

KENNEBUNK SELECT BOARD MEETING MINUTES
TUESDAY, APRIL 11, 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 Vice Chair and presiding officer Kortney Nedeau, who then led attendees in the Pledge of Allegiance. Those participating were:

Participants: Select Board Members Shiloh A. Schulte [Chair, joined the meeting at 7:03pm during Public Hearing 4b]; Kortney E. Nedeau [Vice Chair], Lisa J. Pratt [Secretary], Sally A. Carpenter; Leslie G. Trentalange; William Ward, Jr.; and Miriam J. Whitehouse;

Absent: None;

Also Present: Heather Balsler [Town Manager], Bryan Laverriere [Director, Public Services], Merton Brown [Town Clerk], Chris Osterrieder [Director, Community Development], Karen Winton [Deputy Director, Community Development], Joel Downs [Finance Director], Dan Robinson [Tax Assessor], Robert MacKenzie [Chief of Police], and Lt. Christopher Russell [Police Department].

The meeting was held in person at Town Hall as well as via “Zoom”, the Internet teleconferencing platform. There were initially six Board members in attendance. S. Schulte joined the meeting later via Zoom as he was travelling.

2. Review of Prior Minutes

The Board next reviewed the minutes of its Regular Meeting of March 28, 2023.

Motion: To approve the minutes of the Select Board’s Regular Meeting of March 28, 2023.

Moved: L. Pratt

Seconded: S. Carpenter

Vote: Show-of-hands vote, 6 votes in favor, 0 opposed, 1 absent [Schulte]; the motion passed.

3. Items To Be Signed

There were none.

4. Public Hearings

a. Liquor License for Saracitas Kitchen LLC

K. Nedeau introduced the application of Saracitas Kitchen LLC d/b/a “Seven High” located at 7 High Street for a Liquor License. She stated that this was for a restaurant addition to “Cherie’s Bakery” owned by Saracitas Kitchen LLC.

The owners of Saracitas, Sara Robinson and Casey Doyle, explained that they were expanding the bakery/restaurant and expected to have a final Code Enforcement inspection in two weeks and the opening of the new space on or by May 30th.

K. Nedeau solicited Board and public comments or questions, but there were none.

Motion: To approve the Liquor Licenses for Saracitas Kitchen LLC d/b/a High Seven contingent upon final approval from Code Enforcement.

Moved: L. Pratt

Seconded: S. Carpenter

Vote: Show-of-hands vote, 6 votes in favor, 0 opposed, 1 absent [Schulte]; the motion passed.

b. Ordinance Amendments for LD 2003 Alignment

K. Nedeau formally opened a Public Hearing and called on C. Osterrieder to explain this Amendment item. C. Osterrieder described the need to amend Kennebunk's Zoning Ordinance to align it with Maine's new state law on housing. The new law, LD 2003, takes effect on July 1, 2023. It requires all towns in Maine to revise their zoning ordinances to permit more housing density in growth areas and to likewise ease a number of housing and parking restrictions. The intent of the new law, Osterrieder said, is to create more housing opportunities in Maine.

C. Osterrieder went on to note that LD 2003 specifically has three overriding priorities: (1) set guidelines for residential development and density; (2) ease restrictions to facilitate affordable housing; and (3) stimulate the creation of Accessory Dwelling Units or "ADUs".

Because of LD 2003, Osterrieder said, Kennebunk's Planning Board had drafted language to amend the Town's Ordinance to match the new law's guidelines. A Public Hearing on the proposed language changes, Osterrieder noted, was initially held by the Planning Board on March 13, 2023 and continued on March 27, 2023. The Planning Board, in turn, forwarded the Amendment language to the Select Board, recommending the latter's approval with a Planning Board vote of four (4) in favor and none opposed.

The Amendments proposed by the Planning Board can be viewed in their entirety at: [View LD 2003 Proposed Zoning Ordinance Amendments \(PDF\)](#)

This was the Select Board's own Public Hearing on the Amendments. The Select Board, Osterrieder said, could approve or modify the Amendments and, if it chose, forward the Amendments to voters for their consideration at the Town's next Annual Town Meeting.

W. Ward, Jr. asked how these Ordinance changes were likely to affect Kennebunk. C. Osterrieder responded that problematic impact was unlikely. However, the Ordinance Amendments, he said, were likely to spur more ADUs. Easing the number of parking spaces required for affordable housing, for example, might stimulate the construction of more affordable housing units.

Discussion ensued about the minimum and maximum sizes set forth in the Ordinance Amendments as regards ADUs. C. Osterrieder stated that the current language provides for a maximum of 650 sq. ft. The Planning Board's proposed language calls for a maximum of either (a) 1,000 sq. ft., or (b) 40% of the square footage of the primary dwelling to which the accessory unit was linked.

M. Whitehouse observed that state law LD 2003 also requires access to adequate water and sewer. C. Osterrieder explained that such access could be private (i.e. via wells and private septic) or public. Properties having access to public water and sewer, Osterrieder said, would be entitled to have more dwelling units in some instances.

M. Brown, Town Clerk, spoke next, informing the Board and public that the proposed Amendment language in its entirety would be included in the voters' guide to be prepared

for the Annual Town Meeting. C. Osterrieder remarked that the Ordinance could be further revised in the future after more experience with LD 2003 and after possible finer tuning by the state.

K. Nedeau invited public comments and questions. Commentator Wayne Berry remarked that the finer tuning of LD 2003 was likely to take place in the near future. He also opined that the proposed Amendments' size limitations for ADUs were, in his view, "restrictive" and unnecessarily complicated. He urged the Board to modify the Planning Board's Amendment language to eliminate the "40% alternative" and simply state that the maximum ADU size was 1,000 sq. ft. K. Nedeau concurred.

At approximately 7:03pm, S. Schulte joined the meeting via Zoom. The number of members in attendance then became seven [7].

K. Nedeau asked C. Osterrieder if the definition of a short-term rental as "15 days or less" was reasonable in his view, and Osterrieder responded in the affirmative. That definition is the same in Kennebunk's current Ordinance as well as in the revised one being proposed.

John Costin, another commentator, saluted the state's initiative to stimulate the creation of housing. However, he expressed concern that the Town did not appear to have a comprehensive housing plan and policy.

There being no other public comments or questions, K. Nedeau closed the Public Hearing. The Board proceeded to entertain the following motions.

Motion: To change the proposed Amendment language to limit the size of ADUs to a maximum of 1,000 sq. ft. (they eliminated the 40% requirement).

Moved: L. Pratt

Seconded: W. Ward, Jr.

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

Motion: To forward this item to the next Annual Town Meeting.

Moved: L. Pratt

Seconded: S. Carpenter

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

Motion: To recommend acceptance of this article.

Moved: L. Pratt

Seconded: S. Carpenter

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

c. Proposed Warrant for the 2023 Annual Town Meeting

K. Nedeau next opened a Public Hearing to hear public comments and questions about the proposed Warrant for the 2023 Annual Town Meeting to take place on June 13, 2023. A copy of the Warrant is available at the Town Clerk's Office and is likewise available for inspection here in its entirety:

[View supporting material – Draft Town Meeting Warrant \(PDF\)](#)

Nedeau explained that two Public Hearings were required for all warrant items. This was the Select Board's first Public Hearing on the topic. The second Public Hearing will take place on May 30, 2023 as a Special Meeting.

K. Nedeau solicited public and Board comments and questions, but there were none. Nedeau consequently closed the Public Hearing.

5. Public Comments

K. Nedeau then invited the public to pose questions or offer comments of a general nature. John Costin informed the Board that he had resigned from the Budget Board and had an exit interview with HR Director Jeri Sheldon and Acting Town Manager B. Laverriere. He asked Board members if they had received his recording of the exit interview as well as his transcription of it. As Board members had not, Mr. Costin said he would resend them. There being no other commentators, K. Nedeau closed the session.

6. Acknowledgements and Announcements

- a. **Resignations/Retirements:** K. Nedeau then announced that Frank Marcotti, an Officer who had served on Kennebunk's Police Force for 1.75 years, had tendered his resignation.
- b. **New Hires:** Nedeau also reported that Mary Lou Nedeau had been hired as a Police Administrative Assistant effective April 10, 2023.

7. Time Sensitive Business & Staff Presentations

a. Donations

K. Nedeau next reported that the Town had received the following donations:

AMOUNT	DONOR	PROPOSED USE
\$25	Warren Totty, Arundel	Kennebunk Dog Park
\$100	Maling's Welding Services, Inc.	Kennebunk Fire and Rescue, in memory of Richard V. Bibber
\$1,000	Alisson's Restaurant	Emergency Fuel Assistance Fund
\$2,000	Kennebunk Little League	Parsons Field

Motion: To accept the donations listed above and send letters thanking the donors for their generosity.

Moved: L. Pratt

Seconded: S. Carpenter

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

b. Boards, Committees, and Commissions

- (1) **Appointment to Climate Action Plan Task Force:** K. Nedeau next introduced two residents — Elizabeth Smith and Joshua Tabor — who had expressed interest in joining the Climate Action Plan Task Force.

Elizabeth "Betsy" Smith addressed the Board first, professing her strong interest in "all things environmental." She described her involvement in ocean and river water testing and other environment projects, and said she knew and respected the other members of the Action Plan Task Force. She hoped to join them.

Joshua Taylor said he returned to Maine in 2019 and he likewise professed strong interest in the Task Force's work. His wife sits on the Conversation Commission. Both are environment protection enthusiasts, he said.

L. Pratt remarked that both Smith and Taylor had excellent backgrounds, and she strongly endorsed both. Maggie Bartenhagen, Chair of the Climate Action Plan

Task Force, addressed the Board as well, and likewise stated that "both candidates are excellent."

Motion: To appoint Elizabeth Smith and Joshua Tabor as Community Member Representatives on the Climate Action Plan Task Force.

Moved: L. Pratt

Seconded: W. Ward, Jr.

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

- (2) **Board Resignations:** K. Nedeau also reported that Paul Brinnel (Alternate Member, term expiring 2023) had resigned from the Zoning Board of Appeals, and Cathy Kremer (Alternate Member, term expiring 2023) had resigned from the Site Plan Review Board. Exit interviews, Nedeau said, would be offered to both.

Motion: To accept the resignations of Paul Brinnel from the Zoning Board of Appeals and of Cathy Kremer from the Site Plan Review Board and send letters thanking them for their service.

Moved: L. Pratt

Seconded: S. Carpenter

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

c. Polling Hours for the June 13, 2023 RSU 21 Budget Validation and Municipal Referendum/Election

K. Nedeau then reported that the following polling hours had been proposed by the Town Clerk for the June 13, 2023 Election/Referendum:

- (1) **Normal polling hours:** 6:00am to 8:00pm in the Edward C. Winston Auditorium located at 1 Summer Street; and,
- (2) **Additional Hours** for voter registration and absentee balloting at the Town Clerk's Office (2nd Floor, Town Hall, 1 Summer Street):
 - Saturday, June 3rd: 9:00am to 1:00pm
 - Sunday, June 4th: 9:00am to 1:00pm.
 - Thursday, June 8th: 4:30pm to 7:30pm

M. Brown added that the Town would visit a number of nursing homes, as well, to facilitate voting.

Motion: To set the polling hours from 6:00am to 8:00pm and the additional hours for the Town Clerk's Office as noted above; however, if changes are warranted, the information will be posted on the Town's website.

Moved: L. Pratt

Seconded: S. Carpenter

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

d. Sale of Police K-9 Dog

K. Nedeau next reported that Kennebunk's Police Department had recommended that the Town enter into a Purchase and Sale Agreement with the Town of Cumberland for the latter's purchase of "Otto", Kennebunk's dual-certified K-9.

Nedeau explained that Otto's handler had accepted a conditional offer of employment from Cumberland's Police Department. Given the handler's length of time (4 years) working with the dog and the canine's estimated remaining service life (3.5 years),

Kennebunk's Police Department tentatively negotiated to sell Otto to the Town of Cumberland for \$15,000. The price was based on the canine's original cost (\$8,500), the depreciated value of the dog's equipment (\$2,000), and training costs (\$4,500).

Kennebunk's Finance Subcommittee, K. Nedeau said, had approved the proposal at its meeting of April 5, 2023. Police Chief R. MacKenzie then addressed the Board, remarking that separating the dog from his handler was not recommended. MacKenzie said the Police Department would attempt to obtain a grant to defray the cost of purchasing and training a new dog.

Motion: To authorize the Town Manager to sign the Purchase and Sale Agreement for K-9 "Otto" to the Town of Cumberland.

Moved: L. Pratt

Seconded: S. Carpenter

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

e. Revised Wrecker/Towing Services Policy

K. Nedeau next reported that the Town's Wrecker and Towing Services Policy was last updated in 1982 and an update was being proposed. Police Lt. Christopher Russell explained that the revised policy submitted for the Board's consideration does not radically change existing policy, but instead formalizes how wreckers are retained and updates towing and storage fees. The revised policy, Russell said, was largely administrative and includes clearer guidelines for vendors, fees, and insurance limits.

Russell stated that the Town Attorney had reviewed and vetted the proposed policy. The policy is available for inspection in its entirety on the agenda for this meeting.

W. Ward, Jr. asked what prompted the revisions. C. Russell responded that it was primarily an initiative to update fees and set clearer guidelines.

Motion: To approve the revised Wrecker/Towing Services Policy as presented.

Moved: L. Pratt

Seconded: S. Carpenter

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

f. Presentation on LD 290

Tax Assessor D. Robinson addressed the Board next to provide Board members and the public with an overview of Maine law LD 290, "An Act to Stabilize Property Taxes for Individuals 65 Years of Age or Older Who Own a Homestead for at Least 10 Years."

Robinson observed that the law freezes the property taxes of individuals who are 65 years or age or older and who have been homeowners in Maine for at least ten [10] years. However, the law has been criticized as lacking administrative detail and has required "a great deal of scramble" on the part of municipalities to process stabilization applications, according to the Tax Assessor.

D. Robinson went on to enumerate eight laws which are now being considered by the state legislature to modify or streamline LD 290. For example, LD 290 requires beneficiaries to re-apply every year. Several of the laws being considered would eliminate the need for annual re-filing. Extracts of all of these follow-up laws can be viewed in the Agenda for this meeting.

M. Whitehouse asked if elimination of the annual reapplication requirement was likely to simplify the Tax Office's work, and D. Robinson answered in the affirmative. W. Ward, Jr. posed questions about the mechanics of the law, and Robinson offered several examples. Ward, Jr. also asked about state reimbursements of lost revenue. D. Robinson affirmed that the state is meant to reimburse the Town for 100% of the difference between the "frozen" tax amount and the amount which would have otherwise been levied. However, there have

been no state reimbursements made as yet. Robinson said he would keep the Board apprised of any "tax stabilization" developments. K. Nedeau thanked Robinson for the overview.

8. Old Business

There was none.

9. New Business

a. Coordinator for Town's 401(a) Retirement Plan

K. Nedeau next reported that the Select Board needed to authorize the new Finance Director, Kayla Tierney, as the Plan Coordinator for the Town's 401(a) plan with MissionSquare Retirement.

Motion: To authorize Finance Director Kayla Tierney as the Plan Coordinator for the Town's 401(a) Plan with MissionSquare Retirement.

Moved: L. Pratt

Seconded: S. Carpenter

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

b. Select Board Schedule for Remainder of 2023

Nedeau next directed Board attention to the calendar proposed by Town Hall staff for Select Board meetings for the balance of the year. A link to the proposed calendar can be viewed on the agenda. It includes modified scheduling for a summer break as well as special meetings due to deadlines and postings. Some of the schedule changes include:

- Required Special Meeting on May 30 for a Public Hearing as required by Charter for warrant and budget
- Cancellation of the July 25, August 8, and August 22 meetings for a "summer break"
- Rescheduling of meetings during the summer break to August 1 and August 29
- Cancellation of the December 26 meeting for holiday break.

Motion: To approve the Select Board's meeting schedule for the remainder of 2023 as noted above.

Moved: L. Pratt

Seconded: S. Carpenter

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

c. Alewife Harvesting

M. Brown next explained that the state's Department of Maine Natural Resources [DMR] asks the Select Board to vote annually on the right to harvest alewives in Kennebunk. In past years, the Board has voted to prohibit commercial and recreational harvesting. This authority, Brown said, is accorded to the Select Board by state law as well as the Town Charter. M. Brown is the DMP contact person on the matter.

S. Schulte described how the Town's rivers had originally teemed with alewives. However, dams and development have since impeded the fish from reaching their spawning grounds.

Motion: To keep Kennebunk's waters closed for the harvesting of alewives for commercial and recreational purposes for 2023.

Moved: L. Pratt

Seconded: S. Carpenter

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

d. Road Closures for Special Events

K. Nedeau then reported that the Police Department had recommended the following road closures for special events.

(1) May Day Parade

Date of Event: Saturday, May 6, 2023

Start Time: 1:30pm

Closures Needed:

12:30-1:45pm: Water Street closed

12:30-1:45pm: Factory Pasture Lane, closed from Winter St. to Water St.

1:25-2:00pm Main Street, closed from Water St. to Dane Street

1:25-2:15pm Dane Street closed

1:25-2:15pm Grove Street closed

12:30-1:45pm Access road between public parking (Grove Street Lot to Chamber of Commerce); blocked with barricade.

However, Nedeau cautioned that the above information was subject to change. The Vice Chair invited public comments or questions, but there were none.

Motion: To approve the road closures as recommended by the Police Department for the May Day Parade on May 6, 2023 as noted above.

Moved: L. Pratt

Seconded: S. Carpenter

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

(2) Kennebunk Beach Classic 5K (The Center)

Date of Event: Sunday, May 21, 2023

Closures Needed: 8:25am to 10:30am, Western Avenue from Beach Ave. (Cooper's Corner) to Boothby Road.

This information was also subject to change, K. Nedeau said.

Motion: To approve the road closures as recommended by the Police Department for the Kennebunk Beach Classic 5K on May 21, 2023 as noted above.

Moved: L. Pratt

Seconded: S. Carpenter

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

e. Other Business

There was none.

10. Select Board Comments

a. Subcommittee Reports:

L. Pratt: The Pay-As-You-Go Subcommittee will bring recommendations to the Board for a change of trash bag fees as there is currently a funding shortfall.

b. Board Liaison Reports

S. Schulte: The Conservation Commission met last week and discussed conservation properties and their connectivity as well as areas for future conservation. The Commission is endeavoring to network with other Town boards and committees.

M. Brown: The Charter Commission meets next on April 12th and it will be an important meeting.

c. Comments of Individual Select Board Members

L. Pratt: Thanks all for coming.

S. Schulte: Thanked all for the good meeting.

11. Town Manager Announcements

Town Manager H. Balsler then read the announcements listed on the agenda.

12. Executive Session

There was none.

13. Adjournment

There being no additional comments or topics for discussion, K. Nedeau adjourned the meeting at 8:21pm.

Motion: To adjourn this meeting.

Moved: L. Pratt

Seconded: S. Carpenter

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 04.25.2023
DATE OF MEETING

Signed by
Select Board Member:
L. Pratt
SIGNATURE
Lisa Pratt
NAME IN PRINT