

KENNEBUNK SELECT BOARD MEETING MINUTES
TUESDAY, JANUARY 25, 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 G. Paul, Lisa Pratt, and William Ward, Jr.

Absent: None

Also Present: Michael Pardue [Town Manager], Chris Osterrieder [Director of Community Development]; Karen Winton [Community Development Deputy Director], Merton Brown [Town Clerk], Joel Downs [Finance Director], and Bryan Laverriere [Director, Public Services]

2. Approval of Minutes

B. Baldwin next led members in a review of the minutes of the Select Board's January 11, 2022 Special and Regular Meetings.

Motion: To approve the minutes of its Special Meeting of January 11, 2022.

Moved: S. Schulte

Seconded: W. Ward, Jr.

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

Motion: To approve the minutes of its Regular Meeting of January 11, 2022.

Moved: S. Schulte

Seconded: W. Ward, Jr.

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

3. Items to be Signed

There were none.

4. Public Hearing

There was none.

5. Public Comments

Commentators offered many opinions about the School Board recall campaign. Pamela De-Santis and Kate Manahan alleged that some signatures on the recall petition were improperly obtained. John Costin reiterated his offer to provide detail about the history and evolution of the Town's Charter which, he alleged, precludes Town involvement in School Board affairs. Chris Babcock criticized the Town's extension of the petition's signature-gathering time. Dan Sayre read a letter he had sent to the Town asking officials to invalidate the recall petition because it allegedly contained false statements. Rachel Phipps deemed the petition to be invalid because it was circulated by a non-signer and also called for a written opinion from

the Town's Attorney. Marie Louise St. Onge decried the expense burden which taxpayers are shouldering for legal actions over the recall. Ed Karytko made various comments. There being no additional commentary, B. Baldwin closed the public comments.

6. Announcements and Acknowledgements

a. Police Officer Recognition

B. Baldwin reported that Kennebunk Officer Candice Simeoni has been selected by the Maine Chiefs of Police to serve on the Elder Abuse Institute of Maine. The latter is an organization started in 2013 to help older people avoid abuse and have access to the vital services.

Officer Simeoni, Baldwin stated, was selected because of her pro-active work on behalf of seniors at locally, state-wide, and nation-wide. Candice is likewise the founder and Chair of the York County Elder Abuse Task Force. On behalf of the Board and Town, Baldwin congratulated Officer Simeoni for her achievements and this recognition.

b. COVID Preparedness Updates

Workplace COVID Task Force: Town Manager Mike Pardue reported that there has been a "significant decline" in the number of employee absences due to COVID. He thanked the Town Hall workforce for its diligence and observance of safety protocols.

Kennebunk COVID Task Force: Mike Pardue also reported that the Kennebunk COVID Task Force will meet again on February 8. He offered a "hearty thank you" to this team as well for its service.

7. Time Sensitive Business and Staff Presentations

a. Donations

The Chair next advised the Board of two recent donations:

- \$150 from Carolyn Lambert for Kennebunk Fire and Rescue
- \$500 from Kennebunk Fire and Rescue for the Fuel Assistance Fund

Motion: To accept the donations cited above 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.

b. Resignation

The Chair then informed the Board that Nicholas Bartenhagen, a regular member of the Energy Efficiency Advisory Committee, had tendered his resignation.

Motion: To accept the resignation of Nicholas Bartenhagen from the Energy Efficiency Advisory Committee and send a letter thanking him for his service.

Moved: S. Schulte

Seconded: W. Ward, Jr.

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

c. **Appointment Consideration**

The Chair next introduced Tim Sommers, who had expressed interest in joining the Site Plan Review Board (SPRB). The SPRB, B. Baldwin said, had one vacancy for an alternate member with a term expiring in June, 2022.

Mr. Sommers described his background in construction and on-going interest in community service. Board members questioned him at length about the possibility of conflicts of interest given the candidate's construction work.

Candidate Sommers stated that he would recuse himself in the event of any conflict of interest. C. Osterrieder additionally noted that most projects which come before the SPRB do so at an early design phase before contractors are generally involved. There should be, Osterrieder stated, few instances of conflict.

Motion: To appoint Tim Sommers as an Alternate Member on the Site Plan Review Board for the remainder of a one-year term that expires on June 30, 2022.

Moved: S. Schulte

Seconded: W. Ward, Jr.

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

d. **Award the Portable Toilet Services Contract**

The Chair next informed the Select Board that the Town had received the following three bids for portable toilet services for Gooch's Beach, Mother's Beach, Parsons Beach, and Park Facilities. The bids are for three years and the "Hourly Rate" cited is the charge for on-call pumping.

<u>BIDDER</u>	<u>BID AMOUNT</u>	<u>HOURLY RATE</u>
Pine Tree Waste, Inc. Portland, Me	\$39,317.26 (2022) \$40,945.90 (2023) \$42,574.55 (2024)	\$75.00/hr.
United Site Services Northeast, Inc. Westborough, MA	\$42,864.00 (2022) \$42,864.00 (2023) \$42,864.00 (2024)	\$150/hr.
Royal Flush & Scarborough Septic Portland, Me	\$42,864.00 (2022) \$42,864.00 (2023) \$42,864.00 (2024)	\$150/hr.

For comparison, Baldwin cited the pricing of the current 3-year contract awarded in 2019 to Blow Brothers, Inc. of Old Orchard Beach: \$29,629.18 (2019), \$30,239.82 (2020), \$30,850.47 (2021), with an hourly on-call rate of \$75/hr. The Director of Public Services and the Town Manager, Baldwin added, recommended awarding the 2022-24 contract to Pine Tree Waste, Inc. at the above pricing.

S. Carpenter and K. Nedeau cited public feedback about the cleanliness of these facilities and expressed concern about the cleaning frequency. B. Laverriere stated that current and future contracts provide for morning cleaning once a day every day during the summer (until October 15).

Carpenter and Nedeau asked that the timeline be extended until October 29th and, if possible, that the Town contract for mid-afternoon cleanings as well. Laverriere

responded that perhaps a better approach would be to have more toilets available rather than attempt to clean toilets in the afternoon when the public is present.

After long discussion, Board members agreed to award the contract as initially described to Pine Tree Waste, Inc. and additionally ask for quotes for (a) the installation and maintenance of additional toilets, as well as (b) the alternative of afternoon cleaning service. The Board will make a decision about these latter options after the "add-on" quotes are received.

Motion: To award the 3-year contract to Pine Tree Waste, Inc. at a price of \$39,317.25 for 2022, \$40,945.90 for 2023, and \$42,574.55 for 2024.

Moved: S. Schulte

Seconded: W. Ward, Jr.

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

e. **Consider Authorizing Legal Action Regarding RSU 21 Litigation**

The Chair next initiated discussion of the litigation proceedings regarding RSU 21. B. Baldwin explained that the RSU has sued the Town to block the Town's processing of a recall petition to remove two School Board members. Should, Baldwin asked, the Town engage legal defense?

Board members had diverse views on the matter. S. Carpenter deemed the Town's recourse to legal defense to be "reasonable and necessary", and S. Schulte stated that "the normal reaction is to respond to a lawsuit in some way". However, S. Schulte, L. Pratt, S. Carpenter, and K. Nedeau were also of the view that the Town Attorney should be present to explain the lawsuit to the public, answer public questions about it, and describe the Town's remedy options.

A great deal of public comment ensued. Ed Karytko saw the RSU lawsuit as a challenge to the principle that the Town has the right to be involved in School-related recalls. Dan Sayre argued that the Board should avoid "this kind of fight", urging members not to respond legally or take action. Rachel Phipps and Chris Babcock found fault that the Town had no written legal opinion on the matter and decried "the lack of transparency" regarding the Town's responses to the petition. Marie Louise St. Onge alleged that the Board had a conflict of interest because the daughter of one Select Board member had circulated one of the recall petition sheets.

These commentators expressed multiple views which can be heard in more detail at TownHallStreams.com.

After all public commentary, the Chair closed public comment and Board members resumed their discussion taking into account the public's feedback. L. Pratt voiced support for the Town having legal representation. W. Ward, Jr. stated that Town officials had the duty to respond to legal challenges brought against the Town. S. Schulte concurred, urging the Board to (1) move forward by authorizing legal counsel to represent and defend the Town, as well as (2) "thoroughly document the rationale underlying our actions".

Motion: To authorize legal activity on behalf of the Town in response to the RSU 21 litigation brought against it.

Moved: B. Baldwin

Seconded: W. Ward, Jr.

Vote: Roll call vote. 6 votes in favor; 1 vote opposed [Carpenter]; the motion carried.

8. Old Business:

a. **Reconsideration of the Board's January 11, 2022 Public Hearing Vote on the Proposed Contract Zone at 14 Perkins Lane (Map 2, Lot 34) on behalf of Homes for Our Troops, Inc.**

At the request of Board member F. Paul, B. Baldwin initiated discussion of the two agenda items (Article 8a and 8b) which had been approved for inclusion in the Special Town Meeting on March 15, 2022; however, the meeting date was subsequently defeated in the course of the Board's January 11, 2022 meeting.

Baldwin reminded the Board that "Home for Our Troops, Inc." had sought a Contract Zone to permit it to build a house for a disabled veteran. At the public hearing on January 11, 2022, the Select Board voted to send the request for this Contract Zone at 14 Perkins Lane (Map 2 Lot 34) to a Special Town Meeting on March 15, 2022 with recommendation of acceptance. Those motions were approved unanimously. However, later in the meeting, the March 15, 2022 date for a Special Town Meeting was subsequently defeated by a majority vote at the Board's same January 11, 2022 meeting. There is, Baldwin said, no date for this Special Town Meeting.

Ralph Austin, a public commentator, spoke on behalf of Home for Our Troops. He urged the Board to consider convening a Special Town Meeting after all — "even if Home for Our Troops has to pay for it". Mr. Austin explained that the Perkins Lane project started over two years ago. Construction costs are rising sharply, he said. Months of additional delay will compound the expense. Hence, Austin urged the Board to authorize a Special Town Meeting on March 29, 2022.

Individual Board members explained their rationale for having voted against this request at the Board's prior meeting and/or for having voted against the proposed March 15th referendum date. Some felt "pressure" to agree to an exceptional Special Meeting and others were concerned with the precedent.

The Chair re-iterated that because the original March 15th date for a Special Town Meeting was defeated at the Board's prior meeting, there was still a need to set some date for the two agenda items — the Contact Zone petition from Homes for Our Troops and another (Article 8b below) — which the Board had endorsed .

S. Schulte recommended that the Board entertain Item 8C on the Agenda ["Setting a New Date for a Special Town Meeting"] in advance of other considerations so as to first address the date issue. The other Board members concurred.

Motion: To move that the Select Board take up Item 8C out of order.

Moved: B. Baldwin

Seconded: W. Ward, Jr.

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

Article 8c (taken out of order)

c. **Discuss Setting a New Date of March 29, 2022 and Polling Hours for a Special Town Meeting Referendum Election**

After further discussion, Board members agreed to a Special Meeting date. (If any motions about the two pending agenda items failed, Board members agreed that this Special Meeting date could be cancelled.)

Motion: To set March 29, 2022 for a Special Town Meeting to take place in the Edward C. Winston Town Hall Auditorium with the polls open from 6:00am until 8:00pm.

Moved: B. Baldwin

Seconded: W. Ward, Jr.

Vote: Roll call vote. 6 votes in favor, 1 opposed [Carpenter]; the motion passed.

Article 8a (continue previous discussion)

The Board then returned to the matter of the Contract Zone, 14 Perkins Lane (the "Home for Our Troops"). Board members were of the unanimous view that the item should be reconsidered.

Reconsideration:

Motion: To reconsider the Board's vote of January 11, 2022 "to send the proposed Contract Zone at 14 Perkins Plan (Map 2 Lot 34) on behalf of Homes for Our Troops, Inc. to the next Special Town Meeting on March 15, 2022".

Moved: W. Ward, Jr.

Seconded: S. Schulte

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

New Vote:

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 29, 2022.

Moved: B. Baldwin

Seconded: W. Ward, Jr.

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

At a later point in tonight's meeting, the Board also took up the question of whether to reconsider and/or recommend acceptance of this "Homes-for-Veterans" article.

Reconsideration:

Motion: To reconsider the Board's vote of January 11, 2022 "to recommend acceptance of this [Contract Zone] article".

Moved: B. Baldwin

Seconded: W. Ward, Jr.

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

New Vote:

Motion: To recommend acceptance of this [Contract Zone, "Home for Our Troops"] article.

Moved: S. Schulte

Seconded: B. Baldwin

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

b. **Reconsideration of the Board's January 11, 2022 Public Hearing Vote on the Proposed Zoning Amendment for the York Street Mixed Residential and Commercial Use District Lot Width Change**

The Chair next focused discussion on the second item — the York Street MCRU District Lot Width petition — which had also been approved by the Select Board to go to a Special Town Meeting on March 15, 2022, but which meeting date was subsequently defeated in the course of the Board's January 11, 2022 meeting.

S. Carpenter and public commentators Rachel Phipps and Susan Bloomfield were of the opinion that this request merited broad public discussion and feedback. Consideration of this item in a Special Town Meeting as early as March, they said, would be premature and impede public engagement.

Peter Gay, a public commentator, identified himself as the owner of the York Street property owner who had initiated the lot-width zoning request. His intent, he stated, was (and is) to create affordable rental housing. However, further delay would result in "serious financial loss", he said, and cause him to abandon the project.

K. Nedeau countered that the difference of two or three months should not be financially detrimental. C. Osterrieder noted that the Town had strategic interest in affordable housing and explained how a lot width change would facilitate "the kind of development the Town seeks". However, the width change would only be one step in the overall approval process, he said. Other plan reviews would have to take place and permits issued. "There is," Osterrieder stated, "genuine time sensitivity."

Janice Vance, a member of the Planning Board in attendance, explained that the Planning Board refers these kinds of zoning proposals to the Select Board so the Select Board might convene a full-blown public hearing on the matter. Zoning decisions, Vance stated, often have larger, Town-wide impact. Broad public input, discussion, and "education" are therefore important, Vance said, and hence the importance of a Select Board public hearing as a forum for such discussion and public feedback.

At 10:39pm, Rachel Phipps, a public commentator, asked that the meeting be continued given the late hour and the importance of the topics still outstanding. Board members were sympathetic to the request, but elected to continue discussion of the York Street article.

Reconsideration:

Motion: To reconsider the Board's vote of January 11, 2022 "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: W. Ward, Jr.

Seconded: B. Baldwin

Vote: Roll call vote. 4 votes in favor [Paul, Pratt, Baldwin, Ward, Jr.], 3 opposed [Schulte, Nedeau, Carpenter]; the motion passed.

New Vote:

Motion: To send the proposed Zoning Amendment for the York Street Mixed Residential and Commercial Use [MCRU] District lot width changes to the Special Town Meeting to be held on March 29, 2022.

Moved: B. Baldwin

Seconded: W. Ward, Jr.

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

Reconsideration:

Motion: To reconsider the Board's vote of January 11, 2022 "to recommend acceptance of this article".

Moved: B. Baldwin

Seconded: W. Ward, Jr.

Vote: Roll call vote. 6 votes in favor, 1 opposed [Carpenter]; the motion passed.

New Vote

Motion: To recommend acceptance of this article.

Moved: S. Schulte

Seconded: W. Ward, Jr.

Vote: Roll call vote. 6 votes in favor, 1 opposed [Carpenter]; the motion passed.

After these votes, the Board took up Ms. Phipps' recommendation that tonight's "New Business" topics be continued at a future meeting.

Motion: To finish this meeting's "Old Business", but address "New Business" at its next meeting given the late hour.

Moved: S. Schulte

Seconded: W. Ward, Jr.

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

- c. **Set a New Date of March 29, 2022 for a Special Town Meeting and Polling Hours**
This item was taken up earlier in the agenda.

- d. **Offer Further Clarification on the Board's Decision Regarding Street Lighting**
Board member L. Pratt requested discussion of the Board's street lighting vote of January 11, 2022. At the Select Board's meeting of that date, the Board specifically voted "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." That motion passed by a vote of 7 in favor and none opposed.

At tonight's meeting, L. Pratt commented that the term "conversion" in the Board's resolution might be problematic. The Kennebunk Light and Power District [KLPD], she said, makes routine repairs, sometimes replacing or "converting" high-pressure sodium lamps with LEDs. Was it the Board's intent to prohibit this?

S. Schulte responded that the Board had already made an express exception for "routine repairs and maintenance". Anthony Dater, a public commentator, additionally urged the Board to make clear to the KLPD that the LEDs which it [the KLPD] may install in the course of maintenance and repairs might one day be replaced by different lights of the Town's and public's choosing.

S. Schulte affirmed that the Town's ultimate goal was to have all lamps in Town be the same type and lumen power.

9. New Business

These topics were continued to the next Regular Board meeting (February 8, 2022)

10. Select Board Comments

a. Subcommittee Reports:

B. Baldwin reported that the Finance Subcommittee met and had advance preview of the Town's preliminary new budget.

b. Board Liaison Reports

Carpenter: The Historic Preservation Commission recently approved the deconstruction and reconstruction of 9 Barnard Lane.

Pratt: The Energy Efficiency Advisory Committee discussed composting and is moving forward on a climate action plan.

Schulte: The Conservation Commission has views on the use of the Town-owned land on Plummer Lane, a topic for later discussion.

c. Comments of Individual Select Board Members

Baldwin: Thanked the Board and public attendees for the good meeting and patience.

Nedeau: Thanked all for the good meeting. Will be late for the budget meeting.

11. Town Manager Announcements

Budget Meetings for Proposed 2022-23 Budget

The Town Manager reminded members that the Select Board and Budget Board hold joint meetings to discuss upcoming budgets beginning January 27th. The public is welcome and encouraged to attend. Meeting times and dates for the review of the 2022-23 Proposed Budget, M. Pardue said, are posted on the Town's website along with instructions for joining the sessions.

12. Executive Session

None was called.

13. Adjournment

There being no additional comments or topics for discussion, the presiding officer adjourned the meeting at 11:23pm.

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 2/8/22,
DATE OF MEETING

Signed by
Select Board Member: 
SIGNATURE
L. BLAKE BALDWIN
NAME IN PRINT