

**TOWN OF KENNEBUNK
BOARD OF SELECTMEN**

TUESDAY, FEBRUARY 12, 2019 – 6:30 P.M.

**KENNEBUNK TOWN HALL
3rd FLOOR/ROOM 301**

REGULAR MEETING AGENDA

1. Call to Order & Pledge of Allegiance

2. Approval of Minutes

- a. January 22, 2019 Regular Meeting

Budget Meetings (**minutes to be presented at a future meeting**)

- a. January 29, 2019 Special Meeting (budget meeting)
b. January 31, 2019 Special Meeting (budget meeting)
c. February 2, 2019 Special Meeting (budget meeting)
d. February 5, 2019 Special Meeting (budget meeting)
e. February 7, 2019 Special Meeting (budget meeting)

3. Items to be Signed

4. Public Hearings

- a. Municipal Officers of the Town of Kennebunk will hold a Public Hearing to act on the following:

To discuss the proposed carry forward balances remaining in accounts with unexpended funds (from FY17-18, as of June 30, 2018, to FY18-19, as of July 1, 2018).

Town Manager's Note (not part of the public hearing notice):

In accordance with the Town's Charter, Section 3.06, the Board of Selectmen, after a public hearing, may carry forward funds remaining in accounts with unexpended balances as of June 30, 2018. The books and records for the general fund are nearly closed, with one of the final steps in this process being the identification of funds to be carried forward from fiscal year 2017-18 into fiscal year 2018-19.

MOTION: To carry forward fund balances remaining in accounts with unexpended funds (from FY 17-18 to FY 18-19).

5. Public Comments

6. Acknowledgements/Announcements

- a. Accept the Following Donations – The Town recently received the following donations:

- \$200 donation from an anonymous donor for the Town's Emergency Fuel Assistance Fund
- \$300 donation from an anonymous donor for the Town's Emergency Fuel Assistance Fund

MOTION: To accept the donations and offer our thanks to the anonymous donors.

- \$23,202.24 from Nancy Coleman Cummings in memory of Harrison (Hank) Coleman and Lloyd Nedeau

Kennebunk Fire Rescue received a generous donation from Nancy Coleman Cummings. Nancy, who recently passed away, made this donation in memory of her father, Harrison “Hank” Coleman who served the department as a firefighter and chief officer, and also in memory of Lloyd Nedeau who also served the department as chief officer. The donation that she made is earmarked for specific equipment that will serve the Fire Rescue, but also another piece of equipment that will serve Police, Fire, Rescue, and Public Services.

MOTION: To accept the donation from the family of Nancy Coleman Cummings and send a letter of thanks for this very generous donation.

- b. New Hires: The Town Manager is pleased to announce the hiring of the following new employees:
- April Jones, Deputy Tax Collector – April joined our front office team on January 28th. Her significant work experience includes working in customer service-oriented environments in both the public and private sectors. The addition of April to the Kennebunk team fills a vacancy created by the retirement of Debbie Johnson.
 - Kimberly Carter, Administrative Assistant, Public Services Department – Kim joined our public services team on February 4th. Her work experience includes the provision of administrative support services, to include the management of accounts payable processes. The addition of Kim to the Kennebunk team fills a vacancy that resulted from the resignation of an employee that relocated out of state.

We welcome April and Kim to the Town of Kennebunk and wish them the best in their new positions.

7. Time Sensitive Business & Staff Presentations

- a. Discuss 2019 Ambulance Billing Rates – Each year, the Town reviews the rates charged for ambulance services. Medical Reimbursement Services of Windham, Maine, the Emergency Medical Services billing contractor used by the Town of Kennebunk, completed its annual survey of billing rates charged by area medical service providers. After an analysis of the costs associated with emergency medical service response and provision, the accompanying proposed 2019 fees are recommended for Board of Selectmen approval.

As the Board considers this request, it is important to note that the recommendation for an increase in billing rates is to offset expenditure increases in the following lines:

- Soft medical supplies are no longer replaced at the hospital.
- We are now having to pay for all medications and can no longer get resupplied at the hospital.
- The cost of some medications and medical supplies has gone up exponentially, specifically due to supply shortages.

It is also important to recognize that Medicare and Medicaid (MaineCare) pay a percentage of the bill, which is based on local billing profiles. The private insurers base their rate over CMS (Centers for Medicare and Medicaid Services) rates, so Medicare typically will pay up to 60% percent of the charge and Medicaid will pay 30-40%, depending on the charge.

Chief Rowe will be present to answer any questions the Board may have.

MOTION: To approve the recommended Ambulance Billing Rates for 2019.

- b. Authorize the Purchase of In-Car Dash/Body Camera System – A total of \$70,000 was approved through last year's budget process for the purchase of a new in-car camera/body camera to replace the current in-car camera system, which is nine years old.

The Police and IT Departments have worked in partnership over the past year researching camera systems and have narrowed their selection to two vendors.

Watchguard	\$68,735
Global Public Safety	\$61,752

While both systems integrate cruiser and body cameras, the Police and IT Departments recommend the purchase of the Watchguard system as the Watchguard system's body cameras are much more practical due to their size. Further, the Watchguard cameras record in high definition, providing video quality that is far superior to those of Global Public Safety.

MOTION: To approve the purchase of the Watchguard system in the amount of \$68,735.

8. Old Business

9. New Business

- a. Discuss Possible Amendments to Town Ordinance – On January 22, 2019, the Board of Selectmen Ordinance Subcommittee met to discuss two amendments to the Town ordinances. Section 2-3, “One-way and Prohibited Traffic” and Section 3-5, “Public Beaches” were discussed for amendment, based on concerns raised by citizens and staff. The amendment to Section 2-3 would specifically restrict vehicular, snowmobile and ATV access along the portions of Emmons Road between Sparrow Drive and the Eastern Trail. The Kennebunk Police and Town Attorney have been provided copies of the amendment. Section 3-5 is being amended to remove Parsons Beach from the jurisdiction of this ordinance as the Town holds a lease agreement with specific rules, thus there is no need for an overlap of documents.

If the Board wishes to advance these ordinance amendments, a public hearing is needed. The motion could be:

MOTION: To hold a Public Hearing on February 26, 2019 to hear public comment on the possible amendments to Town Ordinances 2-3 (One-Way and Prohibited Traffic) and 3-5 (Public Beaches), as noted above.

If the Board moves these Ordinance amendments to a Public Hearing, the Board could also hold a Public Hearing on February 26, 2019 to hear public comments on the proposed Ordinance Prohibiting the Release and Display of Balloons (discussed at the Board's January 8, 2019 meeting and moved to a Public Hearing in April).

- b. Discuss Necessary Road Closures, Associated with Special Event Applications – The Special Event Policy requires Board approval for road closures. According to the Police Department, they are requesting approval for the following road closures or delays. Note: There are no changes from previous years.

- **Friday, July 12, 2019: 22nd Edition Library Road Race 5K**

Road Closures Needed:

5:45 P.M – 6:40 P.M. Dane Street closed from Park Street to Main Street (race finish location)

6:05 P.M. – 6:30 P.M. Depot Street (one lane closed) No cars can enter Depot Street from Summer Street

6:05 P.M. - 6:45 P.M. Main Street closed from Water Street to Dane Street (north bound only)

The above information may be subject to change.

MOTION: To approve the road closures for the 22nd Edition Library Road Race 5K as noted above.

- c. Discuss Any Other Business

10. Board of Selectmen Comments

- a. Subcommittee Reports
- b. Individual Selectmen Comments

11. Town Manager Announcements

- a. Selectmen Outreach Session – Saturday, February 16 from 8:30-10:30 am, 3rd floor of the Town Office. This session will be hosted by Selectmen Chris Cluff and Wayne Berry. Stop in for a chat and enjoy a cup of coffee and a donut! Any changes to this schedule will be posted on our website.
- b. Closures and Trash/Recycling Schedule – Presidents' Day – Monday, February 18
 - o Closed: Town Hall, Department of Public Services, Transfer Station/Recycling Center
 - o Curbside Collection: No change - All days will be collected as scheduled
- c. Proposed FY2019-20 Budget – Want to catch up on the budget meetings that took place recently at Town Hall? Meetings are archived for viewing anytime at www.townhallstreams.com.
 - o View the supporting detailed budget documents presented at the budget meetings at www.kennebunkmaine.us/budget.

12. Executive Session

- a. Discuss an Economic Development Matter with the Town Manager, Finance Director, Code Enforcement Officer and Community Development Director regarding an economic development matter where premature disclosure of the same would prejudice the competitive bargaining position of the Town relative to the same - Title 1 MRSA Sec. 405(6)(C)

13. Adjournment

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(MINUTES)

TOWN OF KENNEBUNK

BOARD OF SELECTMEN MINUTES

January 22, 2019 – 6:30 P.M.

1. Call to Order and Pledge of Allegiance

On Tuesday, January 22, 2019, at approximately 6:30 p.m., in Room 301 of the Town Hall, Richard Morin, Chairman of the Board of Selectmen for the Town of Kennebunk, called to order the Board of Selectmen. Present were Selectmen L. Blake Baldwin, Richard Morin, Edward Karytko, Wayne Berry, William Ward, Jr. and Christopher Cluff. Schulte arrived after the Pledge of Allegiance.

Also present was Town Manager Michael Pardue.

The Pledge of Allegiance was recited.

2. Approval of Minutes

- a. January 8, 2019 Regular Meeting

A motion was made to approve the minutes for January 8, 2019 (Regular Meeting).

MOVED: Karytko

SECONDED: Cluff

VOTE: 7 in favor, 0 opposed. The motion passed.

3. Items to be Signed - none

4. Public Hearings - none

5. Public Comments - none

6. Acknowledgements/Announcements

- a. Accept the Following Donations – The Town recently received the following donations:

- \$25 from Gladys Benshimol for the Medical Equipment Loan Closet
- \$2,500 from the Flynn Family Foundation for Social services

A motion was made to accept the donations and send a letter of thanks to both for their generous donations.

MOVED: Karytko

SECONDED: Ward

VOTE: 7 in favor, 0 opposed. The motion passed.

7. Time Sensitive Business & Staff Presentations

- a. Take up Committee Resignations:

Susan Lee, due to relocation, has resigned from the following committees:

- Susan Lee, Lower Village Committee (Alternate 2019)
- Susan Lee, Beach Parking Assessment Working Group (Beach Area Rep./no term)

A motion was made to accept the resignation of Susan Lee from the Lower Village Committee and the Beach Parking Assessment Working Group and send a letter thanking her for her commitment to the Town.

MOVED: Karytko
SECONDED: Ward
VOTE: 7 in favor, 0 opposed. The motion passed.

b. Candidates to Appear for Appointment Consideration to Town Committees –

- **Zoning Board of Appeals** Vacancies: (1) Alternate 2019
 - Stephen Sayers

A motion was made to appoint Stephen Sayers as an Alternate Member of the Zoning Board of Appeals with a term expiring in 2019.

MOVED: Karytko
SECONDED: Cluff
VOTE: 7 in favor, 0 opposed. The motion passed.

- **Energy Efficiency Advisory Committee** Vacancies: (3) Regular 2021, (1) Youth 2019
 - Bevan Davies

A motion was made to appoint Bevan Davies as a Regular Member of the Energy Efficiency Advisory Committee with a term expiring in 2021.

MOVED: Karytko
SECONDED: Cluff
VOTE: 7 in favor, 0 opposed. The motion passed.

- **Budget Board** Vacancies: (1) Regular 2021, (1) Regular 2019
 - Sarah Wheeler
 - Peter Brewitt

A motion was made to appoint Peter Brewitt to a Regular Member of the Budget Board with a term expiring in 2019 and Sarah Wheeler as a Regular Member of the Budget Board with a term expiring in 2021.

MOVED: Cluff
SECONDED: Baldwin
VOTE: 7 in favor, 0 opposed. The motion passed.

- **West Kennebunk Village Committee** Vacancies: (1) Regular 2021, (2) Regular 2020
 - Peter Donaher
 - Dana Ingham

A motion was made to appoint Peter Donaher to the West Kennebunk Village Committee as a Regular Member with a term expiring in 2020 and Dana Ingham as a Regular Member on the same with a term expiring in 2020.

MOVED: Cluff
SECONDED: Karytko
VOTE: 7 in favor, 0 opposed. The motion passed.

- **Board of Assessment Review** Vacancies: (1) Regular 2020
 - Dudley "Butch" Tyson

A motion was made to appoint Dudley Tyson as a Regular Member on the Board of Assessment Review with a term expiring in 2020.

MOVED: Karytko

SECONDED: Cluff

VOTE: 7 in favor, 0 opposed. The motion passed.

Schulte expressed his appreciation for the people appointed tonight, people who are willing to volunteer.

8. Old Business - none

9. New Business

- a. Discuss the Bids for the Sale of the Rest Area Property – On November 26, 2018 the Town received two responses to the Request for Proposals (RFP) - Property Purchase Rest Area Property (Map 59, Lot 34—Route One South). The RFP contained comprehensive information on the subject property, known constraints, selection process and proposal guaranty. The Proposal Selection process within the RFP indicated that a selection committee would review and evaluate the proposals based on the information submitted and provide a recommendation to the Board of Selectmen. Within the Proposal Selection were specific scoring criteria with the potential to receive a maximum score of 100 points.

Town Staff identified five community members made up of residents with diverse backgrounds including legal, utility district management, building construction, professional services and Comprehensive Planning/Planning Board experience. One of the committee members was unable to complete the scoring process due to late developing personal obligations. Staff provided copies of the two proposals, the RFP and a detailed scoring matrix with guidance in terms of how points could be allocated based on the scoring criteria outlined in the RFP. The selection committee reviewed these independently and did not meet as a group, rather they simply provided the results of their reviews individually to Town Staff.

Based on the results, the following scores were received:

Scorer	Following Seas, LLC	Cottage Advisors, LLC
Reviewer #1 - MB	93	71
Reviewer #2 - JPL	70	66
Reviewer #3 - DL	85	68
Reviewer #4 - PF	98	90

A copy of each proposal can be found on the Town's website by following the links below:

[Following Seas, LLC](#)

[Cottage Advisors, LLC](#)

Both proposals submitted complied with the requirements of the RFP. The consensus of the scoring completed by the selection committee indicates that the proposal submitted by Following Seas, LLC is higher rated. Based on the comprehensive nature of the proposal and clear distinction in scoring, Staff would recommend that the Town consider entering into a Development Agreement with Following Seas, LLC in accordance with Section VII Proposal Guaranty of the RFP. Should the Board of Selectmen decide to pursue this Development Agreement, the selected proposer would have 10 days upon notification to submit a 10% deposit based on the proposed sale price. The Town and the selected

proposer would have 30 days to negotiate a Development Agreement that would stipulate the terms of the final transaction.

Cluff stated that it seems to him they were doing this a little backward, saying typically when they get an RFP like this, particularly when they're going to sell a piece of land, they would first go into executive session to review that RFP and discuss it.

Morin said he thinks the terms of that should probably be done in executive session. He asked if they should table this for the moment until they get to the end of the meeting.

Schulte asked if they could hear from people who may have come to this meeting with comments on this, consider those comments and take them into executive session. Morin granted that such happen and offered the public a chance to share comments on this topic.

Beth Fossett, Kennebunk resident and owner of the abutting property, spoke. She noted that they were the previous bidders. Fossett said they've looked at the two proposals; she said they understand that the Town has seen one of these proposals before, adding that she knows it was shot down once before. Fossett mentioned too that, as the abutter, they also agree with the scoring process. Further, Fossett said that, as the abutter, they'd fully support Following Seas, LLC as a good opportunity for the Town.

A motion was made to table this until after the executive session.

MOVED: Cluff

SECONDED: Ward

VOTE: 7 in favor, 0 opposed. The motion passed.

- b. Discuss Necessary Road Closures, Associated with Special Event Applications – The Special Event Policy requires Board approval for road closures. According to the Police Department, they are requesting approval for the following road closures or delays. Note: There are no changes from previous years.

- **Saturday, May 4, 2019: May Day Festival (sponsored by Town)**

This event occurs in the downtown area (Rotary Park, Waterhouse Center, Kennebunk Library, etc.) and requires a road closure for the parade.

Road Closure Needed:

12:30 p.m. – 2:15 p.m. - various times on Water Street, Factory Pasture Lane, Main Street, Dane Street and Grove Street. Please refer to the road closure information enclosed in the packet for specific times.

A motion was made to approve the road closure for the May Day Festival as noted above.

MOVED: Karytko

SECONDED: Cluff

VOTE: 7 in favor, 0 opposed. The motion passed.

- **Sunday, June 2, 2019: The Kennebunk Beach Classic 5K Road Race/Walk (sponsored by The Center)**

This 5K race begins on Port Road and has a start time of 9:00 a.m.

Road Closure Needed:

9:00 a.m. - 10:30 a.m. - Western Avenue from the intersection of Western Avenue and Beach Avenue (Coopers Corner) to Western Avenue and Boothby Road. Please refer to the road closure information enclosed in the packet for specific times.

A motion was made to approve the road closure for the Kennebunk Beach Classic 5K Road Race/Walk as noted above.

MOVED: Karytko

SECONDED: Ward

Before the motion was voted on, Schulte asked if this is the same time closure as has been done in the past. He said it seems like a fairly long time for a road closure for a 5K. Pardue responded to Schulte, saying he thinks it's the same as what they did last year.

VOTE: 7 in favor, 0 opposed. The motion passed.

c. Discuss Any Other Business

10. Board of Selectmen Comments

a. Subcommittee Reports

There were two subcommittee meetings this evening. Cluff explained that there was an Ordinance Subcommittee meeting at 5:30pm, saying they are going to make a couple minor administrative changes to two pieces of the non-zoning Ordinance; those will come before the Board. Baldwin then discussed the Social Services Agencies Subcommittee Meeting held this afternoon at 4:00pm.

b. Individual Selectmen Comments

Selectman Ward:

- Thanked the Highway Department for their excellent work during the storm and the Police Department as well.

Selectman Baldwin:

- Noted a sad passing: the passing of Boyd Swenson, who died on January 16th. Boyd served on the Town's Tree Committee and was a long-time resident of our Town and will be sorely missed.

Selectman Karytko:

- Asked that if anyone has flags that are torn or tattered to please bring them to the American Legion on Water Street to be disposed of properly.
- Reminded residents there is a box in the lobby, in front of the Town Clerk's Office, to drop off eye glasses and cell phones. These items go to the Lions Club and are recycled for various functions and reasons.
- At the last meeting, Kennebunk's Webber-Lefebvre Post 74 was granted a proclamation by the Town (Proclamation for the Celebration of the 100th Anniversary of the Founding of the American Legion and Kennebunk's Webber-Lefebvre Post 74); spoke of the many positive comments from the members of Legion Post 74 about what the Board did in the ceremony that took place here.
- Asked about the new sidewalk plows yet?

Pardue addressed the question of Karytko's about the sidewalk plows. He said there is currently one new sidewalk plow and they are still waiting on the other new one (we continue to use the loaner until the new one arrives).

Selectmen Berry and Schulte:

- None

Selectman Cluff:

- Received a couple comments in the last 24 hours about the roads still being a bit snow covered and how that was not the case in other communities. I believe our Public Works Department does things a little differently: they chose to leave a little snow on the roads when we get into these really cold temperatures so that the roads don't ice up if there's an issue.

Pardue confirmed that what Cluff said, noted above, regarding the strategy of the Public Works Department, is correct. He then offered further comment on the topic of storm clean-up.

Selectman Cluff (Continued):

- Yesterday, Al Davis, Chaplain on the Fire Department, passed away; services will be Friday from 3-6 p.m. at Bibber's Funeral Home; I know there'll be a good contingent from the Fire Department there as well; another very sad passing (this one as well as the one Baldwin mentioned in his Selectman comment)

Selectman Morin:

- Wanted to repeat Ward's comment: a good job, Public Works, during the past storm

11. Town Manager Announcements

- DRAFT**
- Selectmen Outreach Session – The next Outreach Session will be held on Saturday, February 16th from 8:30 a.m. to 10:30 a.m. at the Town Hall.
 - Comprehensive Plan Open House – Saturday, January 19th from 9:00 a.m. to 11:30 a.m., third floor of the Town Hall - The Town is currently engaged in a process to update our Comprehensive Plan, which is a document that outlines the recommended steps that Kennebunk take to manage growth and provides guidance to public and private decision makers regarding the future development of the town. In addition, the Plan provides a framework for the Town's zoning and other land use ordinances. You are encouraged to log on to the Town's website and visit the Community Voice page (www.kennebunkmaine.us/CommunityVoice) where you can read the ongoing discussion and add your comments to the various topics covered by the Comprehensive Plan.

Baldwin spoke to this item. He mentioned that it was heartening to see about 45-50 members of the community come in and participate. Karytko noted that there was one resident who thought there'd be more discussion at the event.

- Maine Real Estate and Development Association (MEREDA) Conference – Town Manager Pardue and Board Chair Morin attended MEREDA'S 2019 Annual Conference this past week. Conference materials included economic forecasts, along with projected residential and commercial sales activity. There was also a significant focus on data derived from the hospitality industry, to include a look back at 2018 and a look forward at 2019 projections. The information gleaned will be helpful as we consider future economic development opportunities and plan strategically for the future.
- Budget Meeting Dates for the 2019-20 Proposed Budget

Meeting #1	Tuesday, January 29	6:30 p.m. - 9:00 p.m.
Meeting #2	Thursday, January 31	6:30 p.m. - 9:00 p.m.

Meeting #3	Saturday, February 2	8:30 a.m. - 11:30 a.m.
Meeting #4	Tuesday, February 5	6:30 p.m. - 9:00 p.m.
Meeting #5	Thursday, February 7	6:30 p.m. - 9:00 p.m.
Meeting #6	Saturday, February 9	8:30 a.m. - 11:30 a.m.
Meeting #7*	Wednesday, February 13	6:30 p.m. - 9:00 p.m.
Meeting #8*	Saturday, February 16	8:30 a.m. - 11:30 a.m.

*(if needed – additional meetings or snow day makeup)

12. Executive Session

At approximately 7:02 p.m., a motion was made to adjourn the executive session to discuss with the Town Manager, Finance Director and Community Development Director the bids for the Rest Area property where premature disclosure of the same would prejudice the competitive bargaining position of the Town relative to the same - Title 1 MRSA Sec. 405(6)(C). (Note, the Finance Director will not be in attendance)

MOVED: Cluff
SECONDED: Karytko
VOTE: 7 in favor, 0 opposed. The motion passed.

At approximately 7:41 p.m., a motion was made to exit executive session.

MOVED: Cluff
SECONDED: Karytko
VOTE: 7 in favor, 0 opposed. The motion passed.

A motion was made to return to Item 9a.

MOVED: Cluff
SECONDED: Ward
VOTE: 7 in favor, 0 opposed. The motion passed.

A motion was made to request the Town Attorney to prepare the necessary documents and pursue a Draft Purchase and Sale Agreement with Following Seas, LLC for the sale of the Route One South Rest Area property and development of a residential memory care facility to accommodate 12 studio apartments.

MOVED: Baldwin
SECONDED: Cluff
VOTE: 7 in favor, 0 opposed. The motion passed.

13. Adjournment

At approximately 7:43 p.m., a motion was made to adjourn the meeting.

MOVED: Karytko
SECONDED: Cluff
VOTE: 7 in favor, 0 opposed. The motion passed.

Christopher Cluff, Secretary
Kennebunk Board of Selectmen

Date: _____

7.a.

Jeffrey H. Rowe, Fire Chief
John Brady, Division Chief/EMS



William VanDeinse, District Fire Chief
Justin Cooper, District Chief
Chris Pare', District Chief

KENNEBUNK FIRE RESCUE KENNEBUNK, MAINE

TOWN OF KENNEBUNK 2019 AMBULANCE BILLING RATES

<u>Charges</u>	<u>Rates 2018</u>	<u>Rates 2019</u>
BLS EMERGENCY BASE RATE	\$1100.00	\$1200.00
BLS NON-EMERGENCY BASE RATE	\$600.00	\$650.00
ALS1 EMERGENCY BASE RATE	\$1800.00	\$2000.00
ALS1 NON-EMERGENCY BASE RATE	\$900.00	\$1000.00
ASL2 EMERGENCY BASE RATE	\$2500.00	\$2750.00
SPECIALTY CARE TRANSPORT	\$3000.00	\$3500.00
MILEAGE	\$20.00	\$22.00
ON SCENE (No Transport: with pt. assessment; no meds.)	\$150.00	\$150.00
ALS INTERCEPT FEE	\$300.00	\$300.00
ON SCENE (No Transport; Monitor; Glucose; O2 etc.)	\$250.00	\$250.00

9.a

2-3 ONE-WAY AND PROHIBITED TRAFFIC (DRAFT January 29, 2019)

3.1 It shall be unlawful to operate any vehicle upon or along Curtis Court in a southerly direction from the Town of Kennebunk Parking Lot to Main Street. (10-26-1971)

3.2 It shall be unlawful to operate any vehicle upon or along Garden Street in an easterly direction. (10-26-1971)

3.3 It is unlawful for any truck to drive on Chase Hill Road unless it is destined for a location on that street. (02-22-11)

3.4 It shall be unlawful for the operator of any motor vehicle to enter Devonshire Lane from Route 35 when proceeding in an easterly direction. Any person, firm or corporation who violates any provision of this section upon conviction, shall be punished by a fine as set by the Board of Selectmen's fee schedule together with costs to be used by the Municipality of Kennebunk. (05-08-1979; 06-12-02)

3.5 Prohibited Traffic on Town Property

3.5.1 It shall be unlawful for any person or persons to operate a motor vehicle, as defined in 29 M.R.S.A., Section 1, subsection 7, **or a snowmobile or ATV**, upon any of the below listed Town properties. This prohibition shall not pertain to any portions of these properties which are paved for motor vehicle traffic, nor shall it pertain to maintenance vehicles operated by the Municipality or by public utilities needing access to their property, nor shall it pertain to rights-of-way across said property.

3.5.2 The following Town properties shall be covered by this Ordinance:

- A)** The former "Kennebunk Seashore Railroad Line" otherwise known as the "Bridle Path" so-called, commencing at its intersection with Railroad Avenue to the intersection of the Sea Road as it passes the Webhannet Golf Course.
- B)** All Town property extending from the end of Plummer Street to the Kennebunk River known as "Wonderbrook Park," so-called.
- C)** All Town property in the Wiggin's Pond, Wiggins Pond Lane area.
- D)** Harbor Playground, Park Street.
- E)** West Kennebunk Fields, Holland Road.
- F)** Lower Village Field, School Street.

G) All Town properties lying between the Boston & Maine Railroad and the River Bend Woods development.

H) The portion of the Eastern Trail that is accepted by the Eastern Trail Maintenance District and located within the Town of Kennebunk. (06-21-2011)

I) The portion of Emmons Road between Sparrow Drive and the Eastern Trail

3.5.3 Any person, firm or corporation who violates any provision of this section shall, upon conviction, be punished by a fine as set by the Board of Selectmen's fee schedule together with costs for use of the Municipality. (06-19-1984; 06-12-02)

3.5.4 Fees shall be shown on a fee schedule set by vote of the Board of Selectmen each year, after notice and hearing. (06-12-02)

3-5 PUBLIC BEACHES (DRAFT JANUARY 30, 2019)

I) STATEMENT OF PURPOSE

The purpose of this ordinance is to provide for the safety, enjoyment, health and welfare of all persons using any public beach located in the Town of Kennebunk by authorizing, among other things, the closure of, and the removal of persons from the Town beaches and adjacent waters due to unsafe or hazardous conditions, including, but not limited to, dangerous surf or wave action or unhealthy water quality.

The purpose is to further provide a means of maintenance, operation and protection of the public beaches and to provide a family oriented atmosphere at an environmentally friendly and enjoyable public beach for residents, residents' visitors and land/property owners of Kennebunk.

This Ordinance is adopted pursuant to Municipal Home Rule ordinance authority and M.R.S.A., Title 30-A, Section 3001.

II) ADMINISTRATION, AUTHORITY, APPLICABILITY, EFFECTIVE DATE

- A) Administration of the public beaches will be by the Municipal Officers. They are responsible for the maintenance, operation and general stewardship of all of the Kennebunk public beaches.
- B) Authority to act: The Municipal Officers shall oversee the public beach areas and shall adopt, after public notice and hearing, establish, and as necessary, revise, any additional rules and regulations that they may deem necessary to maintain safety. These safety rules and regulations, not inconsistent with this Ordinance, shall be posted in a conspicuous place at the public beaches and shall have the full force and effect of the law.
- C) Applicability: This Ordinance shall apply to Town owned property at all public beaches.
- D) Effective Date: This ordinance took effect upon adoption by the Town of Kennebunk on 6-11-2003.

III) DEFINITIONS

- A) 'Town' is the Town of Kennebunk, Maine.
- B) 'Municipal Officers' means the Board of Selectmen
- C) 'Public Beaches' are the three public beaches owned by the Town, Kennebunk Beach, Middle Beach and Gooch's Beach located along Beach Avenue. ~~and the portion of Parson's Beach that is leased to the Town for use as a public beach.~~
- D) 'Adjacent waters' shall mean the ocean waters along the shoreline of the Town beaches and extending seaward to the edge of the intertidal zone, as defined by state law.
- E) 'Enforcement Authority' shall mean the Town Manager, Health Officer, Fire Chief, Police Chief or any of his designees, any lifeguard employed by the Town, or any other designated Town Official duly authorized to enforce the provisions of the Ordinance or Town regulations.
- F) 'Warning flags' shall mean flags that are posted at the lifeguard stations:
A **red flag** means the beach is closed to swimming and/or water contact.
An **orange flag** indicates that all beaches are closed to swimming and all water

contact except surfing only

A **yellow flag** indicates an advisory notice that there is a potential health risk or dangerous surf conditions – “Swim at Your Own Risk”..

A **green flag** indicates the beach is open for swimming and water contact.

IV) GENERAL RULES

The following rules apply to the beaches:

Conduct and Use

- 1) Regular opening and closing dates for swimming with life guards on duty shall be established by the enforcement authority and approved by the Municipal Officers.
- 2) Picnicking shall be allowed on the public beaches.
- 3) Fires: Fires shall not be allowed on the public beaches, with the exception of cooking fires only on the Middle Beach side of Narragansett Point by permit only obtained from the local Fire Department.
- 4) Offensive behavior: No person shall engage in any indecent language or loud noise which would be offensive to any reasonable person or engage in any disorderly conduct or behavior tending to breach the public peace.
- 5) Children under 12 years of age must be accompanied by someone 16 years of age or older.
- 6) Seasonal activities and use other than swimming and sun bathing shall be as permitted by the enforcement authority, as consistent with the Ordinance's Statement of Purpose.
- 7) No sand, gravel or rocks shall be removed from the beach areas.
- 8) Marine life may not be harvested for commercial purposes.
- 9) Except as otherwise provided for by state law, the Selectmen may impose further limitations on the use of the Town's public beaches for surfing, kayaking and other recreational activities.
- 10) No person, firm or entity shall operate a private business or other entity on any Town public beach in a manner that unreasonably (a) interferes with the general public's enjoyment and use of the beach; (b) poses a safety risk to the participants or the general public; or (c) causes damage to public property. Any for-profit private business operating on a Town public beach must obtain a peddler's permit as set forth in 6-1 of this Ordinance. The Municipal Officers may impose further limitations on the operation of private businesses and other entities on Town public beaches as necessary to enforce this provision.

Sanitation

- a. No bottles, cans or other trash shall be left on the beaches. Users shall carry out what they carried in.
- b. Commencing June 15 and ending on the day following Labor Day of each year, it shall be unlawful for animals of any kind to be on any public beaches of the Town between the hours of 9:00 AM and 5:00 PM, prevailing time. This is not to be construed as limiting the use of seeing eye or disability assistance animals.
- c. No trash whatsoever will be put in the portable toilets.

- d. Children shall not be allowed to swim in disposable diapers. All children who require diapers are required to wear rubber pants that will contain all human waste.

Safety

- 1) No motorized watercraft shall be moored, launched or beached.
- 2) There shall be no water skiing permitted from the beach.
- 3) No motor vehicle or motor driven cycle, bicycle, motor cart, or any motor driven or otherwise propelled contrivance shall be allowed to be placed or in any way operated or moved on or along any of the public beaches within the Town.

This prohibition shall also include horses and horse-drawn vehicles during the period 15 May to 15 September, but shall exclude all emergency type vehicles. Any exception for any emergency shall be granted only by the Municipal Officers.

- 4) All parking shall be in compliance with Section 2-5 Beach Parking Permits Ordinance of the Town of Kennebunk Ordinances.

Prohibited Activities

The following activities are prohibited:

- 1) The use of soap, shampoo or other cleaning agents.
- 2) The use of glass containers.
- 3) Activities which endanger persons or willful damage to any public property at the beaches, including and without limiting to, portable toilets, benches, trees, brush or other vegetation.
- 4) The use of tents or overnight camping.
- 5) Possession or consumption of alcoholic beverages and illegal drugs.
- 6) Smoking on any public beach excluding the designated smoking area.
- 7) Commercial soliciting.
- 8) Any type of fire on the public beaches, with the exception of cooking fires only on the Middle Beach side of Narragansett Point by permit only obtained from the local Fire Department. Upon obtaining the fire permit and if the activity will involve more than 30 participants, you must complete an application available in the Town Clerk's Office. The intent of the application is to limit the number of users on any particular day and to alert various town departments that the activity is taking place
- 9) There shall be no participation in activities or games employing the use of baseballs, footballs, golf balls or the like, in any beach area between the hours of 9:00 AM and 5:00 PM, prevailing time, nor in any activity which may be detrimental to the use and enjoyment of said beach areas as provided by the Statement of Purpose, or which may be injurious to the public health, safety and welfare.
- 10) No campers, so-called, or vehicles designed for sleeping purposes shall be allowed to remain in beach areas between one-half hour after sunset to one-half hour before sunrise, prevailing time.

Any person, firm or corporation who violates Article IV upon adjudication, shall be punished by a fine as set by the Board of Selectmen's fee schedule together with costs to be used by the Municipality of Kennebunk. Any person cited for a violation may settle and compromise the claim against them by paying the Town the sum as set by the Board of Selectmen's fee schedule. Such payment may be made at the Police Station within 7 days of the time of the alleged offense. 07-23-1985

V) REGULATIONS

- 1) The enforcement authority may recall and remove any person from the water when the person shall be in danger of drowning or becoming imperiled, or may imperil the safety of others, all of which shall be determined in the sole discretion of the life-guards duly appointed by the authority having jurisdiction.
- 2) The enforcement authority may recall and remove from the ocean waters and the surf adjoining the water any person who shall be in the ocean waters at any distance at any time when the condition of the wind, water, weather or a hazard, including the physical or mental condition of the person in the ocean waters, shall be such, in the sole discretion of those personnel, as hereinabove described, as to constitute a danger to the health, life or safety of that person or to other persons within the ocean waters.
- 3) The enforcement authority may recall and remove from the ocean waters and the surf adjoining the water any person at any distance at any time when the condition of the water is unsafe due to rainfall, urban runoff, sewage spills, microbiological contamination, or other public health concerns.
- 4) Beaches can only be closed to surfers by either the Town Manager or the Fire Chief or his designee.

VI) VIOLATIONS and PENALTY

Any person who fails or refuses to comply with any lawful order, discretion or command given under authority of this Ordinance or regulations promulgated hereunder, or who resists, obstructs or impedes any lawful attempt made under authority of this Ordinance to recall or remove any person from the water, commits a violation punishable by a civil penalty as set by the Board of Selectmen's Fee Schedule payable to the Town together with costs for use of the Town.

VII) ENFORCEMENT

This Ordinance shall be enforced by the Town Manager, Fire Chief and/or his designee(s), Health Officer, Police, any lifeguard employed by the Town, or any other designated Town Official duly authorized to enforce the provisions of this Ordinance or regulations promulgated hereunder.

VIII) SEVERABILITY

Should any section or provision of this Ordinance or regulations promulgated hereunder be declared by any court of competent jurisdiction to be invalid for any

reason, such decision shall not invalidate any other section or provision of this Ordinance.

IX) AMENDMENT

The Board of Selectmen may, after public notice and hearing, amend this Ordinance and draft and adopt regulations implementing the terms of this Ordinance on any matter not expressly set forth herein or as otherwise provided by law.

Adopted by Town Meeting Vote: 06-11-2003; AMENDED 06-21-2011; AMENDED 06-09-2015