

KENNEBUNK SELECT BOARD MEETING MINUTES
TUESDAY, JANUARY 11, 2022 – 6:30 P.M.
ZOOM TELECONFERENCE MEETING

This meeting was held via the Zoom teleconferencing platform in keeping with the Select Board's "Remote Meeting and Participation Policy" for COVID safety. The meeting was televised on Cable TV Channels 5 and 1302. It is available for viewing at any time online at *TownHallStreams.com*.

1. Call to Order

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

Present: Select Board Members L. Blake Baldwin [Chair], Shiloh A. Schulte [Vice], Kortney Nedeau [Secretary], Sally Carpenter, Frank Paul, Lisa Pratt, and William Ward, Jr.

Absent: None

Also Present: Michael Pardue [Town Manager], Chris Osterrieder [Director of Community Development]; Natalie Burns [Town Attorney], Karen Winton [Community Development Deputy Director], and Merton Brown [Town Clerk].]

2. Approval of Minutes

B. Baldwin next led members in a review of the minutes of the Select Board's December 28, 2021 meeting.

Motion: To approve the minutes of its Regular Meeting of December 28, 2021.

Moved: S. Schulte

Seconded: S. Carpenter.

Vote: Roll call vote. 5 votes in favor, none opposed, 2 abstentions [Schulte and Ward, Jr. had not attended the meeting]; the motion passed.

3 Items to be Signed

There were none.

4. Public Hearing

a. Contract Zone Proposal: Homes for Our Troops, Inc. – 14 Perkins Lane

The Chair formally opened a public hearing to hear comments on the application of Home for Our Troops, Inc. to create a Contract Zone. He explained that Home for Our Troops, Inc., a non-profit organization which builds homes for disabled veterans, had asked that a zoning district be created to enable Tax Map 2, Lot 34 to become a buildable housing lot with a minimum net lot area of 2.5 acres. Current zoning requires a minimum lot size of 3 acres.

If approved, Baldwin said, the change would be included in the Zoning Ordinance as "Article 8, Section 27: 14 Perkins Lane Contract Zone". The lot in question would be used to build an accessible home for a disabled veteran, who had personally selected the Perkins Lane property.

The Town's Planning Board, the Chair further noted, had held a public hearing on the proposal on December 13, 2021. At that meeting, the Planning Board voted unanimously to send this application to the Select Board with a positive recommendation that the proposal be included on the Special Town Meeting warrant of March 15, 2022.

This proposal, Baldwin stated, had been reviewed by the Town's legal counsel as part of the Planning Board's review process. The attorney's comments, the applicant's justification for this zoning change, and an exhibit of the proposed site were included in an information packet, which was linked on the agenda.

The Chair opened the floor to public comment and questions. Gayle Spofford, a public commentator, asked why the request had not gone to the Zoning Board of Appeals, and C. Osterrieder explained the property's zoning issue and the merits of different procedural remedies.

Ed Karytko, another commentator, concurred with Ms. Spofford, expressing general disapproval of contract zones and the precedents they set. C. Osterrieder explained the unique nature and Town's limited use of contract zones.

Motion: To send the proposed Contract Zone at 14 Perkins Lane (Map 2, Lot 34) on behalf of Homes for Our Troops, Inc. to the next Special Town Meeting on March 15, 2022.

Moved: S. Schulte

Seconded: W. Ward, Jr.

Vote: Roll call vote. 7 votes in favor, none opposed; the motion passed.

Motion: To recommend acceptance of this article.

Moved: S. Schulte

Seconded: W. Ward, Jr.

Vote: Roll call vote. 7 votes in favor, none opposed; the motion passed.

b. Zoning Amendment for York Street Mixed Residential and Commercial Use, Lot Width Change

The Chair next opened a public hearing to hear comments on the application of a property owner in Kennebunk's York Street Mixed Residential and Commercial Use District ["MRCU"] to amend the District's required lot width from 200 feet to 100 feet for multifamily use. The proposed change would only affect "residential" properties and afford more residential housing density in the area. If approved, it would amend Article 8, Section 10: York Street Mixed Residential and Commercial Use District.

B. Baldwin explained that Planning Board held a public hearing on December 13, 2021. At that hearing, the Planning Board voted to move the proposal to the Select Board with a "neutral recommendation" that it be included on the Special Town Meeting warrant for March 15, 2022.

S. Schulte questioned the rationale for the width change, and C. Osterrieder explained that the MRCU is one of few districts with such dimensional standards. The change, Osterrieder said, would be more in keeping with other districts, allow more irregularly shaped lots, and facilitate more density.

S. Carpenter questioned whether the change would alter the area's physical appearance. C. Osterrieder explained that the primary change would be more building depth.

K. Nedeau and B. Baldwin voiced concern that the proposal had only garnered the Planning Board's "neutral" recommendation. S. Schulte re-iterated the importance of maintaining the Town's character and visual aesthetic, but said he favored the request because it would permit more density and limit "Town sprawl".

C. MacClinchy, Chair of the Planning Board, explained the Planning Board's vote and described the proposed change as one which would alter the dimensions — “not intrinsically the density” — of the district. The change, he said, would also make the MRCU District's width standards consistent with those of other zones. “This request has merit,” MacClinchy stated.

B. Baldwin formally opened the floor to public comment and questions. Ed Karytko and Brenda Robinson asked about the street parameters of the MRCU, and C. Osterrieder provided the information. B. Robinson additionally voiced concern that the change would add to traffic congestion.

Gayle Spofford concurred with the traffic concern. She suggested that the Board give more time to this topic for public digestion and comment rather than move to a March 15th public vote. K. Nedeau concurred.

C. Osterrieder responded to the several concerns expressed by the public. He explained the Town's Comprehensive Plan, zoning districts, and “general barriers to development” (including zoning widths). “The current MCRU width requirement is restrictive,” Osterrieder said, “and limits multi-family housing development.”

Chris Babcock, another public commentator, asked if some roadway or throughway was envisioned through the area in question, and C. Osterrieder responded in the negative. Andrew Freda cautioned that some developments yield more density but not more affordable housing. BJ Badyk and Miriam Whitehouse expressed a similar view: too much development, they said, might harm the Town's visual appeal. Both expressed concern about the cumulative effect of “more and more development”.

There being no other public comments, the Chair closed the public hearing.

Motion: To send the proposed Zoning Amendment for the York Street Mixed Residential and Commercial Use (MCRU) District lot width change to the next Special Town Meeting on March 15, 2022.

Moved: S. Schulte

Seconded: W. Ward, Jr.

Vote: Roll call vote. 4 votes in favor, 3 opposed [Nedeau, Paul, and Carpenter]; the motion passed.

Motion: To recommend acceptance of this article.

Moved: S. Schulte

Seconded: F. Paul

Vote: Roll call vote. 3 votes in favor [Baldwin, Schulte, and Pratt], 4 opposed; the MOTION FAILED.

c. **Proposal to Sell Town-Owned Land on Plummer Lane**

The Chair next opened a public hearing to hear comments on the overture of an abutting property owner about acquiring two parcels of land owned by the Town on Plummer Lane. The parcels are listed on the Assessor's Tax Maps as Map 44, Lot 1 and Map 45, Lot 28. The Town, B. Baldwin stated, had purchased the properties in 1975 and 1980. An abutter has approached the Town about buying these lots and expressed willingness to do so alone or in consortium with other abutting property owners if they are interested.

The lots in question, Baldwin noted, are undeveloped. One (Map 45, Lot 28) is unbuildable. The other (Map 44, Lot 1) is a portion of undeveloped land adjacent to single family homes. Both parcels are located along Plummer Lane. The lots have not been appraised, Baldwin said.

L. Pratt asked if one parcel was part of Wonderbrook Park, and C. Osterrieder responded in the affirmative. K. Nedeau and S. Carpenter said they had visited the lots and concluded that the Board's endorsement of this or any development on Plummer Lane would harm the neighborhood and threaten the Town's green space. "This conservation space should not be turned into a housing development," Nedeau stated.

Rachel Phipps, a public commentator, asked if this was a "first read", "second read", or "public hearing", and B. Baldwin affirmed that a public hearing was taking place. The land in question, Phipps stated, has "amazing potential as a site for a train station". She urged the Board to *not* sell off any publically owned land.

Mike Orciani, another public commentator and abutter, offered the Board a slide presentation with neighbors Tom Murphy, Tim Rood, Matt Whitney, and Adam Batchelder. Their presentation expressed strong opposition to "selling conserved land that is part of Wonderbrook Park".

The five speakers explained how the Town came to own the land in question and how Wonderbrook Park and Murphy Preserve were created. They stated that the land in question was entrusted to the Town and meant to be conserved, not sold or developed.

The current "interested party", T. Rood said, wants to buy the land to create multiple housing units. The Town, Rood cautioned, would be swapping conservation for high-density, no-green housing. Ed Karytko, Maggie Bartenhagen, and Dan Sayre concurred with the presenters.

After closing the public hearing, B. Baldwin moved to "suspend consideration of this topic indefinitely", but no Board member seconded the motion. Instead, the Board entertained the following motion.

Motion: To send the proposal to sell Town-owned land on Plummer Lane to the next Special Town Meeting on March 15, 2022.

Moved: B. Baldwin

Seconded: W. Ward, Jr.

Vote: Roll call vote. 0 votes in favor, 7 votes opposed; the MOTION FAILED.

Item taken out of order

9a Submission of Certified Petitions of Two RSU 21 Board of Directors

The Chair then asked the Board to take up "Certified Petitions" [originally on this meeting's agenda as Item 9a] ahead of sequence because petition signatures are still being reviewed by the Town Clerk. N. Burns affirmed that "there is no grounds for Board action at this time."

Motion: To postpone Item 9a and the presentation of certified petitions until the signatures are reviewed by the Town Clerk and related challenges are addressed

Moved: B. Baldwin

Seconded: W. Ward, Jr.

Vote: Roll call vote. 7 votes in favor, none opposed; the motion passed.

The Board then reverted to the meeting's original agenda.

5. Public Comments

The Chair next solicited public comments of a general nature. He asked speakers to identify themselves and limit their speaking time to 5 minutes so all parties could be heard.

David Lourie, an attorney representing the petitioners in the RSU matter, insisted that while the Town's Charter might not set provision for challenging signatures, State law does. The public's right to vote, Lourie said, cannot be stifled by a lawsuit or legal challenge.

Leslie Trentalange offered views on the RSU recall, injunction, and costs of litigation to taxpayers. She specifically asked how the Town "handled the December 22nd letter sent to the town officials of Kennebunk, Kennebunkport, and Arundel" concerning the RSU dispute. B. Baldwin declined to provide an immediate response for legal reasons, but assured Ms. Trentalange that her question would be answered in due course.

John Costin described the Town Charter's strictly neutral stance on the activities of other government bodies. Dan Sayre voiced opposition to the recall. Chris Babcock read a prepared statement on the technical aspects of the Town's review of petitions. He and Rachel Phipps voiced criticism of the Town for having granted a one-day extension.

Miriam Whitehouse offered the view that "This Select Board meeting is not the appropriate place to delve into RSU matters." Messrs. Karytko and Sayre also objected to the legal expenses being incurred by taxpayers because of the School Board dispute.

There being no other public comment, B. Baldwin formally closed the public hearing.

6. Announcements and Acknowledgements

a. New Truck Driver

B. Baldwin reported that Shaun Barrett has been rehired by Public Services as a Truck Driver effective January 3rd. Shaun previously held this position from 2014 through 2018. Prior to rejoining Kennebunk's Public Services Department, Shaun worked as an Equipment Operator for South Portland. The Chair welcomed back Shaun and wished him success in his post.

b. COVID Preparedness Updates

Workplace COVID Task Force: Town Manager Mike Pardue reported that the Town's workforce has been hit by multiple positive cases of COVID, but backup is working as planned. Pardue thanked all Town employee and, in particular, Bryan Laverriere and the Public Services Department for their work despite COVID-related absences.

Kennebunk COVID Task Force: M. Pardue reported that the Kennebunk COVID Task Force had met earlier in the day. The positivity rate in York County, Pardue stated, is currently 23.9%. Community safety, he said, continues to be a high priority. "The time is particularly ripe," Pardue said, "to show kindness and consideration to one another."

A public commentator, Marie Louise St. Onge, echoed appreciation for the Public Services Department's good service.

7. Time Sensitive Business and Staff Presentations

a. Appointment Consideration to Town Committee

A Kennebunk resident, Tristan Jordan, was invited to attend tonight's meeting to discuss his interest in becoming a member of the Community Garden Committee. That Committee has a vacancy for one "regular" member with a three-year term expiring in June, 2022. Jordan briefly described his passion for gardening and volunteer work to date.

Motion: To appoint Tristan Jordan as a regular member of the Community Garden Committee for the term expiring in 2022.

Moved: S. Schulte

Seconded: W. Ward, Jr.

Vote: Roll call vote. 7 votes in favor, none opposed; the motion passed.

b. **Accept Donations**

The Chair next advised the Board of a number of donations that had been made to different Town groups:

For the Fuel Assistance Fund

- \$1,000 from Sheree Nichol of Biddeford
- \$1,500 from Bette Pulley in memory of her mother, Barbara Pulley, who was a Kennebunk resident

For General Assistance

- \$500 from Bette Pulley in memory of her mother, Barbara Pulley

For the Parks and Recreation Department

- \$100 raised during Prelude from the Seashore Trolley Museum

For the Waterhouse Center Chillers

- \$10,000 from Duffy's Tavern & Grill
- \$10,000 from Paper Trails, Inc.
- \$2,037.16 raised during Prelude by the Nonantum Resort and the Kennebunk, Kennebunkport, and Arundel Chamber of commerce

Motion: To accept the donations and send letters thanking each donor for their generous donation.

Moved: S. Schulte

Seconded: W. Ward, Jr.

Vote: Roll call vote. 7 votes in favor, none opposed; the motion passed.

c. **Accept a Community Garden Committee Grant**

The Chair next informed the Board that the Town's Community Garden Committee had been awarded a SeedMoney Grant in the amount of \$2,125.00 plus additional funding totaling an extra \$700. SeedMoney, Baldwin explained, is a Maine-based non-profit organization which provides grants and other funding assistance to help food-producing garden projects throughout the State. Kennebunk's Gardening Committee has received grants from this group since 2014 and, since its inception in 2012, the Committee has produced more than 22 tons of food for Kennebunk residents.

Baldwin congratulated the Committee and thanked its volunteer members for their exceptional service.

Motion: To accept the SeedMoney Grant and related funding.

Moved: S. Schulte

Seconded: W. Ward, Jr.

Vote: Roll call vote. 7 votes in favor, none opposed; the motion passed.

d. **Appoint an Interim Director to the RSU 21 School Board**

At a previous meeting, the Select Board had discussed the opening of a position on the RSU 21 School Board created by a resignation. State law allows the Select Board to appoint an interim director until the next annual municipal election in June, 2022.

On January 4, 2022, five candidates were scheduled to be interviewed after expressing interest in the post. Those candidates were (1) Matthew Fadiman, (2) Andrew Freda, (3) Claudia Sayre, (4) Gayle Asmussen Spofford, and (5) Erin Rice (who subsequently withdrew her name from candidacy prior to the actual interview).

Baldwin described the sequence to be followed in making a final appointment: (1) hear from the public, (2) hear the comments and views of Select Board members; (3) call for nominations; and (4) vote on them.

The Chair solicited public comments.

Public commentators Chris Babcock, Susan Bloomfield, and Marie Louise St. Onge recommended candidate Claudia Sayre. Candidate Matt Fadiman thanked the other candidates for their volunteerism and community spirit. BJ Badyk endorsed candidate Andy Freda. There being no other public comments or endorsements, the Chair closed the public comments.

Board members S. Schulte, W. Ward Jr., L. Pratt, and K. Nedeau praised the good qualifications of all four candidates "We have an embarrassment of riches," Nedeau said, thanking all four.

B. Baldwin then opened the floor to formal nominations by the Board. S. Carpenter and K. Nadeau nominated Matt Fadiman. W. Ward, Jr. nominated Gayle A. Spofford. F. Paul nominated Andrew Freda. All Board members were then asked to vote on the three nominees.

The votes were: 3 votes in favor of Matt Fadiman [Schulte, Nedeau, Carpenter], 2 votes in favor of Gayle A. Spofford [Pratt and Ward, Jr.], and 2 votes in favor of Andrew Freda [Baldwin and Paul].

M. Fadiman was thereby selected as the Interim Director to the RSU 21 School Board representing Kennebunk until June 30, 2022. The Board did not deem it necessary to entertain any additional motion since formal voting that had taken place.

e. **Set the Date of March 15, 2022 and Polling Hours for a Special Town Meeting Referendum**

Having agreed to move two items to public vote — namely (1) the Contract Zone proposal of Home for Our Troops, Inc.; and (2) the York Street Zoning Amendment proposal — the Board next discussed the date and time of the Special Town Meeting Referendum for these items.

L. Pratt asked whether the Town's Comprehensive Plan and Ordinance modifications would also be included on the March 15th docket, and B. Baldwin responded in the negative. C. Osterrieder explained that the Comprehensive Plan is undergoing State review and State feedback may not take place in time for the topic's inclusion in March.

S. Schulte asked why the two issues could not be addressed in the Town's scheduled June Town Meeting. Schulte inquired about the cost of organizing a separate election for just the two items in March, and Town Clerk Merton Brown estimated the total cost would be approximately \$1,000. C. Osterrieder and B. Baldwin observed that the earlier, March referendum would be a goodwill gesture, potentially enabling a disabled veteran to have housing several months earlier.

With these explanations and comments, the Board proceeded to entertain a motion on the March Special Town Meeting.

Motion: To set March 15, 2022 for a Special Town Meeting to take place in the Edward C. Winston Town Hall Auditorium with polls open from 6:00am until 8:00pm.

Moved: S. Schulte

Seconded: W. Ward, Jr.

Vote: Roll call vote. 2 votes in favor [Baldwin and Ward, Jr.]; 5 votes opposed; the MOTION FAILED.

8. Old Business:

a. Hear an Update on the Street Light Assessment & Policy Development Project

C. Osterrieder then offered an update on the Town's Street Light Assessment and Policy Development Project. He described the project as "complex", citing the project's key decision-makers as (1) the Energy Efficiency Advisory Committee, (2) the Town's hired lighting advisor, and in particular (3) the public at large.

Osterrieder gave an overview of the schedule ahead, with an inventory of all lighting to take place in January-February, a "fixture testing and public review" in March, and then modeling and cost-savings projections. Light placements should take place next Fall. Public engagement, Osterrieder said, will be critically important.

K. Nedeau inquired how public outreach would actually take place. Osterrieder described how sample lights will be installed and public feedback solicited. "We're working out the details," Osterrieder said, "but will invite the public to extensively participate."

Anthony Dater, a public commentator, re-iterated the importance of involving the public. However, Mr. Dater also asked that a shield be put on the street light near his home because of "light trespass" hitting his residence (as requested on his submitted street light application.)

Board members agreed that the need for a lighting policy review and priorities was pressing. They then entertained the following motion.

Motion: To suspend the moving of street lights, light conversions, and any action on street lighting (other than routine light repairs and maintenance) until the Town's Street Light Policy is finalized.

Moved: B. Baldwin

Seconded: W. Ward, Jr.

Vote: Roll call vote. 7 votes in favor, none opposed; the motion passed.

9. New Business

a. Submission of Certified Petitions [RSU 21 Directors]

This topic was addressed earlier in the meeting (after Article 4c)

b. Other Business

There was none.

10. Select Board Comments

a. Subcommittee Reports

There were none.

b. **Board Liaison Reports**

Baldwin: The Tree Committee met recently and continues to focus on the care of community trees. Donations to the Town can be earmarked by donors for new tree plantings and maintenance.

Carpenter: The Kennebunk River Restoration Task Force continues to focus on water quality. The Historic Preservation Commission will deliberate on the Barnard Tavern case on January 12th.

Nedeau: The Economic Development Committee had a fruitful meeting. Work by the Connectivity Task Force is progressing. Stephen Sayre tested connectivity at 24 locations. Partial funding may be available for a train stop.

Pratt: The Energy Efficiency Advisory Committee will meet on January 19th at 6:30pm via Zoom.

Schulte: The Conservation Commission met on January 3rd to discuss river water quality and wetland mitigation.

c. **Comments of Individual Select Board Members**

Baldwin: Thanked all for the meeting and expressed pleasure that the Board continues to fuse often differing views into community-minded decisions and policies.

Carpenter: No comment.

Nedeau: Thanked all for the good meeting.

Paul: We shouldn't hold up a veteran's housing for three months.

Pratt: Looking for more advance information on the warrants and questions to be voted on by the public in Special Town Meetings and ballots. Surprised by what would have been (and would not have been) included on the March ballot.

Schulte: Questioned whether to reconsider the failed March 15th motion. Commended Merton Brown for his work.

Ward: Thanked the Town staff and, in particular, the Town Clerk for the hard work.

11. Town Manager Announcements

a. **Holiday Closures**

The Town Manager reported that Town offices and the Department of Public Services will be closed on January 17th in observance of Martin Luther King, Jr. Day. The Transfer Station, he said, will be closed and curbside trash and recycling will continue without interruption.

b. **Budget Meeting Dates for 2022-23 Proposed Budget**

The Select Board and Budget Board hold joint meetings each year to discuss the Town's upcoming budgets. The public, Baldwin said, is encouraged to attend these sessions. The meeting dates and times for the 2022-23 Proposed Budget are posted on the Town's website.

12. Executive Session

None was called.

13. Adjournment

There being no additional comments or topics for discussion, the Chair adjourned the meeting at 10:50 pm.

Motion: To adjourn the meeting.

Moved: S. Schulte

Seconded: L. Pratt

Vote: Roll call vote. 7 votes in favor, none opposed; the motion passed.

Respectfully submitted by,
J. Schlagheck, Recording Clerk

Adopted by the Board in the meeting of _____,

1/25/22

DATE OF MEETING

Signed by

Select Board Member:



SIGNATURE

L. BLAKE BALDWIN

NAME IN PRINT