

KENNEBUNK SELECT BOARD MINUTES

TUESDAY, MAY 10, 2022 – 5:30 P.M.

IN PERSON, TOWN HALL MEETING

This meeting was held in person and televised on Cable TV Channel 5.
It is available for public viewing online at *TownHallStreams.com* at any time.

1. Call to Order

The meeting was called to order at 5:32 pm by Chair and presiding officer L. Blake Baldwin, who led Board members in the Pledge of Allegiance.

Present: Select Board Members L. Blake Baldwin [Chair], Shiloh A. Schulte [Vice Chair], Sally A. Carpenter, Frank G. Paul, Lisa J. Pratt, and William A. Ward, Jr.; Kortney E. Nedeau [Vice] arrived at 6:00pm.

Also Present: Michael Pardue [Town Manager], Chris Osterrieder [Director of Community Development]; Joel Downs [Finance Director], Jeri Sheldon [Human Resources Director]; Robert Mackenzie [Police Chief], and Natalie Burns [Town Attorney].

2. Executive Session

B. Baldwin then led members into Executive Session pursuant to 1 M.R.S.A. Section 405(6)(E).

Motion: To enter into Executive Session with the Town Manager, Finance Director, Human Resources Director, and Town Attorney pursuant to 1 M.R.S.A. Section 405(6)(E) to consult with the Town Attorney concerning the legal rights and duties of the Board and pending or contemplated litigation, settlement offers and matters where the duties of the Select Board's counsel to the Select Board pursuant to the code of professional responsibility clearly conflict with the Freedom of Access Act or where premature general public knowledge would clearly place the Town at a substantial disadvantage.

Moved: S. Schulte

Seconded: L. Pratt

Vote: Show-of-hands vote. 6 votes in favor, none opposed, 1 absent [Nedeau]; the motion passed.

Select Board Vice Chair Kortney Nedeau arrived at 6:00pm.

When the Board exited the Executive Session at 6:34pm, the Chair stated that there was nothing to report. He then opened the Select Board's Regular Meeting at 6:36pm.

3. Items to be Signed & Approval of Minutes

The Chair next called on the Board to review, approve, and/or amend the following items:

a. Minutes of the Regular Meeting of April 26, 2022

Motion: To approve minutes of the Select Board's Regular Meeting of April 26, 2022.

Moved: S. Schulte

Seconded: L. Pratt

Vote: Show-of-hands vote. 7 votes in favor, none opposed; the motion passed.

b. **Minutes of the Special Meeting of May 3, 2022.**

Motion: To approve the minutes of the Special Meeting of May 3, 2022.

Moved: S. Schulte

Seconded: L. Pratt

Vote: Show-of-hands vote. 5 votes in favor, none opposed, 2 abstentions [Schulte and Nedeau were not present at the 5/23 meeting]; the motion passed.

c. **June 14, 2022 Annual Town Warrant**

Motion: To approve and sign the June 14, 2022 Annual Town Meeting Warrant

Moved: S. Schulte

Seconded: L. Pratt

Vote: Show-of-hands vote. 7 votes in favor, none opposed; the motion passed.

4. **Public Hearings**

a. **Victualer and Lodging Licenses: Surf Lodge LLC d/b/a “The Wanderer Cottages”, 195 Sea Road [formerly “The Kennebunker”]**

The Chair next solicited Board and public comments on the application of Surf Lodge LLC for Victualer and Lodging Licenses. S. Carpenter asked to learn more about the project, but the applicant was not in attendance.

Motion: To approve the Victualer License and Lodging License Applications for Surf Lodge LLC d/b/a “The Wanderer Cottages”.

Moved: S. Schulte

Seconded: L. Pratt

Vote: Show-of-hands vote. 7 votes in favor, none opposed; the motion passed.

b. **Victualer, Liquor, Lodging, and Special Amusement Permit/Licenses: Bigelow Pines Properties LLC d/b/a “White Sails Inn”, 61 Fletcher Street [formerly “Elizabeth Rose House”].**

New owner Armand Boudreau explained his intent to create a new on premise pub, re-name the inn’s rooms after ships built in Kennebunk, and add an outdoor fire pit. The pub, he said, would initially be open to inn guests only, but eventually transition into “a neighborhood place” where the public at large could also gather.

There were no Board or public comments or questions.

Motion: To approve the Victualer License, Liquor License, Lodging License, and Special Amusement Permit for Bigelow Pines Properties LLC d/b/a/ “White Sails Inn”.

Moved: S. Schulte

Seconded: L. Pratt

Vote: Show-of-hands vote. 7 votes in favor, none opposed; the motion passed.

5. **Public Comments**

Armand Boudreau retook the floor to call the Board’s attention to the delay being experienced in obtaining Town permits. He stated that Code Enforcement personnel were helpful but

have a heavy workload. Simple building and sign permits, Mr. Boudreau said, take 30 days. He suggested that a part-time job be created – possibly a post for a retiree who could help expedite the permit process from home. “Simple things could be approved in a timelier manner,” the commentator said. Town Manager M. Pardue said he would take the recommendation into consideration with staff, and thanked Mr. Boudreau for the suggestion.

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

6. Announcements and Acknowledgements

a. Employment News

The Chair next introduced several Town employees and announced a number of employment changes.

Police Department Sgt. **Christopher Russell** was promoted to Lieutenant effective May 2, 2022. This promotion makes Chris the Department’s third in command. The Board offered Chris a round of applause.

Police Chief Robert Mackenzie then introduced recent Police Department hires and promotes whose new positions were announced on previous agendas. **Eric O’Brien** was promoted to Deputy Chief on April 11, 2022 and Police Officer **Ginger Ryll** joined the force on January 24, 2022. The Board offered Eric and Ginger a round of applause.

The Chair and Town Manager then thanked outgoing Parks and Recreation Director **Tasha Pinkham** for her service. Tasha headed the Parks and Recreation Department for six years. She recently left Kennebunk to become the Town Manager for Standish, Maine. The Board offered best wishes to Tasha in her new endeavor.

b. COVID Update

Town Manager M. Pardue next offered an update on the Town’s COVID policies and preparedness. He stated that Town Hall continues to be highly vigilant given the increase in local infection rates. York County, he said, is currently in the “moderate” zone. Masking at Town Hall is optional. Pardue reported that while several employees had become infected by COVID or forced into quarantine by the infection of a family member, there had been no disruption of service delivery. The Town, Pardue said, will continue to monitor CDC and State bulletins to determine whether any other mobilization may be prudent.

7. Time Sensitive Business and Staff Presentations

There were none.

8. Old Business

a. **Hybrid Meetings:** Public commentators at past meetings had expressed interest in having “hybrid” Select Board meetings to afford the public the option of either participating via Zoom or in-person. At today’s meeting, B. Baldwin reported that a beta test would take place on May 11, 2022 to test a hybrid format with Town Hall staff. The exercise is meant to determine whether the Town’s existing equipment and systems infrastructure can be used for Zoom as well as in-person participation with adequate audio/visual synchronization. However, Baldwin cautioned, there is no guarantee of success and the need for a larger systems upgrade may be necessary.

S. Schulte reminded Board members that they had decided to return to in-person meetings because of York County’s then-prevailing low infection rate. He opined that

there are likely to be ebbs and surges in infection metrics going forward. Schulte therefore recommended having in-person meetings when contamination rates are low, Zoom meetings when rates are high, and hybrid meetings whenever technically possible.

L. Pratt endorsed hybrid meetings as well and asked how soon such meetings could be offered if the beta tests were successful. B. Baldwin responded that testing would likely span several meetings.

S. Carpenter voiced satisfaction with in-person meetings and opined that deciding whether or not to participate in them was a matter of individual choice. S. Schulte countered that Town Hall meetings were not about personal choice alone, but rather about safe public participation in Kennebunk's government process.

L. Pratt inquired how much a systems upgrade, if needed, would cost, and B. Baldwin responded "about \$40,000." Pratt asked Town Finance Director Joel Downs whether money was available to fund a systems upgrade and/or hybrid initiative. Downs confirmed that contingency funding was available.

M. Pardue asked whether additional staffing would be required for hybrid meetings. B. Baldwin responded that the Town would likely need "two bodies" to make hybrid meetings work based on the experience of other communities.

B. Baldwin then invited public comments. Miriam Whitehouse offered the view that mask-wearing at public gatherings was important for public safety. Jonathan Whitehouse opined that having hybrid meetings should be the Town's standard regardless of COVID metrics. Hybrid meetings, Mr. Whitehouse stated, would facilitate more public participation. Board members, he said, could be away from Kennebunk but still join a hybrid meeting.

B. Baldwin noted that hybrid meetings are an option for the public, but not an option for Board members, themselves. He explained that State law requires the members of Select Boards in Maine to "all participate in person or all participate remotely, but not both". L. Pratt and K. Nedeau questioned this requirement. M. Pardue volunteered to contact Town Attorney Natalie Burns for her interpretation of State law regarding Select Board meetings, and to discuss with her the need for a possible amendment to the Board's meeting policy.

B. Baldwin concluded that, while all parties prefer a hybrid solution, the Select Board nevertheless needed to refine its policy regarding the use of COVID metrics to determine when meetings should take place in-person or remotely. He observed that several metrics could be used: (1) the CDC's "color code" [York County is currently rated "yellow" or "medium" as regards its COVID infection rate]; (2) the COVID case rate per 100,000 [currently 319.78]; (3) the new COVID hospital admissions rate per 100,000 [currently 7.7]; and (4) the percent of patients with COVID in hospital beds [currently 6.9].

Robust discussion ensued. Board members ultimately agreed that the CDC's color code was a straightforward and useful metric and that "medium" [yellow] or "high" [red] CDC ratings should cause Select Board meetings to be remote.

Motion: That the Select Board move to remote meetings when the Maine CDC indicates that the COVID-19 community level of transmission is "medium" or "high".

Moved: S. Schulte

Seconded: W. Ward, Jr.

Vote: Show-of-hands vote. 5 votes in favor, 1 opposed [F. Paul], and 1 abstention [B. Baldwin]; the motion passed.

After the vote, Board members agreed to check on the CDC “color-code” ratings on Friday mornings in order to make decisions about the format of meetings to come and to alert the public. S. Schulte then verbalized the “friendly amendment” suggested by L. Pratt as an add-on to the above decision:

Motion: That the Select Board begin the above policy starting Friday, May 13, 2022.

Moved: S. Schulte

Seconded: W. Ward, Jr.

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

L. Pratt asked if this policy extended to Town committees as well, and B. Baldwin affirmed that it was a matter for each committee to decide.

9. New Business

- a. **Amendment to the Town’s Ordinances, Section 6-1, regarding the Licensing of “Street Vendors & Peddlers”:** The Chair then asked the Board to consider amending the Town’s Ordinance and to reduce the boundary of the Waterhouse Center Zone in anticipation of a proposal to locate mobile vending units at the Sunoco Gas Station at 61 Main Street. He noted that a Public Hearing is required to receive comment on such changes. However, such zoning changes would not require a Town Meeting vote. They can, Baldwin said, be approved at a Public Hearing.

S. Carpenter, L. Pratt, K. Nedeau, and S. Schulte endorsed the proposal and introduction of food trucks. However, S. Schulte posed questions about the regulation and licensing of food trucks, as well. In response, C. Osterrieder offered these comments:

- (1) Kennebunk’s Ordinance makes no mention of “food trucks”, *per se*, but does have guidelines regulating “mobile vending units” in its “Street Vendors and Peddlers” Section;
- (2) Zoning dictates the kinds of commercial activities and mobile vending permitted in Kennebunk;
- (3) Any use of the Sunoco property for food vending cannot work, at present, because of existing zoning provisions;
- (4) Any mobile vending unit in Kennebunk requires a Kennebunk Victualer License as well as a secondary license from the State;
- (5) Town Hall also requires that a “Site Plan Review” of such a project be undertaken to ascertain and approve the traffic, parking, circulation, and pedestrian impacts of the project, as well as the hours of operation, expected noise levels, and so on. The Site Plan Review, Osterrieder said, would be an important process open to the public; and,
- (6) The Waterhouse Center has a zone of its own which limits commercial activity.

Even if a public hearing and the Select Board were to favorably entertain this proposal, Osterrieder said, a Site Plan Review would still be required to determine whether “food trucks fit there” [meaning 61 Main Street]. However, the zoning restriction has to be taken up first according to Osterrieder.

W. Ward, Jr. asked if the proposed zoning change would permit other food trucks to operate in similar locations, and C. Osterrieder replied that food trucks need Victual Licenses and the approvals of Victualer Licenses are location-specific.

Motion: To schedule a Public Hearing on May 24, 2022 on proposed Ordinance changes to Section 6-1 "Street Vendors and Peddlers".

Moved: S. Schulte

Seconded: W. Ward, Jr.

Vote: Show-of-hands vote. 7 votes in favor, none opposed; the motion passed.

b. Membership in the Southern Maine Planning and Development Commission's General Assembly

B. Baldwin next explained that the Southern Maine Planning and Development Commission (SMPDC) is in the process of updating its General Assembly (GA), the group of appointed delegates from each SMPDC member municipality. The GA, Baldwin said, convenes once a year, votes on the organization's overall budget, establishes the group's work plan for the coming year, and elects Executive Committee officers. Complete information about the SMPDC is available online in this meeting's Agenda. Kennebunk's C. Osterrieder is currently serving as a GA member and member of the Executive Committee.

The Town of Kennebunk, Baldwin reported, now has an opportunity to add two additional General Assembly members. The Chair relayed the following recommendations from the Town Manager and Staff:

(1) General Assembly Member #1

Executive Committee Member, Christopher Osterrieder, Community Development Director (currently filled);

(2) General Assembly Member #2

Select Board Member (to be appointed);

(3) General Assembly Member #3 (optional)

A Town Community Development staff member (to be appointed); recommended candidate: Karen Winton, Deputy Director.

B. Baldwin and W. Ward, Jr. both volunteered to serve as General Assembly Member #2. However, the Board moved to appoint Baldwin.

Motion: To appoint Select Board member L. Blake Baldwin as a General Assembly Member on the Southern Maine Planning & Development Commission.

Moved: S. Schulte

Seconded: W. Ward, Jr.

Vote: Show-of-hands vote. 7 votes in favor, none opposed; the motion passed.

Motion: To appoint Community Development Deputy Director Karen Winton as a General Assembly member on the Southern Maine Planning & Development Commission.

Moved: S. Schulte

Seconded: W. Ward, Jr.

Vote: Show-of-hands vote. 7 votes in favor, none oppose; the motion passed.

c. **Road Closures**

B. Baldwin then reported that a number of road closures were sought for forthcoming events and recommended by the Police Department:

- **July 17, 2022 – Nicole’s 5-K Run/Walk:** Organizers and the Police seek closure of Beach Avenue from Woodland Avenue to Boothby Road from 8:50 am until 10:00 am. The information may be subject to change.

Motion: To approve the road closures as recommended by the Police Department for Nicole’s 5K Run/Walk on July 17, 2022 as noted above.

Moved: S. Schulte

Seconded: L. Pratt

Vote: Show-of-hands vote. 7 votes in favor, none opposed; the motion passed.

After the vote, S. Schulte noted that organizers of Nicole’s Run/Walk had also requested a waiver of the Town’s beach parking permit requirement from 6:00am to noon on all three beaches as had been granted in prior years.

Motion: To waive the beach parking permit requirement for Nicole’s 5K Run/Walk on July 17, 2022 from 6:00am to noon on all three beaches.

Moved: S. Schulte

Seconded: W. Ward, Jr.

Vote: Show-of-hands vote. 7 votes in favor, none opposed; the motion passed.

- **May 30, 2022 – Memorial Day Parade:** B. Baldwin then reported that sundry closures were also sought for different times between 1:45pm and 3:00pm on Main, Summer, York, Dane, Grove, and High Streets for the May Day Parade on May 30, 2022. Details as to specific times and streets are available on this meeting’s Agenda online.

Motion: To approve the road closures as recommended by the Police Department for the Memorial Day Parade on May 30, 2022 as noted in the meeting Agenda.

Moved: S. Schulte

Seconded: W. Ward, Jr.

Vote: Show-of-hands vote. 7 votes in favor, none opposed; the motion passed.

d. **Other Business**

There was none.

10. **Select Board Comments**

a. **Subcommittee Reports**

There were none.

b. **Board Liaison Reports**

There were none.

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

- Nedeau: Reported having had a good follow-up meeting with C. Osterrieder and K. Winton regarding the upcoming affordable housing workshop.
- Paul: Will be absent from the next meeting.
- Pratt: Thanked all for the good meeting and thanked Town Hall personnel for the Fletcher Street crosswalk.
- Schulte: Noted his forthcoming absences in June.
- Ward, Jr.: Will be away for work training and unable to attend the next meetings.

11. **Announcements**

M. Pardue and C. Osterrieder then made several announcements and offered these updates

a. **Project Updates**

- **Street Light Initiative:** C. Osterrieder reported that “good progress” is being made on Kennebunk’s street light initiative. Different lighting fixtures will be tested at two sites — one on Fletcher Street and one on Sea Road — and public feedback will be solicited. The Street Light Task Force will specifically test two fixtures. Once one of the fixtures is provisionally selected, financial projections will be made regarding likely purchase costs and usage savings. The fixture test will take place at the end of May and a final recommendation will be made to the Select Board in late June.

F. Paul inquired about the involvement of Central Maine Power, and C. Osterrieder confirmed that Kennebunk would not have to buy fixtures from CMP with the exception of one light. CMP owns the poles, Osterrieder said, but not the lights (except one).

In response to questions from W. Ward, Jr., C. Osterrieder also affirmed that a photometric analysis will be undertaken to ascertain light levels at different Town locations. That data will also be factored into Kennebunk’s final Street Light Plan.

- **Skate Park:** M. Pardue next reported that work on the Skate Park was “advancing nicely”. Factory Pasture roadwork, he said, continues as planned.
- **Fire Chief Recruitment:** Pardue also reported that the recruitment process for a new Fire Chief had moved into the last phases. Three candidates are currently being assessed. Pardue expects to make a conditional offer to one finalist in 7 to 10 days.
- **Union Negotiations:** M. Pardue then reported that negotiations with Fire Department Union representatives had begun this date and were also proceeding as planned.

b. **Upcoming Select Board Meetings and Workshops:** M. Pardue next reminded Board members of the following meeting schedule:

- **May 11** at 6:30pm: Workshop on Short-Term Rentals
- **May 17** at 5:30pm: Workshop on the Employee Handbook
- **May 24** at 6:30pm: Regular Meeting
- **May 31** at 6:30pm: Special Meeting, 2nd Public Hearing for Budget, and award of the contract for Town Manager recruitment consulting services.

c. **Candidates’ Night:** M. Pardue likewise reminded the Board and public that candidates running for Select Board will have an opportunity to present their credentials and describe their interest in a Select Board post at “Candidates’ Night”, to be held on Thursday, May 19th, 2022 at Town Hall. This event can be viewed at Town Hall in person or

via zoom (depending on the "color code" declared on May 13), on Cable TV Channel 5, or at www.townhallstreams.com.

- d. **Memorial Day, May 30:** M. Pardue then confirmed that Town Hall offices and the Department of Public Services will be closed on Memorial Day, May 30th. The Memorial Day Parade will take place on Main Street at 2:00pm on that date. There will also be no change in trash and recycling curbside service on the holiday.

12. Executive Session

No other Executive Session was convened.

13. Adjournment

There being no additional comments or topics for discussion, the presiding officer adjourned the meeting at 8:52pm.

Motion: To adjourn the meeting.


Moved: S. Schulte

Seconded: W. Wald, Jr.

Vote: Show-of-hands vote. 7 votes in favor, none opposed; the motion passed.

Respectfully submitted by,
J. Schlagheck, Clerk

Adopted by the Board in the meeting of 5/24/22,
DATE OF MEETING

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