss a Skate Park Committee – At the September 13th meeting, the Board discussed the skate park status and chose to establish an ad-hoc committee for a skate park on Factory Pasture Lane. The committee could be comprised of several members:

- (1) Selectman
 - (2) Youth skaters
 - (1) Resident
 - (1) Representative from the Recreation Department/Committee
 - (1) Representative from the Police Department (perhaps School Resource Officer who engages with potential users)
 - (1) Staff member (for developing the Request for Proposals)
- 7 members

The objective of the committee would be to develop an RFP for a skate park. This RFP would be advertised and subsequently the submissions would be reviewed by the committee with a recommendation to the Board of Selectmen to procure the services of a design/build skate park company. This company would work with the committee and interested residents to develop a park within the known budgetary numbers for the Factory Pasture Lane location.

Town staff will provide the summary information to the committee for the RFP.

DISCUSSION:

Schulte got confirmation that this would have to be a committee that has minutes and so on and would have the normal functions of a committee until the project is completed. Schulte does not know if they should only allow one resident of Kennebunk to be on the proposed committee since there are several people who have shown interest in being on the proposed committee.

Tibbetts said that they can add 2 to 3 residents to the committee easily. Schulte asked about non-residents of Kennebunk being on the committee. Cluff said that he prefers only allowing residents of Kennebunk onto the committee.

Sharon A. Staz, from the public, spoke. She is a resident of Kennebunk and has been since 1998. She wants the Board of Selectmen to form the proposed committee. However, she suggested a change to the proposed committee. She said that there should be at least one adult skateboarder on the committee. She also asked to change the last sentence of the charge to the committee to say "This company would work with the committee and interested residents to develop a plan for a skateboard park including designating an appropriate budget and location for said park." Staz wants this change to be made to give the committee the latitude that other committees in Town are given regarding what is needed, desired and what can actually be done. She does not like the location of the skateboard park and did not think that the vote on the skate park was to make the location of the skate park set in stone. She said that the vote was simply to allocate funds to improve the park. Staz made note that skateboarding is a sport and should be funded well just like other sports.

Paul Beaudoin, from the public, spoke. He spoke about his rejection of Factory Pasture Lane as a good location for a skateboard park. He cited that there are dangerous toxins present in the air around Factory Pasture Lane.

Rachel Phipps, from the public, spoke. She said that the Chair tried to stop a person from reading a prepared statement multiple times. She knows that the Selectmen have prepared statements from speakers, but the public does not. She added that the leaders and the people should take actions together. She also wants the discussions on a skateboard park to be a very public process.

Morin addressed Phipp's comments about prepared statements, saying that the prepared statements can be shared on the Town website under agenda items.

Beal said that the authors of prepared statements need to put their name on them.

Jim Trentalange, a dentist, skateboarder and a resident of Kennebunk, spoke. He is 50 years old but still loves to skateboard. He said that Factory Pasture Lane is not a safe place for a skateboard park and he does not feel comfortable dropping his kids off there. He praised skateboarding and said that it helps kids to stay out of trouble. Therefore, he thinks that much effort and planning must be placed on this topic.

Schulte said that they can look at different sites, but if a different site is proposed, a public vote on such must take place.

Baldwin talked about how he tried skateboarding once, fell and ever since has disliked skateboarding. However, he admires and respects people who enjoy skateboarding. Therefore, he thinks that the Town should not shove skateboarders off to the side. He said that they should go back and find a good location and a good funding mechanism. He also said that there was some marginalization in the vote that he is somewhat ashamed to have been a part of.

Karytko wonders where they will place the skateboard park.

Marc Barron, from the public, spoke. He said that he has lived in Colorado and Oregon and he saw skateboard parks everywhere in those two states. He said that the college he attended had a skateboard park right near the English department and there were no complaints about noise, etc. He said that they should not push away skateboarders and users of the skateboard park to the side and tell them that there is not a good location for a skateboard park in Town. Finally, he noted that sometimes special needs children can't play team sports because of their needs and skateboard parks are places where they can go to.

Baldwin thanked Barron for his comments and thinks that the Town can do better with the matter.

Paul Beaudoin, from the public, spoke again. He wondered if there was any land available in the area of the dog park.

Beal said that she has been very supportive of all of this. She will eagerly go on the committee if anyone desires her to do such.

In reference to Cluff's motion, shown below, Beal asked if kids under 18 can vote.

The other Selectmen said that kids under 18 should be allowed to vote in this committee.

A motion was made to advertise the committee which should be comprised of one Selectman, three skaters of any age, four residents of Kennebunk, a representative from the Recreation Department, a representative from the Police Department and a staff member, to be charged with bringing the Board of Selectmen the best option for a skate park and the Board of Selectmen will interview people at their November 8th meeting.

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

The Chair proceeded to the next item.

9. NEW BUSINESS (1ST READING)

- a. Hear a Brief Presentation from the Wells National Estuarine Research Reserve on a Local Project
– The Wells Reserve is working on a project with the businesses in Kennebunkport and Lower Village called: Decreasing Beach Business Vulnerability using the Tourism Resilience Index. Members from the Wells Reserve will be in attendance to brief the Selectmen on this project.

DISCUSSION:

Chris Feurt, a resident of Kennebunk and a staff member at the Wells National Estuarine Research Reserve, spoke. She works in the Coastal Training Program which works with local communities on things such as protecting watersheds and preparing for climate change. They have worked intensely for the past five years on projects, etc. For example, they have a group called "better safe than sorry" which incorporates the beach communities from Kittery to Scarborough in a partnership. They meet at least annually to share what each town is doing so that they can learn from other towns to prepare for storms and flooding. They are one of only 28 reserves in the country. Ideas are shared among these reserves. She cited financial incentives for businesses to take part in the survey that her group plans to launch. She (and her group) hopes to hear from businesses on how they can help businesses better prepare for future weather events. In talking about being prepared, they hope that businesses will talk about things that they can do to get back to work faster by being prepared. The examples from Kennebunk and Kennebunkport will be shared nationally with the other reserves.

Karytko asked her for an example of what she may suggest to a business.

Feurt responded by saying that business owners can have a plan for their employees (in case of a disaster) so that employees can contact them and know the status of the business and when they can return to work. She also said that having a place where important papers can be easily grabbed and taken if you know that a flood is coming is useful. Or, important papers can be kept in a safe place.

Schulte talked about an example of preparing for climate change.

Baldwin said that the topic is something that they should be thinking about.

Jim Trentalange, from the public, spoke. He said that after the Patriot's Day storm he could not paddle out at Gooch's beach because there were portable toilets in the ocean. He suggests pushing back the sea wall so that a "good" high tide will allow the sand to come back in like it has in the past.

Schulte said that he made good points.

The Chair proceeded to the next item.

- b. Discuss a Lower Village Committee Allocation for a Special Tree Stump Carving – The Lower Village Committee has been approached by a Lower Village business owner about having a tree stump carved as a lighthouse. The stump is located on private property adjacent to the Town's sidewalk at 13 Western Avenue and is owned by David Leonard. The committee believes this is a unique beautification opportunity. The committee voted in favor of this project at their October 3rd meeting. The property owner would contribute \$1,500 toward the \$3,000 cost. The Lower Village Committee will be contributing the remaining \$1,500. Lodging for the artist has been donated.

The owner would assume all future maintenance costs and the liability for the future removal. This would be a private/public partnership. The Town would release funds at the completion of the project and upon receiving the final invoice from the vendor.

DISCUSSION:

Cluff asked why Tibbetts was bringing this item in front of the Board of Selectmen. He said that they never approve committee expenditures.

Tibbetts said that the Board should be aware of this and should make the decision on this matter (public/private partnership) rather than him making the decision.

Karytko asked if they assume any liability if they go through with this and it "falls."

The Town Attorney, Bill Dale, said that it can be made clear, on paper that this is not the Town's responsibility. The property owner would have to sign it.

John Costin, from the public, spoke. He asked if they have been presented with any dimensions, etc.

Betsy Smith, from the public, spoke. She said that two big trees were lost due to disease. There is now a stump in the "heart" of lower village and it is barely on private property. They think that this can be a tourist draw. The artist claims that the artwork should have a 25-year life.

Beal asked if it will be natural or painted. Betsy Smith said that it is going to be natural. There will be no signage or advertising on it.

Schulte said that the Lower Village Committee has looked at this, talked to people, done the research and therefore, he sees no reason not to go forward with this.

Cluff said that it is true that the Board of Selectmen usually don't put many standards on what the committees can spend their money on but said that there are many other things that need to be done.

John Costin cannot understand what benefit this has for the Town other than creating something attractive, just like one could do on private property.

Betsy Smith said that various committees have festivals that benefit some businesses. This can be considered as an extended festival, said Smith.

Bill Dale said that this cannot be done “in bad taste.” For example, it cannot display a swear word or anything sexual. Such would be put in an agreement if they go forward with this.

Morin asked about the Lower Village Committee’s balance. Tibbetts said that they have \$2,500 (definitely enough funds to cover their portion of the donation). Smith added that they also have a carry forward.

The project should be completed in about two weeks, said Smith.

Karytko does not have a problem with going forward with this.

Schulte asked if they will pay the Town Attorney’s fees or if the Lower Village Committee will pay for such fees.

Tibbetts responded to Schulte, saying that he thinks that the Town can cover the Town Attorney’s legal fees in their regular legal budget instead of making the Lower Village Committee pay for them.

A motion was made to allow the Lower Village Committee to utilize existing committee funds for the beautification project on private property located at 13 Western Avenue in Lower Village provided that the Town Attorney drafts an agreement to the Town Attorney’s satisfaction.

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

The Chair proceeded to the next item.

- c. Discuss Amendments to Town Ordinance, Section 6 6-1: Street Vendors and Peddlers – Changes to this ordinance are requested for mobile food vendors and the size of mobile vending units at the Waterhouse Center. The Selectmen’s Ordinance Subcommittee met on September 8th to discuss these changes. The committee concluded two changes were necessary.

The first change would be to the yearly fee for a mobile vending unit at the Waterhouse Center from \$800 to \$500.

The second change relates to allowing two spaces at the Waterhouse Center being combined by one entity. That fee would be \$1,000 (price for 2 spaces) which would allow for a larger mobile unit in one space.

The appropriate draft amendments were attached (in the packet) for your review. These changes would need a public hearing, which could be scheduled for October 25th. A Town Meeting is not required; the Selectmen have authority to amend this Ordinance after a public hearing is held.

DISCUSSION:

Cluff said that he was on the Ordinance Subcommittee when they first drafted this. He wondered what their goal is in regard to the contents of this agenda item.

Among other things, Tibbetts said that the fee of \$800 was simply too high which is why the cost of the fee was brought down to \$500.

Schulte wondered if there was criteria for the aesthetics of this negotiation.

It was answered that all of the things that Schulte was speaking about are already in the Ordinance.

A motion was made to schedule a public hearing for the amendments to Section 6 6-1 Street Vendors and Peddlers on October 25th.

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

The Chair proceeded to the next item.

- d. Discuss a Possible Moratorium Ordinance on Retail Marijuana Establishments and Retail Marijuana Social Clubs – At the last meeting after public comments were received on regulating marijuana, the Board requested options to review this matter. This moratorium will provide the necessary time to prepare for the potential marijuana vote in November.

The Town can establish a moratorium on the retail sales of marijuana back to the initial Board of Selectmen meeting considering this topic (October 11), with a Special Town Meeting planned for the future.

To initiate this moratorium, the Board needs to have a public reading and the Board will need to set a Special Town Meeting (in January) after the Planning Board has refined an ordinance. A draft will be available Tuesday evening.

DISCUSSION:

Lionel Menard, from the public, spoke. He thanked the Board of Selectmen for putting this matter on tonight's agenda. He asked if a draft will be available online.

Tibbetts answered that there will be and he handed Menard a copy of such during this meeting. Among other things, it says that there can be no retail sales of Marijuana until the Planning Board has come back with an ordinance which is put in front of the Board of Selectmen to send to a Town Legislative body meeting. They have 180 days to complete it.

Menard stated his appreciation of the Town for doing this. He cited that the Maine Police Chiefs have opposed question #1 as well as the Maine Medical Association. He mentioned that other towns in Maine have composed moratoriums in regard to this issue. Finally, he referenced that 2 out of every 3 cities and towns in Colorado have either full bans or partial bans in regard to their Marijuana initiative. He hopes that recreational Marijuana is not legalized but noted how important it is to prepare for how to deal with it if it does pass.

Bill Dale said that Maine law, for initiatives like this, requires a draft of the actual statute before the vote on the initiative. There is already a 30 page draft of such a statute. He said that he was not aware that Marijuana comes in candy too. The fear, said Dale, is that there will be shops near schools, selling Marijuana inside candy.

Morin asked if this was a citizen's initiative. Bill Dale said that it was but a group was behind it.

Morin discussed the possibility of the State Legislature changing the draft of the statute. Bill Dale said that the State Legislature can indeed change the draft of the statute.

John Costin, from the public, spoke. He said that there is an age requirement in the proposal of 21 years old. He also said that edible products that would appeal to or resemble non-drug foods are prohibited in the 30 page legislation for this proposal. He also asked about the time limits for a moratorium.

Bill Dale said that as long as they are working on the moratorium seriously, they can get an extension on the 180 days they have to work on such.

Tibbetts asked if they can vote to establish the moratorium by ballot or if they have to do it by show of hands. Merton Brown, Town Clerk, answered Tibbetts saying that doing such by a show of hands it fine. However, later on, it was decided that they actually need to do such by ballot.

Tibbetts said that they can have a Special Town Meeting to make a decision on the moratorium on Marijuana.

Bill Dale said that other municipalities will most likely struggle to determine things in regard to this matter if the proposal passes on November 8, 2016. They can see what other towns are doing in response to the matter if recreational Marijuana is legalized.

Marc Barron, from the public, spoke. He asked if they wanted to hold the vote until the vote in November has occurred. He said that having people raise their hands for or against something that is currently illegal, may lead people not to vote how they want to vote.

Morin asked about the benefit of rushing to a meeting. Bill Dale said that they can perhaps catch someone who will put something in place between today and November 8, 2016 to get ready if Marijuana is legalized.

A motion was made to request the Planning Board to expeditiously develop a Marijuana Ordinance for the Board of Selectmen's review and to send it to a Special Town Meeting, the date of which, will be determined by the Board of Selectmen on October 25, 2016.

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

The Chair proceeded to the next item.

- e. Discuss the Planning for a New Town Manager – As you are aware, the Town Manager has indicated he will not seek renewal of his contract. With this news, the Board will need to begin the succession plan for this position. There are many options on how to build an inclusive succession plan.

Some items for consideration:

1. Town Manager, Finance Director, Director of Human Resources – develop/implement transition of knowledge plan
2. Engage recommendations from outside recruiter(s) on best practices for recruitment
3. Review/develop/assess Town needs for staff, community and key priorities, both short and long term
4. Develop a timeline for transition and appointment of an Interim Town Manager

5. Develop a candidate profile, search committee, multi-level interview approach and citizen engagement

One aspect that is very important for all parties involved is a plan that is well communicated. Would the Board like to hold a workshop on October 18th to further build the succession plan?

DISCUSSION:

Tibbetts cited a man who is willing to share his experiences and ideas regarding the best practices when it comes to a transitioning process like this.

A motion was made to set a Special Workshop to discuss planning for a new Town Manager on Tuesday, October 18, 2016 at 6:30 P.M.

MOVED: Cluff

SECONDED: Karytko

MODIFICATIONS: None

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

The Chair proceeded to the next item.

- f. Discuss Any Other Business

None.

The Chair proceeded to the next item.

10. SELECTMEN'S COMMENTS

- a. Subcommittee Reports (if any)

Cluff signed various things.

Boothby said that the Dog Committee wants to have signs at the beach that state the rules. They want five different signs to be added at the beach.

Cluff said that a Finance Subcommittee meeting was held about 2 or 3 weeks ago. They are going to be working on a new policy, etc.

- b. Individual Selectmen Comments

Selectman Boothby:

- Was very annoyed with John Costin accusing the Board of Selectmen of wrongdoing and making it out like his accusations were purely based on facts. He said that he (and the Board in general) were not allowed to respond to Costin's comments, made earlier in the meeting, until now, and that he would have said all of this to Costin, in person, if Costin had stayed at the meeting for its entirety.

Selectman Karytko:

- West Kennebunk Village Committee met at the Fire Station with Chief Rowe and the Committee is going to take all of the equipment in the kitchen and transport it and reinstall it at the Dorothy Steven's Center.
- Talked about a new building and business that will be going in on Route 1 South where the fire was a few years ago. He said he saw the plans for the building and it will be really nice.

- The Comprehensive Plan & Zoning Ordinance Update Committee is trying hard to communicate to the public. They are considering initiating public forums. They may offer open houses, try keypad polling, etc.
- Asked about the Budget Board, saying that they don't have a Chairperson.
- Tibbetts said that they try to get the Budget Board together in December. They usually elect a Chairman at their first meeting.

Selectman Schulte:

- HarvestFest was great despite the rain
- Thanked Karytko for the thought and effort that he puts into voting on every agenda item for Board of Selectmen meetings.
- Mentioned questions on the ballot about the dams. He thinks that the Board of Selectmen have at least some kind of responsibly to provide leadership on this issue.
- Believes that from a cost and environmental perspective, keeping the dams is not in the interest of the Town. Power generation and more proposals should be looked at. He will make additional comments at the next Board of Selectmen Meeting.

Selectman Cluff:

None.

Selectman Morin:

- On October 15, 2016 (Saturday, 8:30-10:30 a.m.) the Selectmen Outreach Sessions will resume.

Selectman Beal:

- Attended HarvestFest which was great.
- Annoyed that one member from a political party showed up in the parade, though they were told that they could not do such

Selectman Baldwin:

None.

Sharon A. Staz, from the public, spoke. During the Selectmen's discussions on the revisions of the Town Committee process, she wants the Selectmen to also discuss the selectman liaison positions. She is now an official member of the Town Energy Efficiency Committee and they have not seen or heard from a liaison since Beal left the position with them.

The Chair proceeded to the next item.

11. TOWN MANAGER'S COMMENTS/NOTES

a. Upcoming Events and Workshops:

- **Saturday, October 15** – Selectmen Outreach Session will be held from 8:30 a.m. to 10:30 a.m. on the third floor of the Town Hall.
- **Tuesday, November 1** – Board of Selectmen Workshop on Salaries will be held at 6:30 p.m. on the third floor of the Town Hall.
- **Tuesday, November 29** – Board of Selectmen Workshop on the Strategic Survey and the Upcoming 2017-18 Budget will be held at 6:30 p.m. on the third floor of the Town Hall.

- b. Park Use Ordinance will be discussed at a future meeting – waiting to review new ruling from FAA. This was scheduled for a second reading at the July 12th meeting.

- c. Revisions to the Town Committee Process – The Selectmen met with committee members in a workshop session on October 4th to review items pertaining to Town committees (committee membership size, attendance, by-laws, etc.). We will be gathering committee suggestions for possible changes, which will then be forwarded to the Selectmen for review.
- d. Traffic Calming Policy – at the September 13th meeting, the Board heard from members of the public about speed bumps. Staff will be revisiting the Traffic Calming Policy to refine several aspects of the policy and application. The proposed amendments will be brought back to the Board for a discussion in November.
- e. Recreation/New Division – After reviewing the current organization tree structure with Mike Pardue, Director of Human Resources, I have moved Recreation into a new division. The Recreation Director will answer to the Town Manager. Additionally, the administration and usage of the parks will fall under the Recreation Division but maintenance shall continue with the Public Services Division.

12. EXECUTIVE SESSION(S)

- a. Discuss with the Town Manager, Finance Director, Director of Human Resources, and Town Attorney the Employment Terms and Conditions of the Town Manager for the Period January 1 through June 30, 2017, where premature public discussion of the same would likely violate his right to privacy – Title 1 MRSA Sec. 405(6)(A)

A motion was made to go into Executive Session to discuss the above item at approximately 9:19 P.M.

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

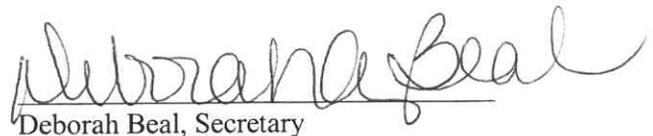
Upon coming out of Executive Session, the Board had nothing to report.

The Chair proceeded to the next item.

13. ADJOURNMENT

A motion was made to adjourn the meeting at approximately 9:50 P.M.

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



Deborah Beal, Secretary
Kennebunk Board of Selectmen

Date: 10/25/16