

TOWN OF KENNEBUNK

SELECT BOARD MEETING MINUTES

TUESDAY, FEBRUARY 25, 2020 – 6:30 P.M.

1. CALL TO ORDER & PLEDGE OF ALLEGIANCE

On Tuesday, February 11, 2020, at approximately 6:30 p.m., L. Blake Baldwin, Chair of the Select Board for the Town of Kennebunk, called to order the meeting of the Select Board. Present were Select Board members L. Blake Baldwin, Wayne Berry, Frank Paul, Edward Karytko, Christopher Cluff, William Ward, Jr. and Shiloh Schulte. Town Manager Michael Pardue was also present.

The Pledge of Allegiance was recited.

2. APPROVAL OF MINUTES

- a. February 11, 2020 Regular Meeting [*Please refer to supporting material \(PDF\)*](#)

Meeting Minutes - to be presented at a future meeting

- b. January 27, 2020 Special Meeting (Joint Public Hearing w/ Planning Board)
- c. Budget Meetings of January 30, February 1, 4, 6, and 8, 2020

A motion was made to approve the minutes for February 11, 2020 Regular Meeting,

MOVED: Karytko

SECONDED: Cluff

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

3. ITEMS TO BE SIGNED
4. PUBLIC HEARINGS
5. PUBLIC COMMENTS

Merton Brown, Town Clerk, spoke about the March 3, 2020 election.

Claudia Sayre, from the public, spoke in opposition to Pardue's recently negotiated contract, arguing it reveals conflicts of interests and that Pardue won't be able to deliver the same quality of service to the Town of Kennebunk if he is elected to the State Senate and still retains his role of Town Manager of Kennebunk—Regarding her claim of conflict of interests, Sayre cited that Karytko is the Chair of the Kennebunk Republican Committee and that Pardue is running for State Senate as a Republican.

Due to Ms. Sayre's allotted time for public comment having expired, her husband Dan elaborated on the claim of conflict of interest, saying that there should have been more transparency, some kind of mention, of possible conflict of interests with regard to Pardue's contract before said contract was agreed to. He also said there should be a contract extension to provide that if elected to the State Senate, Pardue must resign as Town Manager.

John Costin, from the public, spoke. He mentioned that as of this afternoon they have about 110 signatures on the petition asking that Pardue's contract be revised. He spoke in opposition to Pardue's contract. Costin discussed conflict of interest, saying that there are legal restraints on the Select Board, saying what bares on the Select Board, in ascending order are: The Select Board Code of Ethics, the Town of Kennebunk Charter, and Maine State Statute. He then discussed conflict of interests. Costin also said he made no allegation of criminal misconduct on the part of the Select Board.

Dan Sayre spoke again, in part saying that it is a clear conflict of interest for Kennebunk's Republican Party Chair to have voted on the contract of Pardue. He also said that any Republicans on the Select Board not disclosing their partisan affiliation prior to signing the contract is a clear instance of conflict of interest.

6. ACKNOWLEDGEMENTS/ANNOUNCEMENTS

- a. **Accept a Donation** – The Town recently received a \$100 donation from Kathryn Davison for the Fire Rescue Department.

A motion was made to accept the donation and send a letter of thanks for this generous donation.

MOVED: Karytko

SECONDED: Cluff

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

- b. **Police Chief Robert MacKenzie Presented with “Outstanding Contributor to Law Enforcement” Award by the Maine Chiefs of Police Association** in recognition of his “stellar and unrelenting leadership in the field of substance use disorder in our communities.”

[Please refer to supporting material \(PDF\)](#)

Pardue spoke, in part saying he is very pleased MacKenzie has been recognized and that he thinks as a community they should be extremely proud of MacKenzie.

Karytko also said they should be very proud of the work MacKenzie’s been doing.

- c. **Officer Kevin Schoff Qualifies as “Drug Recognition Expert”** – Officer Kevin Schoff, who joined the Kennebunk Police Department just over a year ago, after serving five years with another area police agency, recently completed a two-week Drug Recognition Expert course at the Maine Criminal Justice Academy in Vassalboro. The training included a stint at Maricopa County in Arizona, with all related cost paid for by the Bureau of Highway Safety.

Karytko asked what the training noted above entails. Pardue explained that the course of training is very complex, requiring specific knowledge related to an advanced knowledge of science and math but beyond that he, Pardue, is not qualified to offer an in-depth explanation of the training curriculum.

7. TIME SENSITIVE BUSINESS & STAFF PRESENTATIONS

- a. **Discuss Boards and Committees**

- **Move up Alternate Member – Bicentennial Committee**

A motion was made to appoint Alternate member Dana Pearson to a Regular member position on the Bicentennial Committee with a term expiring on June 30, 2020.

MOVED: Karytko

SECONDED: Cluff

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

- **Candidate to Appear for Appointment Consideration to Town Committee –**
 - David Middleton – Bicentennial Committee
[Please refer to supporting material \(PDF\)](#)

(1) Alternate member position – 2020

Mr. Middleton has been attending the Bicentennial Committee meetings since July 2019 and has volunteered to organize the reenactment component of our upcoming bicentennial.

Karytko asked David Middleton why he is volunteering for the Bicentennial Committee. Middleton responded that he is a reenactor, saying he knew the State had its Bicentennial and that Kennebunk did too and offered up his services.

A motion was made to appoint David Middleton as an Alternate member on the Bicentennial Committee with a term expiring on June 30, 2020.

MOVED: Karytko

SECONDED: Cluff

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

- b. **Discuss the Closing of Certain Town Ways to Heavy Loads beginning February 21** – Each year, the Town posts certain roads closed to any non-exempt vehicle or combination of vehicles registered for a gross weight of over 23,000 pounds. Two axle trucks between 23,000 and 34,000 pounds transporting Special Commodities are exempt from this closure. This is done to protect our roads as the frost levels are changing.

The following roads are closed to such traffic commencing on February 21 and will remain closed until at least April 30th unless otherwise posted. Any violation of the rules is a traffic infraction punishable by a fine of not less than \$250.

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

The posting shall remain in force except when the way is solidly frozen. The highway is considered solidly frozen only when the air temperature is 32 degrees F. or below and no water is showing in the cracks in the road. Both conditions must be met.

[Please refer to supporting material \(PDF\)](#)

A motion was made to close the above listed roads from February 21 until at least April 30 or as cleared by the Town's Director of Public Services.

MOVED: Karytko

SECONDED: Cluff

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

- c. **Approve and sign the April 7, 2020 Special Town Meeting Warrant**

[Please refer to supporting material \(PDF\)](#)

Town Clerk Merton Brown spoke about the Warrant for the April 7, 2020 Special Town Meeting. He explained that polls will be open on April 7th from 6 a.m. to 8 p.m.

Costin wondered why this question isn't simply being included in the election next week; he said these elections are "very expensive." Brown explained that this matter came forward too late to be placed on the

March 3rd ballot. He also said that the total cost of the election is being paid for by an outside source. Costin then wondered more about that last comment of Brown's. Brown then explained that all the expenses of the election are being paid for by Nelson Analytics, the testing facility. Costin responded by wondering if there is any precedent for the potential beneficiary of an election to pay for that election to be held. To that, Brown said he doesn't know of one, but he did say this is going to be an extraordinarily low-cost election.

Costin also said the other problem with Special Elections, in his view, aside from expense, is turnout (not just the numbers, but who turns out). He said he is disturbed by when the Town chooses to have Special Elections versus regularly scheduled elections and the way in which it's "picked and chosen," because he doesn't think they have the same particular voters who come out to Special Elections. Cluff then explained that the State is ready to roll out their adult use marijuana licensing program April 1st and realized at a late date that there was only one testing facility in the State available to meet the needs required in order to license all those who want to be licensed on April 1st. The identified testing facility is Nelson Analytics in Kennebunk.

Discussion continued. Karytko mentioned that Nelson Analytics are already testing for medical marijuana.

A motion was made to approve and sign the Warrant for the April 7, 2020 Special Town Meeting.

MOVED: Karytko

SECONDED: Cluff

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

8. OLD BUSINESS

- a. **Hear an Update on the Purchase of a Fire Command Vehicle** – At the February 11th meeting of the Select Board, Chief Rowe spoke of his research as related to the purchase of an environmentally friendly electric vehicle for use as a Fire Command Unit. This discussion ensued after the Board had approved the purchase of a gasoline powered Chevrolet Tahoe to serve in this capacity. After further research and reflection by Chief Rowe and the Town Manager, and recognizing the Town's goal of reducing our carbon footprint when possible, the Board is asked to revisit the idea of authorizing the purchase of an electric vehicle that Chief Rowe believes will meet his needs as a Fire Command vehicle.

Fire Chief Jeff Rowe spoke with regard to this agenda item, speaking of the practical nature he sees in using an electric vehicle as a Fire Command vehicle and of the reasons behind him changing his mind as to the adequate nature of the same. He also discussed the cost for powering a vehicle, estimating approximately \$1,000 per year in savings by using an electric vehicle as opposed to a gasoline powered vehicle. Rowe asked the Select Board to reconsider the approval of the purchase of the Chevrolet Tahoe, with a cost of \$39,320.57 and to consider allowing for the purchase of a Model 3 Tesla at a price of \$41,490. Rowe said that cost is within the Budget.

Cluff asked if they need to buy a charging station with this. Rowe advised that yes, a charging station will be necessary and that he, Rowe, is in conversation with Tesla regarding this need.

Cluff said he thinks it would make sense, if they are going to go down this road with other vehicles, that they ought to have a charging station.

Discussion continued. Pardue said he would encourage that a motion approving this vehicle incorporates a charging station as appropriate.

Karytko said he would seriously consider going as high as they can (with the class in which they purchase) because of the speed of recharging, in case they're starting to get other vehicles (electric) in the future.

Sharon Staz, Chair of the Energy Efficiency Advisory Committee, said she would encourage the Select Board to vote yes to the Tesla in question, saying she thinks they can work out the charging and that what they haven't had the opportunity to do yet is compute the metric tons of CO2 that they will save, saying such will be a giant step forward.

Berry asked if Rowe could address concerns that have been expressed in the past about carrying capacity for equipment. In response to Berry, Rowe essentially said they can make it work, in part noting that there is also a trunk in the front with the Tesla Model 3 vehicle in question.

Ward asked Rowe which vehicle he will switch to in certain terrain, etc. In response to that question, Rowe said this vehicle is the middle range (long range version which has two motors and is all-wheel drive and has a range of 322 miles).

Maggie Bartenhagen, a member of the Energy Efficiency Advisory Committee, spoke in support of the purchase of this Tesla Model 3 vehicle, applauding Rowe for his decision on this, saying it is really impressive they have an official in Town making this kind of choice as they are looking at what they are facing with climate, adding that it is a very big first step in regard to pulling down the carbon emissions that this Town is emitting.

A motion was made to authorize the Fire Chief to Purchase a Tesla Model 3 in the amount of \$41,490 plus the cost of a charging unit.

MOVED: Cluff
SECONDED: Schulte

Ward offered a friendly amendment: that the charging station be a class 3 charging station. Schulte then said they don't have the numbers on that. And Rowe said they would look at a class 2 other than the 110 extension cord.

Andrea Kimmich from the public and a planeteer of Southern Maine for four years working on different environmental issues, spoke, saying they're also planning Earth Day and so she would love for them to add to the motion that the Fire Chief have the car by Earth Day so he can show up like "Santa Clause."

A motion was made to authorize the Fire Chief to Purchase a Tesla Model 3 for \$41,490 plus the cost of a charging station to be determined.

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

9. NEW BUSINESS

a. **Hear an Overview of the U.S. Fish and Wildlife Service Plans for their Property on Brown Street**

Karl Stromayer, Ph.D., presented a slide show with his talk. He described the property they have purchased, a 15-acre property with a 9,000 square foot house at 188 Brown Street. He said they are planning on developing that property and building to be home of the Rachel Carson National Wildlife Refuge; they plan on having an administrative office and a visitor center in the building at the property. The system of National Wildlife Refuges was discussed by Stromayer. He said that system is a wildlife first agency. However, he said, they welcome priority public uses by the American people onto the refuge lands. Stromayer also spoke to education that they will provide to people at the visitor center. He went over staff they have and goals of the refuge. He spoke about salt marsh restoration too, saying they (marshes) are important for coastal resilience and for all of us that inhabit the coastline.

Ward asked if they will be maintaining the covered bridge at the property. Stromayer said there is no plan to remove the covered bridge.

Schulte expressed excitement about this. He also asked what's going to happen to the current facility in Wells, wondering if it is still going to be active. In response to Schulte, Stromayer said the current facility in Wells is aging and that they came to a decision point where they either had to replace it or find a new place to go, and so much of the existing facility in Wells will be removed. But he did confirm for Schulte that the trails will still be there and be open to the public, adding that they're hoping to be able to maintain a small visitor contact station there.

b. Hear a Presentation on Recycling Reform for Maine

Chrissy Adamowicz, Sustainable Maine Outreach Coordinator for the Natural Resources Council of Maine, said she works very closely with Sarah Nichols and is here in her place. Adamowicz went over LD2104 to include citing that, "China is closing its doors to a lot of recyclables in the country, saying that has really hit Maine hard in a lot of places, adding that a lot of communities are having to close programs or scale back programs." She said the law allows financial help to Maine municipalities, aiding them in keeping their recycling programs open, adding that such experience shows that this type of law can save taxpayers money, while also boosting recycling rates. She said the cost would be borne by multi-national corporations. Adamowicz said the law has exemptions for small businesses, to make sure they're not disproportionately burdened. She further delivered her case, saying there is a point when they have to involve manufacturers, saying there are things a lot of people think are recyclable which actually are not. She added that she hopes that if you think you can support this law, that you get in touch with Senator Foley, who sits on the Environment and Natural Resources Committee, mentioning that he will be hearing this tomorrow at 10 a.m. in the Cross Building, Room 216, Augusta, Maine. Another way of showing support that was mentioned by Adamowicz: is by adopting a municipal resolution.

Karytko asked Adamowicz for more detail about the proposed law. Adamowicz responded to Karytko, referring to a page in the document she handed out.

Discussion continued. Berry asked about a previous law presented to the Maine Legislature, wondering if it was the same as this one, and Adamowicz said it was the resolve that was the first step in this process. The one referenced was LD1431. Berry asked Ward, Legislative Policy Committee Representative from Kennebunk, if they have discussed this bill at all. Ward said this came after their meeting, saying so it basically came by survey. Ward said he sees a lot of support for it, adding that there was no revenue advice given on it by staff or the other participants.

Karytko asked if the proposed law being discussed tonight requires a manufacturer who sells product in the State of Maine to join, wondering what would happen if they don't join. To that, Adamowicz said they are required to join if they're not exempt.

Karytko said if the manufacturer is being charged a fee, they will be passing that fee on to the consumer. To that, Adamowicz said no one has presented her with any evidence that such is true, but that the research she has found has pointed in the other direction, that it's not true. She said the fees are very small, saying such are not really impacting the price of product packaging from what they can tell.

Dan Sayre spoke in support of the bill being discussed. He also responded to Karytko's question. He said this kind of bill is a reinforcement of market forces to promote better design of packaging on the front end of companies.

Staz asked what Adamowicz is asking of the Select Board, because she has a question about process, saying in the past it was said it is not appropriate for this Board to take an action to support a bill. She said whether

the Board can or can't support such legislation is a conversation she would encourage the Board to have. Baldwin then said the Town Charter doesn't disclose any power for this Board to act to endorse legislation of any kind. He also said it's a slippery slope: you'd have gun control, abortion rights brought up for endorsement consideration; they want to be a non-partisan Board and that's why they have declined to endorse legislation while sitting on the Board.

Maggie Bartenhagen spoke, saying there is another way for you all to demonstrate support and that is by action.

Schulte said personally he thinks the law being discussed tonight is a great idea, but that from the standpoint of acting as a public official and as a Board as a whole, he does think it's worth having a more in depth discussion (about Board endorsement of legislation) because he hasn't fully made up his mind about it. He mentioned that they joined the Global Covenant of Governors (a statement that they're moving in a direction in the Town, not a specific piece of legislation). Those kinds of opportunities they should take advantage of, Schulte said.

Andrea Kimmich thanked Adamowicz for coming here and the Select Board for a quick response to invite her down to join them this evening. She said you can't make decisions about waste management unless you know what the options are. She said she hopes that the Select Board all take action on a personal level. She said she thinks as a group they can talk about this and educate.

Ward said that personally he hopes the law in question is successful, saying he sees benefits in several ways from it.

Tom Beret, from West Kennebunk and a planeteer, said he hears what the Board is saying and the slippery slope argument. However, he suggested that they could perhaps craft some kind of a letter to the papers throughout the State expressing support for the general idea of corporations doing their share.

- c. **Discuss Allowing a Construction Overlimit Permit for the Cyclical Pavement Resurfacing Project** – The Maine Department of Transportation (MDOT) has requested the municipality to issue a permit for a stated period of time to the MDOT contractor for transporting construction equipment (backhoes, bulldozers, etc.) that exceed legal weight limits over municipal roads. This project is described as:

“Project 2450900 is on Route 35 in Kennebunk beginning at US Route 1 and extending north 0.50 miles to, and including, the roundabout.”

The specific municipal roads involved are not necessarily known at present, as the contractor's plan of operation won't be known until just prior to the start of work.

[Please refer to supporting material \(PDF\)](#)

Karytko asked about from the roundabout to the turnpike. To that, Pardue said that will be a part of a Town project after the water main is replaced through Fletcher Street going out toward the turnpike.

A motion was made to approve the Construction Overlimit Permit pursuant to 29A MRSA §2382 for Project No. 2450900.

MOVED: Karytko

SECONDED: Cluff

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

- d. **Discuss the 2021-22 Budget** – Select Board member Edward Karytko requested this item be placed on the agenda.

Karytko said he brought this up because he has come to the conclusion that they are trying to make decisions on items regarding the Budget and the total scope of their entire Budget in a very short period of time, saying they are put in that position. He brought up the possibility of having the Budget Board be engaged earlier (before the Budget process). He also brought up the idea of putting money aside for some agreed upon need that has a foreseeable end of good use associated with it. He said it would reduce their need to start bonding more and more money. He said he'd like to see their use of bonding go down.

Schulte said he is fine with having some kind of additional discussion on this but said that a lot of what Karytko is talking about already happens within the course of the year. He said that they would have to see if, for one thing, setting money aside is worth it over bonding at a very low rate.

Ward said they have done something like that (setting money aside) in the past.

Karytko spoke as to the possibility of putting money aside and it drawing interest for them, that they would not be paying interest on a bond and they would be making money on money that has been put aside. He also mentioned that Wells has several accounts for different pieces of equipment and projects they are planning for for the future.

Maggie Bartenhagen said she attended some of the Budget meetings and that it was “torturous.” She said she would back Karytko up on what he brought up. She said she thinks planning out might make the Budget discussions a little less torturous.

Pardue spoke, reminding everyone that the Town does have, and does follow, a 15-year Capital plan. Pardue cited that what Karytko was referencing is the establishment of Capital Reserve accounts. Pardue continued by explaining that for years the Town has made the conscious decision to fund items through debt service, as opposed to establishing capital Reserve accounts. He cited that whether to use debt or establish Capital reserve funds is a philosophical decision that must be considered. Pardue said the Board must determine whether or not they have an “appetite” for establishing capital reserve accounts.

Karytko said he brought it up to perhaps have the discussion to see whether this Board does have the appetite to put money away.

- e. **Discuss Any Other Business**

10. SELECT BOARD COMMENTS

- a. **Subcommittee Reports**
b. **Individual Select Board Member Comments**

Cluff: None.

Baldwin:

- Offered a rebuttal of Costin’s arguments made earlier regarding his opposition to the contract the Select Board agreed to with Pardue. Baldwin said during the pendency of this controversy, not once has anyone suggested that Pardue’s performance has been anything but exemplar, adding that he is a great Town Manager. He also argued against the idea of getting a new Town Manager if Pardue is successful in his Senate run, mentioning the loss of the skill of Pardue and the cost of replacement to support that point. He also went over a document Costin gave them which he said is very misleading. Baldwin said that in the State of Maine, per at least Title 30-A, Section 2605,

a conflict of interest deals with money. Baldwin also said Karytko does not pose a conflict of interest. He said he resents, deeply, the implication that any of them have done anything improper.

Ward:

- Said they had a good Select Board Outreach Session, adding that the planetears came in and that's how they got the presentation tonight. He made further note of that session.

Karytko:

- Mentioned that any torn and tattered flags can be dropped off at the American Legion on Water Street and that a box by the Town Clerk's Office collects cell phones and eyeglasses (which go to the Lions Club in Kittery). Mentioned that he talked with Todd Shea, General Manager/Treasurer of the Kennebunk Light and Power District, about LED lighting.

Schulte:

- Said there were a number of statements made as statements of fact but were assumptions stated as fact. He said one of them was that this Board acted based on their political preference in writing this contract. He said one has to set aside one's personal interest in a consideration such as with Pardue's contract.

Paul:

- Thanked Schulte, saying he agrees, adding that he appreciates what Baldwin said regarding the topic of Pardue's contract.

Berry:

- Said he always found Pardue to be extremely apolitical. He also wondered how vocal the group that has come out against them regarding Pardue's contract would be if Pardue had chosen to run as a Democrat.

11. TOWN MANAGER ANNOUNCEMENTS

Pardue applauded certain agenda items discussed tonight. He mentioned that he received an email Friday afternoon which recognized Kennebunk as the safest community in the State of Maine.

12. ADJOURNMENT

At approximately 8:55 p.m., a motion was made to adjourn tonight's meeting.

MOVED: Berry

Karytko said all these good things happening in Town don't happen by accident; it's because of the good people we have working for us and the leadership in this Town.

SECONDED: Schulte

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



Christopher Cluff, Secretary
Kennebunk Select Board

Date: 3/10/20