

KENNEBUNK SELECT BOARD MEETING MINUTES
TUESDAY, SEPTEMBER 12, 2023 – 6:30PM
IN-PERSON AND TELECONFERENCE MEETING VIA “ZOOM”

This meeting was recorded for future viewing and is available in the Agenda section of the Town’s website under the media icon at www.kennebunkmaine.us/selectboardagendas.

1. Call to Order

The meeting was called to order at 6:30pm by Chair and presiding officer Shiloh Schulte, who then led attendees in the Pledge of Allegiance. Those participating were:

Participants: Select Board Members Shiloh A. Schulte [Chair], Kortney E. Nedeau [Vice Chair], Lisa J. Pratt [Secretary], Kevin Therrien [Member], Leslie G. Trentalange [Member]; William Ward, Jr. [Member], and Miriam J. Whitehouse [Member];

Absent: None;

Also Present: Heather Balsler [Town Manager], Merton Brown [Town Clerk], Brian Laverriere [Director, Public Services], and Christopher Osterrieder [Director, Community Development],

The meeting was held in person at Town Hall as well as via “Zoom”, the Internet teleconferencing platform. All seven Board members were in attendance. The meeting was broadcast live on Cable TV Channel 5 and is available for public viewing at any time at *TownHallStreams.com*.

2. Consent Agenda

The following items are considered routine and are approved by one motion of the Select Board. The Town Manager explained that any item which the Board chose to consider separately would be taken up at the conclusion of the Consent Agenda.

- a. **Accept a donation** in the amount of \$100 from Katherine Dickerson for the Kennebunk Dog Park and send a letter thanking her for the donation;
- b. **Approve the Special Meeting Minutes of August 29, 2023 (2:30pm);**
- c. **Approve the Regular Meeting Minutes of August 29, 2023 (6:30pm); and,**
- d. **Accept the Resignation of Nicole Ketchum from the West Kennebunk Village Committee**, a Regular Member post with a term expiring in 2025.

Motion: To approve the Consent Agenda listed above.

Moved: L. Pratt

Seconded: W. Ward, Jr.

Vote: Roll call vote, 7 votes in favor, 0 opposed]; the motion passed.

3. Items To Be Signed

There were none.

4. Public Hearings

There were none.

5. Public Comments

S. Schulte then invited public questions or comments of a general nature. Gayle Spofford, Vice Chair of the RSU 21 Board, invited the public to attend a School Board Workshop on Monday, September 18, 2023, from 6:00-8:00pm. Interested parties can participate in person or via the Internet. The Workshop will explain and discuss how school budgets are formulated and approved.

6. Acknowledgements and Announcements

- a. **Staff News: Police Department:** S. Schulte welcomed the following individuals to the Town's Police Department team:
- **Patricia Ledoux:** Regular, part-time Behavioral Health Liaison (began August 29);
 - **Jason Fontaine:** Full-time Police Officer (began September 5th); and
 - **David Brown:** Full-time Police Officer (began September 5th).

7. Time Sensitive Business & Staff Presentations

- a. **Approve Participation in the Southern Maine Planning and Development Commission's Brownfields Assessment Program**

S. Schulte next reported that the Town of Kennebunk had recently been awarded a grant from the Brownfield Assessment Program of the Southern Maine Planning and Development Commission [SMPDC] for funding of up to \$15,000 to complete a Hazardous Building Materials Survey [HBMS] for the property located at 15 Portland Road. An access agreement, Schulte said, was to be signed by the Town, the SMPDC, and TRC (the contractor). The agreement will empower the contractor to perform "all potential assessment activities" at 15 Portland Road in broad scope rather than just make an inventory of hazardous materials.

H. Balsler said the assessment would help the Town determine what to do with 15 Portland Road. Balsler thanked Town Hall personnel for obtaining this funding.

Motion: To authorize the Town Manager to sign the Phase I Environmental Site Assessment, Phase II Environmental Site Assessment, and/or Hazardous Building Material Survey Access Authorization and Program Participation Form for 15 Portland Road and, additionally, to authorize the Town Manager to explore uses of the site and funding opportunities.

Moved: L. Pratt

Seconded: W. Ward, Jr.

Vote: Show-of-hands vote, 7 votes in favor, 0 opposed, the motion passed.

- b. **Other Items for Consideration**

There were none.

8. Old Business

- a. **Hear a Request by Christopher Barstow to Reconsider the Select Board's Vote of August 29, 2023 regarding the Road Acceptance Request for Drala Drive**

At its meeting and Public Hearing of August 29, 2023, the Select Board voted one [1] in favor and six [6] opposed to "favorably consider Town acceptance of Drala Drive and forward the item to Town voters for consideration." The developer of the subdivision and applicant of that application, Christopher Barstow, asked the Board for this agenda to reconsider its decision of August 29.

S. Schulte observed that the Board had no obligation to make any decision or take any action other than what had been previously decided. He nevertheless called on the developer, C. Barstow, to make his case for reconsideration. Mr. Barstow, however, was not in attendance.

Discussion ensued about road acceptances in general. L. Pratt questioned the Select Board's role in such matters since Kennebunk voters are the final decision-makers. S. Schulte acknowledged that road acceptance applications had often routinely been put before Town voters in the past, but the increase of road acceptance applications and the long-term financial impact of road acceptances in general demanded Select Board re-appraisal.

“We need to better understand what the financial impact is and what policy should be established,” Schulte said.

K. Therrien, M. Whitehouse, and W. Ward, Jr. concurred. S. Schulte said that the Ordinance Subcommittee was also looking into the matter. K. Nedeau and L. Pratt agreed that a policy was needed — particularly as the Town was growing and more road acceptance requests were likely.

Board members posed questions regarding the legal aspects of road acceptances or denials, and S. Schulte suggested that these legalities be discussed with the Town Attorney at a future date.

Gayle Spofford addressed the Board again, noting that the School Board had rules for the operation of school buses on private roads. Select Board members questioned whether that School Board policy might have relevance to a road acceptance policy.

After further discussion, Board members reached the consensus that they “neither agreed with nor declined” the Drala Drive acceptance request at this time, but instead agreed to formulate a policy to guide such decisions in the future.

b. Other Old Business

There was none.

9. New Business

a. Select Board Bylaws and Policies

S. Schulte asked if members had identified any Town by-laws or policies which might need updating or revision. L. Pratt and other members suggested the following items for review:

- Establish a policy regarding the Select Board’s approval of its summer meeting schedule [Article 2 Section 1];
- Formalize the “Consent Agenda” [Article 2 Section 2];
- Change the masculine orientation of policy language [“Selectmen”, “he”, “him”] so that it is gender neutral;
- Clarify which topics or decisions require “readings” and/or “Public Hearings”;
- Clarify the distinction between “Old Business” and “Unfinished Business”.
- Update the Town’s by-laws regarding hybrid meetings [Section 5];
- Formalize policies regarding “political endorsements” and “proclamations”;
- Include all unwritten policies in Kennebunk’s by-laws with periodic review; and,
- Establish a policy regarding “local option sales taxes” and other revenue-generating initiatives.

Board members agreed that this list was not definitive. L. Pratt and L. Trentalange volunteered to review these and other policy and by-law items and to offer possible language changes for the Board’s consideration. Pratt requested the support of Kathy Nolette and Merton Brown for this review.

b. Select Board Code of Ethics

Board members then discussed whether any modifications should be made to the Board’s Code of Ethics. L. Pratt observed that the Select Board had a formal Code of Ethics, but it lacked enforcement mechanics. There was also no code in place for all of Kennebunk’s boards and committees, Pratt said.

K. Therrien questioned why the Board should create a new Code. S. Schulte responded that the Board was considering a review and possible “finer tuning” of the existing Code rather than a “re-write”.

M. Whitehouse said that the Charter Commission was looking into forfeiture of office and recalls. “The work done by that Commission,” Whitehouse said, “may already cover all boards including our own.”

Discussion ensued about enforcement. Members agreed that “censure” and other enforcement measures might be considered for breaches of Code rather than forfeiture or recall, alone. L. Pratt observed that many towns had adopted a single or “standard” Code of Ethics applicable for all boards and committees. Municipal employees, on the other hand, were typically guided by employee handbooks and formal employment policies.

W. Ward, Jr. remarked that enforcement required process as well as policy. The Select Board, he opined, needed to establish “enforcement processes,” as well.

Brenda Robinson, a public commentator, observed that the issue was “complex.” The Charter Commission was looking into the matter as well, she said, and that body wanted to meet with the Select Board and the Town Attorney to establish a standard Code of Ethics for all Kennebunk committees and boards. Robinson invited the Select Board to the Charter Commission’s workshop on Saturday, September 16.

Summarizing these different views and comments, S. Schulte suggested that the Select Board: (1) review its Code of Ethics as it currently stands; (2) make any revisions with the understanding that they are likely to be short-term modifications; and (3) review the Code in one year’s time with the intent of ultimately creating a single, “standard” Code for all of the Town’s boards and commissions.

M. Whitehouse volunteered to work on the review and eventual alignment. M. Whitehouse, and K. Therrien agreed to review the existing Code and recommend “some enforcement, censure, or other ways of putting teeth in.”

c. Road Closures

S. Schulte next relayed the request of the Police Department that the Select Board authorize closure of the following roads for Kennebunk’s HarvestFest on Saturday, October 14, 2023. He noted, however, that the times cited were subject to change.

11:15am-12:00pm	Water Street (closed)
11:15am-12:00pm	Factory Pasture Lane (closed from Winter to Water Streets)
11:25am-12:30pm +/-	Main Street (closed from Water Street to Dane Street)
11:25am-12:30pm	Dane Street (closed)
11:25am-12:30pm	Grove Street (closed)

Motion: To approve the road closures as recommended by the Police Department for HarvestFest as noted above.

Moved: L. Pratt

Seconded: W. Ward, Jr.

Vote: Show-of-hands vote, 7 votes in favor, 0 opposed, the motion passed.

d. Other Business of the Board

There was none.

10. Select Board Comments

a. Subcommittee Reports:

There were none.

b. Board Liaison Reports

K. Nedeau: The Economic Development Committee met last week and is organizing a joint session with the Select Board to establish priorities and goals. The EDC welcomes the input and recommendations of other Town committees.

L. Pratt: The Climate Action Plan Task Force is formulating priorities for the Town and undertaking public outreach. Residents in different housing projects are being contacted for their climate and priority views.

M. Brown: The Charter Commission is holding an open forum on petitions, recall, and forfeiture of office on Saturday, September 16 from 10:00am until noon. The meeting will take place at Town Hall, 3rd Floor. The public is invited to attend and share their views.

c. Comments of Individual Select Board Members

K. Nedeau: Thanked H. Balsler and Town Hall staff for their work in making the Volunteer Recognition Event a success.

L. Pratt: Reported that the Kennebunk Library had acquired space on Fletcher Street for expansion.

S. Schulte: Thanked Town Hall staff and Public Services for the prompt clean-up after the storm.

K. Therrien: Expressed appreciation for the public's engagement and staff service.

L. Trentalange: Echoed the gratitude.

W. Ward, Jr.: Thanked all volunteers for their service and Town Hall staff, in particular, for their assistance on behalf of "Volunteer Night".

M. Whitehouse: Thanked all volunteers and offered special thanks to the "Road Rangers."

11. Town Manager Announcements

Town Manager H. Balsler then made the following announcements:

a. **Staff Update:** B. Laverriere has been named Assistant Town Manager in recognition of his work and role. The Board congratulated Laverriere on the appointment.

b. **Audits:** Financial audits for 2021 and 2022 are nearing completion.

c. **Upcoming Select Board Meetings and Events** - Town Manager H. Balsler then read the list of upcoming meetings noted on the agenda.

d. **Joint Workshop of the Select Board and Economic Development Committee:** This Workshop, originally scheduled to take place on September 19, 2023, will be rescheduled to a later date.

e. **Thursday, September 21:** The Town Clerk's Office will be closed all day for staff training.

- f. **Saturday, September 30:** "Residential Household Hazardous Waste Day" will take place from 8:00am until 1:00pm at the Kennebunk Public Services Facility at 36 Sea Road.
 - The event is open to Kennebunk, Kennebunkport, and Wells residents. Proof of residency is required;
 - The Dog Park will be closed during the above hours; and,
 - The Treasure Chest will be closed all day.

12. Executive Session

At 8:22pm, the Board entered into Executive Session to discuss the Town Manager's Performance Appraisal and Review pursuant to Title 1 MRSA Sec, 405(6)(A).

Motion: To enter into Executive Session with the Town Manager pursuant to Title 1 MRSA Sec. 405(6)(A) to discuss the Town Manager's Performance Appraisal/Review.

Moved: K. Therrien

Seconded: W. Ward, Jr.

Vote: Roll call vote, 7 votes in favor, 0 opposed; the motion passed.

Upon exiting the executive session at 9:40 pm, the Board stated they completed the 6-month review of the Town Manager and were pleased with the results.

13. Adjournment

There being no additional comments or topics for discussion, S. Schulte adjourned the meeting at 9:40 pm.

Motion: To adjourn this meeting.

Moved: K. Nedeau

Seconded: W. Ward, Jr.

Vote: Roll call vote, 7 votes in favor, 0 opposed; the motion passed.

Respectfully submitted by,
J. Schlagheck, Clerk

Adopted by the Board at the meeting on 09.20.2023,
DATE OF MEETING

Signed by
Select Board Member: 
SIGNATURE

Lisa Pratt
NAME IN PRINT