

KENNEBUNK SELECT BOARD MEETING MINUTES
TUESDAY, SEPTEMBER 13, 2022 – 6:30PM
IN PERSON MEETING, TOWN HALL, 3rd FLOOR, 1 SUMMER STREET

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

1. Call to Order

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

Present: Select Board Members Shiloh A. Schulte [Chair], Lisa J. Pratt [Secretary], Sally A. Carpenter, Leslie G. Trentalange, William Ward, Jr., and Miriam J. Whitehouse

Absent: Kortney E. Nedeau [Vice Chair]

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

The meeting was held in person in keeping with the Board's COVID-19 safety policy. The prevailing rating was green ["low"], hence this meeting was held in person. Six voting members were present.

2. Approval of Minutes

S. Schulte next led members in a review of the minutes of the Select Board's Regular Meeting of August 30, 2022 and Special Meeting of September 6, 2022.

Motion: To approve the minutes of the Regular Meeting of August 30, 2022.

Moved: L. Pratt

Seconded: W. Ward, Jr.

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

Motion: To approve the minutes of the Special Meeting of September 6, 2022.

Moved: L. Pratt

Seconded: S. Carpenter

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

3. Items To Be Signed

There were none.

4. Public Hearing

S. Schulte next opened a public hearing to hear comments on several topics.

a. Road Acceptance – Lobster Lane

S. Schulte observed that at the Board’s prior Regular Meeting, it had agreed to hold a public meeting on today’s date for public questions and comments on the proposal for the Town to accept Lobster Lane as a municipal roadway. S. Schulte reminded the Board and public that Stone Pony Realty Trust had received approval from Kennebunk’s Planning Board on February 11, 2019 to create the “Lobster Lane Subdivision”. The approval acknowledged the developer’s compliance with the Town’s Land Use Ordinance as well as Street Design and Construction Ordinance.

The roadwork was inspected during construction by the Town Engineer, C. Osterrieder. He determined that the road construction met Ordinance standards. For the road to be accepted by the Town, however, the acceptance must be approved by Town Meeting vote. S. Schulte therefore solicited public comments and questions, but there were none.

Motion: To send the Road Acceptance Request for Lobster Lane to the next Town Meeting.

Moved: L. Pratt

Seconded: S. Carpenter.

Vote: Show of hands vote, 5 votes in favor, 1 opposed [Whitehouse], 1 absent [Nedeau]; the motion passed.

Motion: To recommend acceptance of this article.

Moved: L. Pratt

Seconded: S. Carpenter

Vote: Show of hands vote, 5 votes in favor, 1 opposed [Whitehouse], 1 absent [Nedeau]; the motion passed.

b. Land Swap with Garden Street, LLC

S. Schulte then re-introduced the proposal for the swap of parking lot space between the Town of Kennebunk and Garden Street, LLC. The proposal is to specifically swap the Town-owned parcel identified as Map 51 Lot 52 (rear of the back parking lot) and currently used for public parking in exchange for a parking area associated with the “Garden Street Bowl” (front of parking lot near Garden Street) and identified as a portion of Map 51 Lot 62.

As this entails a land transfer, Schulte said, voter authorization is required to initiate the transaction process. This public hearing was therefore required before the proposal can, if approved by the Select Board, go to a Town Meeting vote.

The Chair then formally opened the public hearing and solicited public comments and questions, but there were none.

Motion: To send the proposal to a Land Swap between the Town of Kennebunk and Garden Street, LLC to the next Town Meeting.

Moved: L. Pratt

Seconded: S. Carpenter

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

Motion: To recommend acceptance of this article.

Moved: L. Pratt

Seconded: S. Carpenter

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

c. Renewal of Kennebunk's Dispatch and PSAP Services Agreement

S. Schulte introduced the topic of Kennebunk's Dispatch/PSAP Service Agreement, explaining that the Town has an agreement with the City of Sanford for dispatch services. It is slated to expire on June 30, 2023. The Sanford Communications Center, Schulte said, had provided a new agreement for these services. The agreement would begin on July 1, 2023 and expire on June 30, 2026. The proposal before the Board, he said, is to authorize (or not) the Town to enact a three-year agreement.

S. Schulte observed that this public hearing was necessary before the proposal could be acted on by the Select Board and, if subsequently approved, advanced to a Town Meeting.

The Chair then opened the public hearing and invited public and Board questions and comments on the proposal. S. Carpenter observed that several residents had complained about service response times. A public commentator, Lionel Menard, observed that call centers are required to provide quarterly reports on answering efficiency and response times. The Town, Mr. Menard said, should have a public "complaint system" and an appointee to look at these metrics and take citizen complaints. However, Menard urged the Select Board to renew the Sanford contract because of the complexities of putting such a service into place.

M. Whitehouse concurred and asked to see the performance statistics. She also called on the Town Manager to explore and compare alternatives.

M. Pardue reported that Town Hall staff had already begun to look at other service options. However, he noted that the Sanford Agreement had an "exit clause" which would permit Kennebunk to dissolve the agreement with six months' notice. W. Ward, Jr. said the Town might need more time to investigate alternatives, and, hence, might do well to sign the Sanford agreement "for suitable service cover". S. Schulte concurred.

S. Schulte invited other public comments and questions, but there were none. Board members informally agreed to "assess the quality of the service we now have" as well as explore alternatives.

Motion: To send to a Town Meeting the authorization to enter into an Agreement for Dispatch and PSAP Services for a period of up to three [3] years.

Moved: L. Pratt

Seconded: S. Carpenter

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

Motion: To recommend acceptance of this article.

Moved: L. Pratt

Seconded: W. Ward, Jr.

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

d. Public Safety MainePERS (Maine Public Employee Retirement System) Plan Change

S. Schulte next explained the proposal to change the Town's Public Safety MainePERS Plan from "Special Plan 2C" to "Plan 1C".

This item, Schulte said, had been discussed at the Special Meeting of the Select Board and Budget Board of August 23, 2022. The Select Board did not have a quorum at that meeting, and therefore postponed its vote. The Budget Board voted 5 in favor, 0 opposed, and 2 absent to approve and recommend the change — specifically, to approve the change of the retirement system plan for Kennebunk's participating public safety employees from MainePERS Special Plan 2C to Plan 1C and to fund such change for the six-month period January 2023 through June 2023 by using \$79,662 of the General Fund Balance.

If the Select Board were to similarly endorse the proposal, Schulte said, this public hearing would be needed before the item could be advanced to a Town Meeting.

S. Schulte then opened the public hearing and solicited comments and questions. L. Menard spoke again, asking for clarification, while citing a similar proposal had failed to pass in a prior vote.

Finance Director J. Downs responded to Mr. Menard's concerns, pointing out that the Budget Board (and Select Board members in attendance) had discussed this proposal in detail at their August 23, 2022 meeting. Downs stated that the warrant language and funding entailed were both complex. "This is not a 'bait-and-switch' situation," Downs stated. Downs urged Mr. Menard and the public at large to consult the minutes of the Special August 23rd Meeting for more information.

There being no other public comments or questions, the Chair closed the public hearing and the Board proceeded to entertain the following motion.

Motion: To send the Public Safety MainePERS (Maine Public Employee Retirement System) Plan Change from Special Plan 2C to Plan 1C as noted above to the next Town Meeting.

Moved: L. Pratt

Seconded: S. Carpenter

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

Motion: To recommend acceptance of this article.

Moved: L. Pratt

Seconded: W. Ward, Jr.

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

e. American Rescue Plan (ARPA) Funds

The Chair next introduced a proposal to utilize the second half of the funds which Kennebunk received via the American Rescue Plan Act of 2021 [ARPA]. Schulte explained that the second tranche amounts to \$614,605. Town Hall staff recommended to the Select Board and Budget Board that the Town advance a warrant article to the November 8, 2022 Special Town Meeting to request voter authorization to spend these funds. A portion of this money has already been identified for use in the upcoming FY 2023-24 budget, Schulte said.

The Chair then read the proposed warrant article as follows:

To see if the Town will vote to appropriate the sum of \$614,605 from the funds received by the Town under the Coronavirus State and Local Fiscal Recovery Funds Program (SLFRF) authorized by the American Rescue Act of 2021 (ARPA) for the purpose of funding expenses, assets, and projects, and to authorize the Select Board to expend such amounts consistent with the regulations of the SLFRF Program.

This item, Schulte said, had been discussed at the Special Meeting of the Select Board and Budget Board on August 23, 2023. As the Select Board did not have a quorum [3 present, 4 absent] at that meeting, it did not vote on the item. However, the Budget Board voted 2 in favor, 3 opposed, and 2 absent on a motion to “authorize and recommend that the Select Board spend the second tranche of ARPA funds in the amount of \$614,605”.

The Chair opened the public hearing on the proposal and invited public comments and questions. L. Menard inquired how much money was “uncommitted”, and J. Downs responded that “approximately \$300,000 had already been identified”. After hearing more details from the Finance Director about these funds, L. Menard said he thought that the Select Board should approve the proposed authorization.

M. Waterhouse asked what would happen if the Select Board voted against the proposal. Downs responded that “the funds will still be there and you will be asked at a later date to give the Town access to this money.” “This proposal,” Downs added, “is primarily to give the Town flexibility.” Downs also pointed out that the funds must be earmarked or “obligated” by December, 2024 and actually be used by December, 2026.

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

Motion: To send the question of the authorization of the second half of ARPA funds as noted above to the next Town Meeting.

Moved: L. Pratt

Seconded: S. Carpenter

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

Motion: To recommend acceptance of this article.

Moved: L. Pratt

Seconded: W. Ward, Jr.

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

f. Tax Levy Limit [“LD 1 Increase”]

The Chair next introduced a proposal to increase the Tax Levy Limit or “LD 1 Cap” by \$2.5 million. This item, he observed, had been discussed at the Special Meeting of the Select Board and Budget Board on August 23, 2022. As the Select Board did not have a quorum at that meeting, it did not vote on the item. The Budget Board voted five in favor, none opposed, 2 absent to recommend the \$2.5 million limit increase.

This public hearing, S. Schulte said, was needed before the Select Board could consider advancing this proposal to a Town Meeting. Schulte opened the public hearing and solicited public comments and questions.

W. Ward, Jr. asked for an explanation of the rationale for the increase. J. Downs replied that a number of factors prompted the increase, to include: (1) debt service, (2) inflationary pressure on costs, (3) employee benefit packages, (4) the cost of new fire trucks and ambulances; and (5) the cost of asphalt, among others. There were no other comments.

Motion: To recommend increasing the LD 1 Cap by an amount of \$2,500,000 and to send this to the next Town Meeting.

Moved: L. Pratt

Seconded: S. Carpenter

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

Motion: To recommend acceptance of this article.

Moved: L. Pratt

Seconded: W. Ward, Jr.

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

g. Proposed Warrant Articles

The Chair then enumerated the warrant articles proposed for voter consideration at Kennebunk's Special Town Meeting of November 8, 2022. All require public hearing consideration, Schulte said. The items include:

- Establish a Charter Commission for the purpose of revising the Municipal Charter;
- Choose, by ballot, six Chamber Commission members;
- Change from MainePERS Special Plan 2C to Plan 1C for participating public safety employees to be funded for a six-month period by \$79,622 of the General Fund Balance;
- Increase the property tax levy limit [LD 1 Cap] established by State law by \$2.5M;
- Authorize the Select Board to spend the second tranche of ARPA funds in the amount of \$614,605;
- Enter into an Agreement for Dispatch and PSAP Services for a period of up to three [3] years;
- Consider Accepting Lobster Lane as a Town road;
- Consider Land Swap between the Town of Kennebunk and Garden Street, LLC; and,
- Adopt Ordinance language changes, "Article 2 Definitions", regarding wetlands.

The Chair opened a public hearing for comments and questions, but there were none regarding these articles. No motion or vote was needed.

5. Public Comments

The Chair next opened public comments and questions of a general nature. Prior to that, L. Menard inquired about State revenue sharing, then commented about a proposal before the Planning Board concerning possible development in the Branch Brook zone. Menard urged the Select Board to be sensitive to the public's concerns about the safety of the Town's water supply.

There being no other comments or questions, S. Schulte closed public comments.

6. Acknowledgements and Announcements

There were none.

7. Time Sensitive Business and Staff Presentations

The Board then heard several updates and staff proposals.

a. Skatepark

C. Osterrieder and K. Winton updated the Board on the status of the renovation work being done on the Town's skatepark. Osterrieder showed a brief film about the "pre-improvement" park and explained the current status of the project. Two of the four phases of the renovation are complete, Osterrieder said, and the work done by Kennebunk's Public Services Department has helped to significantly contain costs.

Even so, C. Osterrieder reported that there was "still work to be done", but the project was hitting budget limits. Phase 3 is expected to cost \$90,000. Osterrieder also reported that a grand opening of the skatepark is expected to take place during HarvestFest. He thanked the private and corporate donors who made funds available along with the Town for this project. He also urged the public to consult the Town's website for more information about the skatepark.

W. Ward, Jr. thanked Osterrieder and his team for moving the project forward. L. Trentalange asked if the intent was to eventually replace the skatepark's asphalt with concrete, and Osterrieder replied that it was an option ("Phase 4") if funding became available.

M. Whitehouse asked where Phase 3 funding was coming from, and C. Osterrieder responded that the Town would seek grant money as well as donor assistance.

K. Winton then introduced Kyle Watkinson, one of the several skatepark users in attendance. The teenager said a concrete surface would probably not be needed, but thanked the Town for the park's improvements.

L. Pratt stated that she and her family were very excited about the improvements. B. Laverriere, Public Services Director, stated that his group was doing landscaping and "some aesthetic sprucing up" at the park in preparation for HarvestFest. K. Winton reported the Town Hall staff would continue to look for grant money for on-going improvements.

b. Fire Truck Purchase

S. Schulte next reminded the Board and public that, at Kennebunk's June 14, 2022 Annual Town Meeting, voters had approved the issue of \$1.5 million of bonds for funding to replace the Town's 1988 E-One Stratosphere 100-ft. aerial fire truck.

In 2018, Schulte reported, the Town had utilized the Houston-Galveston Area Council Cooperative ["HGAC"] Bid and RFP Purchasing Program to purchase Engine 4, a 2019 Sutphen Monarch fire truck. The HGAC, he explained, is a nationally recognized group which surveys pricing every 2-3 years on commonly purchased equipment and vehicles. Making a purchase via the HGAC typically affords savings of approximately 15%.

Kennebunk's Fire Rescue Department, Schulte stated, therefore seeks Select Board approval to again use the HGAC Bid/PDF Program to replace the Department's 1988 E-One fire truck.

The Truck Committee, Schulte added, had conducted extensive research on different trucks and pricing. It recommended the purchase of a 2024 Sutphen Heavy Duty 100ft. Mid-Mount Aerial Tower (SPH100) truck. The HGAC price is \$1,504,000. Sutphen has offered a \$53,580.00 (or 3.6%) discount if the Town prepays the truck in full. The final

cost after the discount would be \$1,450,420. Schulte noted that this discount rate exceeds the interest rates currently earned by the Town's cash investments.

Fire Chief Justin Cooper addressed the Board next, explaining that "fire trucks should usually be replaced every 20 years". The Truck Committee, he said, had compared manufacturers and pricing for the vehicle at length. Cooper also reported that "steep price increases" are now taking place.

In addition to the discount which the Sutphen Corporation initially offered, Cooper reported that the Fire Rescue Department proposes to realize even better pricing by buying its truck along with Kennebunkport, which is purchasing a new truck of its own. Fire Department personnel of both towns, Cooper said, would undergo joint training so both groups know how to use the two trucks interchangeably. The two towns will also coordinate maintenance schedules.

W. Ward, Jr. asked if the shift from a ladder truck to a "tower" would improve service. J. Cooper replied that service and safety would "improve significantly". Cooper explained that an aerial or tower truck affords much stronger water emissions and permits the extraction of people from the upper floors of burning buildings with much greater speed and safety. "It will be a night and day difference," he said.

S. Schulte asked when the new truck would to be delivered if authorized, and Chief Cooper said sometime in 2024. The trucks have to be ordered in advance.

John Costin, a public commentator, observed that, by his tally, the actual discount to be realized was more likely 7% (not the 3.6% reported). He inquired about the source of funding to be used for the purchase. J. Downs answered that the Town would tap its General Fund or other cash positions. In response to other Board questions about funding, Downs affirmed that the Town had already budgeted \$1.5 million for the vehicle.

There being no other comments or questions, the Board proceeded to entertain the following motion:

Motion: To approve the purchase of a 2024 Sutphen Heavy Duty 100-ft. Mid-Mount Aerial Tower (SPH100) from the Sutphen Corporation, complete and delivered, for an amount not to exceed the sum total of \$1.5 million.

Moved: L. Pratt

Seconded: S. Carpenter

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

8. Old Business

a. Legislative Policy Committee Run-Off Election

S. Schulte next reminded the Board and public that the Select Board had previously nominated William Ward, Jr. to represent District 34 on the Maine Municipal Association's Legislative Policy Committee. The post has a two-year term from July 1, 2022 to June 30, 2024. Municipalities had submitted their ballots for two members in August, 2022. Laurie Smith was subsequently elected to one post. However, W. Ward, Jr. and Dwayne Morin tied for the second one.

Schulte advised fellow members that they now had the opportunity to vote for Ward, Jr. or Morin, but had to return Kennebunk's ballot by September 21, 2022.

Motion: To vote for William Ward, Jr. to represent District 34 on the MMA's Legislative Policy Committee.

Moved: L. Pratt

Seconded: S. Carpenter

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

Motion: To authorize the Town Manager to sign the ballot on the Board's behalf.

Moved: L. Pratt

Seconded: S. Carpenter

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

b. Other Old Business

There was none.

9. New Business

a. Proclamation Request/Policy

A member of the National Society of the Daughters of the American Revolution asked Kennebunk's Select Board to issue a proclamation recognizing September 17-23, 2022 as "Constitution Week".

S. Schulte observed that the Select Board had previously considered a similar request in September, 2020. After considerable deliberation at that time, the Board had voted *not* to issue proclamations of any kind going forward. Further information about the Board's "Policy on Proclamations" is available at www.kennebunkmaine.us/policies. He invited Board and public comments on this policy.

L. Trentalange asked if the policy was prescribed by the Town's Charter. S. Schulte replied that it was not.

Schulte explained the rationale underlying the policy. The 2020 Select Board, he said, sought to avoid partisan endorsements or proclamations and specifically avoid endorsing positions or topics on which the Board does not opine, vote on, or act upon. W. Ward, Jr. concurred, stating "our mandate is to take up Town issues only."

A public commentator, Rachel Phipps, stated that she agreed with the policy and was opposed to the proclamation proposed. Another commentator, John Costin, expressed surprise that this request was before the Select Board, given that a prior Select Board established a policy that they would not consider proposed proclamations. S. Schulte retorted that this item had been included in the meeting's agenda to permit the Board to review and discuss such policies from time to time, especially given that several of the Board members were not on the Board when the referenced 2020 policy was adopted.

No motion was entertained. However, the Board informally agreed to continue the established policy.

b. Other New Business

There was none.

10. Select Board Comments

a. Subcommittee Reports:

There were none

b. Board Liaison Reports

- L. Pratt: The Energy Efficiency & Sustainability Committee will not meet next week. The Tree Committee met last week and is working on its budget.
- S. Schulte: The Conservation Commission meets next week and S. Schulte will report on its decisions afterward.
- M. Whitehouse: Learned at the recent School Board meeting that there are 500 teacher vacancies in Maine and 45 openings in RSU-21. A meeting of the Lower Village Committee took place on September 12th. S. Sawyer is sending the group's Master Plan to the State. C. Osterrieder agreed to help update the Plan's cost projections.

c. Comments of Individual Select Board Members

- L. Pratt: The Food Diversion Workshop will take place on Thursday, September 22nd at the West Kennebunk Fire Station from 8:30am until 12:30pm. Snacks will be offered. There will also be a Community Composting Workshop on October 3 at the Library.
- S. Schulte: Commended C. Osterrieder, B. Laverriere, and K. Winton for their work on the Skatepark.
- W. Ward, Jr.: Commended C. Osterrieder, B. Laverriere and their teams as well.

11. Announcements

The Town Manager and Town Hall staff then made a number of announcements.

- a. Route One Rest Area Project:** C. Osterrieder reported that because of State permit delays, this project has been delayed overall. The merits of it stand, he said. However, the Board will need to extend the validity of the Purchase and Sale Agreement by ninety (90) days. The Board agreed to take up the extension at its next meeting.
- b. Select Board Outreach:** M. Pardue then reported that the Select Board is hosting an outreach event at Town Hall (3rd Floor) on Saturday, September 17th from 8:30am until 10:00am. The public is invited to meet with the two Select Board members hosting this event and talk over their interests and concerns.
- c. Food Waste Diversion Workshop:** M. Pardue re-iterated that the workshop on food recycling will be held on Thursday, September 22nd from 8:30am until 12:30pm at the West Kennebunk Fire Station. He urged the public to obtain additional information about the event at www.kennebunkmaine.us/news.
- d. Charter Commission Nominations:** M. Brown, Town Clerk, then reminded the Board and public that nomination papers for the Town's six elected Charter Commission members are still available at the Town Clerk's Office, 2nd Floor, Town Hall. If voters approve the formation of the Charter Committee, the six nominees with the most votes will become members of the Commission. Additional information is available by calling the Town Clerk at (207) 604-1326.

12. Executive Session

There was none.

13. Adjournment

There being no additional comments or topics for discussion, the presiding officer adjourned the meeting at 8:40 pm.

Motion: To adjourn the meeting.

Moved: L. Pratt

Seconded: W. Ward, Jr.

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

Respectfully submitted by,
J. Schlagheck, Clerk

Adopted by the Board in the meeting of 9/27/22,
DATE OF MEETING

Signed by
Select Board Member: [Signature]
SIGNATURE
Lisa Pratt
NAME IN PRINT