

KENNEBUNK SELECT BOARD MEETING MINUTES

TUESDAY, FEBRUARY 8, 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. [arrived at 6:33pm].

Absent: None

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

2. Approval of Minutes

B. Baldwin next led members in a review of the minutes of the Select Board's January 25, January 27, and February 1, 2022 Special and Regular Meetings.

Motion: To approve the minutes of its Regular Meeting of January 25, 2022.

Moved: S. Schulte

Seconded: L. Pratt

Vote: Roll call vote. 6 votes in favor, none opposed, 1 absent [Ward, Jr.]; the motion passed.

Motion: To approve the minutes of its Special Meeting of January 27, 2022.

Moved: S. Schulte

Seconded: L. Pratt

Vote: Roll call vote. 6 votes in favor, none opposed, 1 absent [Ward, Jr.]; the motion passed.

Motion: To approve the minutes of its Special Meeting of February 1, 2022.

Moved: S. Schulte

Seconded: L. Pratt

Vote: Roll call vote. 6 votes in favor, none opposed, 1 absent [Ward, Jr. arrived after the vote]; the motion passed.

3 Items to Be Signed

There were none.

Select Board member Ward arrived at 6:33pm.

4. Public Hearing

The Chair next opened public hearings on three items.

a. **Contract Zone — Homes for Our Troops, Inc.**

Homes for Our Troops, Inc., a non-profit organization which builds homes for disabled veterans, has requested a Contract Zone for 14 Perkins Lane. The Chair stated that the proposal would create a new zoning district and allow Tax Map 2, Lot 34 to be recognized as a buildable housing lot with a minimum net lot area of 2.5 acres. It would, he said, be included in the Zoning Ordinance as "*Article 8 Section 27: 14 Perkins Lane Contract Zone*".

The proposal, Baldwin affirmed, had been reviewed and approved by the Town's Planning Board and by the Town's legal counsel as part of the Planning Board process. The Planning Board recommended that the proposal be included on the Special Town Meeting Warrant. Complete information about the proposal, the applicant's justification for it, and related exhibits are available for public viewing via links provided on line as well as via this meeting's posted Agenda.

This item was discussed at the Select Board's meeting of January 25, 2022 and forwarded by the Select Board to the Special Town Meeting of March 29, 2022. Today's public hearing, Baldwin said, is a requirement for items on the March 29th Special Town Meeting Warrant.

The Chair solicited Board and public comments or questions. There being none, he subsequently closed the public hearing.

b. **York Street MRCU Lot Width Change**

B. Baldwin next opened a public hearing and solicited public feedback on a proposal to amend that the lot width requirement for multifamily uses from 200 feet to 100 feet in the York Street Mixed Residential and Commercial Use ["MRCU"] District. This width change would bring the MRCU's lot width standard into line with the width requirements of other zones in Kennebunk. The proposed change would specifically amend *Article 8 Section 10: York Street Mixed Residential and Commercial Use District*. Kennebunk's Planning Board, Baldwin added, had recommended that this item be included on the Special Town Meeting Warrant.

M. Pardue noted that this item had also been discussed at the Select Board's meeting of January 25, 2022 and then forwarded to the Special Town Meeting of March 29, 2022. Today's public hearing is a requirement for items on the March 29th Special Town Meeting Warrant, Pardue said.

B. Baldwin solicited public comment, but there was none. He therefore closed the public hearing.

c. **Victualer License — RC Management LLC**

B. Baldwin then reported that RC Management LLC, the new owner of McDonald's of Kennebunk, has submitted an application for a Victualer License for that establishment at 2 Post Office Square. M. Pardue asked Town Clerk Brown if he had checked with the Town's Police and Fire Departments. Brown reported all was in order for transfer.

Motion: To approve the Victualer License for RC Management LLC d/b/a McDonald's of Kennebunk.

Moved: S. Schulte

Seconded: W. Ward, Jr.

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

5. Public Comments

Melanee Paul rebutted criticisms about signature-gathering for the RSU 21 recall petition. Ed Karytko criticized the 15% increase being proposed for the Town's forthcoming budget.

Roy Smoot thanked Board members for their community service and urged the public to support "LD 1626", state legislation which would restore the sovereignty of Maine Indian tribes to enable them to access funding and the other federal benefits extended by some 150 federal laws. "We are the only State in the country which does not recognize tribal sovereignty," Mr. Smoot said, "and therefore impede tribal access to federal funding."

There being no other public comment or question, the Chair closed this segment of the meeting.

6. Announcements and Acknowledgements

a. Police Officer Hire

B. Baldwin reported that Ginger Ryll had joined the Kennebunk Police Department as a Police Officer effective January 24, 2022. Ms. Ryll previously worked for the South Portland Police Department and is an active member of the Army National Guard. She holds a Bachelor's Degree in Criminal Justice from Norwich University and a Master's Degree in Public Administration from Anna Maria College. Baldwin extended a warm welcome to Officer Ryll on behalf of the Select Board and Town of Kennebunk.

b. Retirements

Town Manager: At a joint meeting of the Select Board and Budget Board on January 27, 2022, Town Manager Mike Pardue announced his intent to retire on or about November 11, 2022. In his letter to the Select Board on the matter, Mr. Pardue explained that he was providing several months' of advance notice so a replacement Town Manager would be in place and acclimated before the kick-off of the Town's FY2023-24 budget cycle. Pardue thanked the Board and Town Hall staff for their on-going support.

Police Deputy Chief: The Chair then informed the Board that Police Deputy Chief Michael Nugent had submitted a letter stating his intent to retire effective May 2, 2022. Deputy Chief Nugent began working for the Town of Kennebunk on January 11, 2016 and had previously worked with the Westbrook Police Department for 20 years. In Westbrook, he was second-in-command and held the rank of Chief.

Fire Chief: On February 3, 2022 Fire Chief Jeff Rowe informed the Town Manager that he will be retiring on June 24, 2022 after 45 years of service. Chief Rowe has served as Kennebunk's Fire Chief since May, 2014. Prior to his Kennebunk appointment, Jeff was the Fire Chief of Sanford. Chief Rowe, B. Baldwin added, has pledged to assist the Town through its transition to a new Fire Chief.

9. New Business (Items Continued from January 25, 2022)

Due to the late hour of the Select Board's January 25, 2022 meeting, the following items were continued until today's meeting. (They appear in this meeting's Agenda as Items 9a-d.)

- a. **Discuss the Dissolution of the Treasure Chest Monitoring Committee and Establishing a Treasure Chest Monitoring Task Force** - The Chair communicated a proposal by the Town's Public Services Director urging the Select Board to dissolve the Treasure Chest Monitoring Committee and institute a "Treasure Chest Task Force" instead. The change, Baldwin said, would fundamentally provide added support and oversight by the Public Service Department.

L. Pratt noted that the Committee currently consists of one active member, who believes a Task Force approach would be better. S. Schulte posed questions about the differences between a “task force” and “committee”. L. Pratt explained that “committees” in Kennebunk have additional rules and requirements – such as requirements regarding the number of members attending a meeting, meeting frequency, the need to post minutes, etc. A “task force”, Pratt said, does not have these obligations.

Board members suggested different terms in place of “task force”. They informally agreed that the term “Work Group” could also be used and asked L. Pratt to draft a preliminary policy for and definitions of “task force” and “work group”. The Board will initially use both terms interchangeably for the time being.

Motion: To dissolve the Treasure Chest Monitoring Committee and establish a Treasure Chest Work Group.

Moved: L. Pratt

Seconded: W. Ward, Jr.

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

- b. **Discuss the Dissolution of the Dog Advisory Committee and Establishing a Dog Advisory Task Force** - The Chair next proposed the dissolution of the Dog Advisory Committee and establishment of a Dog Advisory Task Force. The change, Baldwin explained, is intended to more closely involve the Police Department and, specifically, that Department’s Animal Control Officer. The proposal, Baldwin added, also models the current practice of other communities and is supported by the Police Chief.

L. Pratt reported that members of the existing Dog Advisory Committee “fully support” transitioning to task force or work group status. B. Baldwin observed that there is also a “Dog Park Committee” whose members should be incorporated into this volunteer group as well.

Motion: To dissolve the Dog Advisory Committee and establish a Dog Advisory Volunteer Group.

Moved: L. Pratt

Seconded: W. Ward, Jr.

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

- c. **Discuss the Dissolution of the Parks & Recreation Committee and Establishing a Friends of Parks & Recreation Volunteer Group** - The Chair then proposed the dissolution of the Parks & Recreation Committee and creation of a “Friends of Parks & Recreation Volunteer Group”. The change, Baldwin observed, would result in a volunteer body which could aid the Parks & Recreation Department and more directly involve that Department.

T. Pinkham, Director of Parks & Recreation, joined the meeting by telephone, and voiced her support of the proposal. “A volunteer group”, she said, “is the best approach.”

Motion: To dissolve the Parks & Recreation Committee and establish a Friends of Parks & Recreation Volunteer Group.

Moved: L. Pratt

Seconded: W. Ward, Jr.

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

d. **Conveyance of Town-Owned Land**

S. Carpenter next proposed that the Town convey the land it owns along Plummer Lane to the Kennebunk Land Trust. She highlighted the history of that property's ownership, arguing that the land in question had clearly been bequeathed to the Town for conservancy. She likewise reminded the Board of the feedback it had received at a previous meeting from the property's abutters, who had argued forcefully for the conservation of the land as well. S. Schulte and K. Nedeau concurred.

C. Osterrieder opined that there are other alternatives. He suggested "doing exploratory work" to look at the Town's options regarding this property and ascertain the financial consequences of each one. B. Baldwin agreed, suggesting that — among other alternatives — the Town might consider creating a nature walk to the Rachel Carson Reserve.

The Chair solicited public comment. E. Karytko and Gayle Spofford concurred with C. Osterrieder about exploring all alternatives. Other commentators spoke of the importance of this property to abutters and Town residents collectively. Marie Louise St. Onge was emphatic that the Board should honor the "conservation intent" of the land's prior owners.

M. Pardue suggested it might be prudent to seek the legal guidance of David Jones, an attorney who has helped the Town with real estate deliberations in the past. S. Carpenter agreed to take the lead, contact the attorney, and work with Town Hall staff to assemble information on alternatives.

7. **Time Sensitive Business and Staff Presentations**

Due to a group of public participants wishing to make a presentation to the Board and have their recall questions answered by the Town Attorney, B. Baldwin changed the Agenda sequence and took up the Legal Update [Item 7b in the Agenda] first.

b. **Update on the RSU 21 Recall Litigation**

The Chair asked Natalie Burns, Town Attorney, to offer an update and field questions.

N. Burns reported that the RSU 21 School Board had filed a petition for a preliminary injunction to prevent the Town from acting on the recall petition it had received. The Court, Burns said, will rule on the matter on March 2nd. The Court's decision, Burns said, will determine if the Town will or will not go forward with the special recall election.

John Costin, Susan Bloomfield, Chris Babcock, Dan Sayre, and Rachel Phipps [all public participants] then made a PowerPoint presentation entitled "RSU 21 Recall Legal Questions". In response to their sundry questions, N. Burns made the following main points:

- When the Town acted on the petition presented to it, the Town acted on a "sufficient affidavit", which Burns defined as "one signed under oath". The Town's Charter, N. Burns stated, does not require the Town to verify the assertions contained in such documents.
- When a petition is "taken out", the initiator must be a signatory. However, the Town's Charter does not require the people subsequently *circulating* the petition to be signatories as well.
- The Charter says signatures must be obtained within thirty [30] days from the issue of a petition. The petition was issued on December 1, 2021. Return submission of the petition with signatures took place on December 31, 2021.

- The Town Clerk did not grant any extension of time as alleged. However, he did make himself available at Town Hall on December 31st to receive the signatures.
- Allegations that signatures were obtained under false pretenses or with false representations is a matter for a court to decide, not the Town Clerk.
- A Kennebunk resident who is registered to vote — even if he or she owns a home elsewhere and/or spends time elsewhere — is nevertheless entitled to sign a local petition.

Mr. Costin asked that the Town Attorney put her responses into writing and post them for public view. Other public commentators weighed in with different views.

Art LeBlanc, the Chair of the School Board, opined that the timing aspects of the recall petition and the Town's action on it were highly important. Gary Connor commented that these issues will be decided by a court, "not public inquisition". Mr. Connor commended the Town Clerk for his on-going "fine work". Erin Lahane, another commentator, refuted challenges to her signature on the petition on the basis of residency; she emphatically affirmed that she is a resident of Kennebunk.

Tara Rubin, an RSU 21 parent, asked how the community can heal from the RSU 21 divide. B. Baldwin responded that the matter should and will be resolved civilly in a court of law. However, Baldwin also urged residents to practice kindness, respect, consideration and decency to one another.

a. **Set the Date of March 29, 2022 for a Recall Election of an RSU 21 Director**

The Chair then asked the Select Board to set March 29, 2022 as the date for the RSU 21 recall election.

Motion: To set March 29, 2022 as the date for the recall vote of an RSU 21 Director to take place at 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 [L. Pratt]; the motion passed.

c. **Accept Donations**

The Chair next advised the Board of the following donations which had been received:

- \$25.00 from The Abigail McMaster Alling 2011 Trust for Kennebunk Fire Rescue;
- \$715.00 from the Holiday Trail of Lights for the Community Garden Committee; and,
- \$500.00 from John and Maureen Janas in appreciation of the outstanding service provided by Sgt. Christopher Russell. The donors have requested that these funds be used for Kennebunk Police Department personnel and/or their families.

Motion: To accept these 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.

d. **Closing of Certain Town Ways to Heavy Loads**

The Chair reminded the Board of the Town's policy to close certain roads to heavy-load vehicles in order to protect Town roads when frost levels are changing. The closures specifically apply to any non-exempt vehicle or combination of vehicles registering a gross weight of over 23,000 pounds. Two-axle trucks between 23,000 and 34,000 pounds transporting Special Commodities are exempt, Baldwin stated.

The Chair noted that the following roads, subject to Board concurrence, would be closed to heavy-load traffic at a date to be determined by the Public Services Director and to remain in effect until at least April 30th (unless posted otherwise):

- Alfred Rd. (Thompson to Cole Roads)
- Cole Road
- Downing Road
- Durrells Bridge Road
- Emmons Road
- Harriseckett Road
- Heath Road
- Middle Road
- Old Falls Road
- Old Port Road
- Perkins Lane
- Ross Road
- Russell Farms Road
- Thompson Road
- Winnow Hill Road

The Chair affirmed that any violation of this rule would be a traffic infraction punishable by a fine of not less than \$250. The posting will remain in force except when roads are solidly frozen. A highway is deemed to be solidly frozen, Baldwin explained, when two conditions are conjointly met: (a) the air temperature is 32 degrees Fahrenheit or lower, and (b) no water is showing in the cracks of the road.

Motion: To approve the closure of the above-cited roads at a date to be determined by the Public Services Director.

Moved: S. Schulte

Seconded: W. Ward, Jr.

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

e. **Community Resilience Partnership and Community Action Grant Application**

C. Osterrieder then described an opportunity for the Town to develop a Climate Action Plan and enroll in Maine's "State Community Resilience Partnership". A Community Action Grant might also be available to fund these activities, he said.

Osterrieder explained that the Resilience Partnership is a program geared to encourage Maine towns to develop plans to anticipate and mitigate climate changes. "It's an 18 month process and quite procedural", he said. In order to proceed, the Town would have to (1) apply for a Community Action Grant, (2) set a date and hold a workshop to identify specific climate-action goals, and (3) submit a resolution pledging to pursue those goals.

S. Schulte and L. Pratt expressed strong support for Kennebunk's participation. "An organized approach and measureable outcomes", Schulte said, "are highly important." Public participant Chris Babcock concurred.

Motion: To schedule a workshop for March 1, 2022 to discuss the Community Resilience Partnership and set initial goals for that program.

Moved: S. Schulte

Seconded: W. Ward, Jr.

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

8. Old Business

There was none.

9. New Business

a. COVID Preparedness Updates

Workplace COVID Task Force: Town Manager M. Pardue reported that the Town had weathered a round of employee infections, but continued to provide service without interruption.

Kennebunk COVID Task Force: M. Pardue also reported that the Kennebunk COVID Task Force had met earlier this date. The trend appears to be favorable, Pardue said. However, the Town and this Task Force will continue to monitor the situation.

b. Any Other Business

B. Baldwin informed the Board that the Town now has the technical ability to host “hybrid” meetings, combining in-person participation with teleconferencing. However, the infection rate is still high. S. Schulte opined that it would be best to hold off on having in-person meetings until virus statistics come down.

10. Select Board Comments

a. Subcommittee Reports:

There were none.

b. Board Liaison Reports

K. Nedeau: The Economic Development Committee continues to explore ways to improve community connectivity. It has identified three possible tower locations for preliminary consideration. The Planning Board will hear 9 Barnard Lane’s request for a zoning change on February 14. Nedeau also urged members to read the “Crane Report” on Kennebunk economic opportunities.

L. Pratt: The Energy Efficiency Advisory Committee will meet on February 17th at 6:30pm.

S. Schulte: The Conservation Commission met on February 7th and discussed the health of the Kennebunk River. The Commission is investigating the septic impact on that body as well as bank erosion. Schulte also reported initial legal approval of the proposed changes in wetland ordinance language.

c. Comments of Individual Select Board Members

K. Nedeau: Thanked all for good meeting and encouraged the Board to read and support State bill LD 1626.

L. Pratt: Thanked members and the public for the good meeting.

S. Schulte: “The Board needs to think hard and soon about the Town’s three important retirements.” He urged prompt mobilization.

W. Ward, Jr.: Send copies of LD 1626 to all Board members. Thanked M. Pardue for his hard work.

Public participant Dan Sayre asked to comment as well. He thanked the Select Board and the Town Attorney for the good forum.

11. Town Manager Announcements

a. Presidents' Day Holiday

The Town Manager reminded members that February 21 is Presidents' Day, a national holiday. Town offices, the Department of Public Services, and Kennebunk's Transfer station will be closed. However, curbside collection of trash and recycling will take place as usual throughout the week.

12. Executive Session

None was called.

13. Adjournment

There being no additional comments or topics for discussion, the presiding officer adjourned the meeting at 9:49pm.

Motion: To adjourn the meeting.

Moved: W. Ward, Jr.

Seconded: S. Schulte

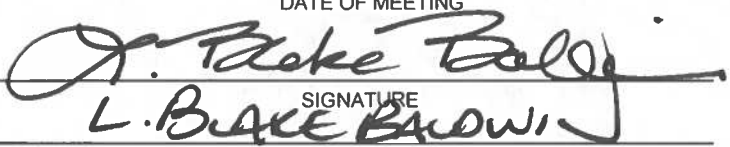
Vote: Roll call vote. 7 votes in favor, none opposed; the motion passed.

Respectfully submitted by,
J. Schlagheck, Recording Clerk

Adopted by the Board in the meeting of 2/22/22

DATE OF MEETING

Signed by
Select Board Member:



SIGNATURE

NAME IN PRINT