

**TOWN OF KENNEBUNK**  
**SELECT BOARD MINUTES**

**TUESDAY, FEBRUARY 11, 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, Shiloh Schulte and William Ward, Jr.

2. APPROVAL OF MINUTES

- a. January 28, 2020 Regular Meeting [\*Please refer to supporting material \(PDF\)\*](#)

**A motion was made to approve the minutes of the Regular Meeting held on January 28, 2020.**

**MOVED: Karytko**

**SECONDED: Cluff**

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

3. ITEMS TO BE SIGNED

4. PUBLIC HEARINGS

- a. **Copies of the proposed amendments are on file and may be reviewed in the Town Planner's Office, Town Clerk's office or online at: [www.kennebunkmaine.us/Planning](http://www.kennebunkmaine.us/Planning)**

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

The following proposed amendments were discussed at a Joint Public Hearing of the Select Board and Planning Board on January 27, 2020. The Planning Board voted to send the amendments to the Select Board with a positive recommendation.

- Article 2, Section 2 (Definitions)
- Article 8, Section 14.B.5 (Business Park District)
- Article 10, Section 24 (Retail Marijuana)

These changes would permit retail marijuana testing facilities, licensed by the State of Maine, within the Business Park Zoning District. This only deals with retail testing facilities and would not permit any retail stores, retail manufacturing or retail cultivation of marijuana within the Town of Kennebunk. This also changes language from "retail" to "adult use" in order to be consistent with State law.

John Costin, a member of the public spoke. He offered his opinion that it appears that the Town seems to have "pivoted" from trying to do everything possible to prevent adult use marijuana being the "law of the land" to now seemingly embracing "cannabis capitalism." He said he wanted to know from the Select Board what underlies that shift.

A conversation around what was said by Costin ensued, with Cluff saying that he thinks when they put ordinances in place they were following a wait and see approach.

Ward then noted that this is a facility (the company in this matter that is seeking to test retail marijuana) that will be taking tiny amounts of marijuana and doing testing on such. Ward emphasized that the proposed ordinance amendment is to allow the testing of adult use marijuana, not the retail sale of marijuana.

Karytko noted that the company in question is already doing testing for medical marijuana. He also said they heard that the facility is the only one right now that can do the testing suggested be done. He also said that if people are going to use marijuana, he wants it to be as safe as possible for use, even though he is not in favor of marijuana.

Costin then asked if the facility currently located in Town is in compliance with our current zoning and any moratorium that might be in effect. In response to that, Baldwin said yes.

**b. Proposed carry forward balances remaining in accounts with unexpended funds  
(from FY18-19, as of June 30, 2019, to FY19-20, as of July 1, 2019)**

Additional information may be obtained in the Town Clerk's Office.

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

In accordance with the Town's Charter, Section 3.06 (4), the Select Board, after a public hearing, may carry forward funds remaining in accounts with unexpended year-end balance from the then-current fiscal year to the next fiscal year. 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 2018-19 into fiscal year 2019-20.

Finance Director Joel Downs provided the Board with a spreadsheet that has been included in the minutes (page 8).

**A motion was made to carry forward fund balances, in the amount of \$369,268.84, remaining in accounts with unexpended balances (from FY 18-19 to FY 19-20).**

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

**5. PUBLIC COMMENTS**

John Costin, from the public, spoke about his concerns regarding the Town Manager's contract and how it relates to Pardue's candidacy for the Maine State Senate. He stated that he learned this week that Karytko is the Town Chair of the Kennebunk Republican Party, arguing that such means that Pardue is the candidate he (Karytko) is responsible for getting elected and being a liaison to. Costin then asked Karytko if he disclosed that publicly when he took his vote. Cluff then said Karytko did not disclose that. Costin said that in his opinion that is a "special interest that should be disclosed to the public". Costin said he would like to know from each member of the Board if they have any special interests regarding Pardue's Maine Senate campaign. Baldwin said a conflict of interest test is determined by whether or not someone derives personal financial benefit from the situation. A conversation related to what defines a conflict of interest continued. Baldwin said Karytko is entitled to have political interests outside of what he does here.

**A motion was made to not disclose any of the Select Board members' personal, outside interests in political parties or political dealings.**

**MOVED: Baldwin**  
**SECONDED: Ward**  
Schulte said he is not going to vote in favor of this, saying that he thinks this should be up to each Board member to deal with. He also said he does not think the public comment section is the time for them to respond to public comment (if one even gives a response).  
**VOTE: 2 in favor (Baldwin, Ward), 5 opposed. The motion failed.**

Rachel Phipps, from the public, spoke. She related concerns she had with regard to the Town Manager's contract and how it relates to his candidacy for the Maine Senate, in part saying that she feels some of her tax money would help lobby for a "partisan position" (referring to the Town Manager's Maine Senate run).

6. ACKNOWLEDGEMENTS/ANNOUNCEMENTS

- a. **Accept a Grant on Behalf of the Community Garden Committee** – The Community Garden Committee is the recipient of a SeedMoney Grant in the amount of \$2,230.57. This includes donations in the amount of \$1,630.57 plus an additional grant of \$600.00.

**A motion was made to accept the grant money and donations totaling \$2,230.57 from the SeedMoney organization.**

**MOVED: Karytko**

**SECONDED: Cluff**

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

7. TIME SENSITIVE BUSINESS & STAFF PRESENTATIONS

- a. **Accept the Following Committee Resignation:**  
Cathy Connors, Dog Advisory Committee – Regular 2020

**A motion was made to accept the resignation of Cathy Connors from the Dog Advisory Committee and send a letter thanking her for her service.**

**MOVED: Karytko**

**SECONDED: Cluff**

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

b. **Upcoming Elections**

- March 3, 2020 Presidential Preference Primary, State Referendum Election
- April 7, 2020 Special Town Meeting Referendum (Proposed Zoning Ordinance Amendments to permit retail marijuana testing facilities, licensed by the State of Maine, within the Business Park Zoning District)
- June 9, 2020 Annual Town Meeting, Town Referendum, School Budget Validation, State Primary, State Referendum
- November 3, 2020 Presidential Election, Town Referendum, State Referendum

Town Clerk, Merton Brown, gave information relative to upcoming 2020 elections. Referring to positions opening up for the June 9, 2020 election, Karytko asked Brown when nomination papers for the same are due. In response to Karytko, Brown said nomination papers become available March 2<sup>nd</sup> and are due back April 10<sup>th</sup>.

- c. **Countersign the RSU 21 Warrant and Notice of Election** – RSU 21 has finalized and signed their Warrant and Notice of Election for their upcoming Budget Validation Referendum Election to be held on June 9, 2020.

**A motion was made to countersign the RSU 21 Warrant and Notice of Election for the RSU 21 Budget Validation Referendum Election to be held on June 9, 2020.**

**MOVED: Karytko**

**SECONDED: Cluff**

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

- d. **Discuss 2020 Ambulance Billing Rates** – Each year, the Town reviews the rates charged for ambulance services. After an analysis of the costs associated with emergency medical service response services and related provisions, the accompanying proposed 2020 rates are recommended for the Select Board’s approval.

*[Please refer to supporting material – Proposed 2020 Ambulance Billing Rates \(PDF\)](#)*

Chief Brady spoke with regard to this agenda item. He said there are no changes in the proposed rates themselves from 2019. He said they raised the rates last year. However, Brady did note that they are thoughtfully exploring the idea of charging for non-emergent medical aid assistance and that additional information on this approach is being collected by staff. It was noted that the fee for this service is included in the proposed 2020 billing rates. The inclusion of this service fee is intended to give the department approval to charge as indicated, should research support doing so.

It was clarified by Chief Brady that the only proposed rate adjustment from 2019 is the inclusion of the non-emergent medical assistance fee.

**A motion was made to approve the recommended Ambulance Billing Rates for 2020.**

**MOVED: Karytko**

**SECONDED: Cluff**

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

- e. **Hear an Update on the Purchase of a Fire Command Vehicle** – Recently, Fire Chief Jeff Rowe was notified by Quirk Auto Group that the Chevrolet Tahoe that was ordered by the Town in September of 2019 has been cancelled due to a manufacturing stop.

*[Please refer to supporting material – Bid Opening Sheet 9/16/19 \(PDF\)](#)*

Fire Chief Jeff Rowe spoke regarding this agenda item. He explained the situation, in part elaborating on a discussion he had on the topic with Ed Murphy, Specialty Fleet Manager in the New England Region for GM. Rowe did note that there are some dealers in the country that still have their desired vehicle. He noted a vehicle at Colonial Chevrolet in Acton, Massachusetts with a cost of \$39,320.57 that somewhat meets their specifications (he said it has a few things that we don’t need and a few things that we wanted, so it’s a happy medium), and he asked the Select Board for permission to deal with Colonial Chevrolet in Acton, Massachusetts for the vehicle if it is still available the next morning.

Ward asked a question about sales/excise tax on these vehicles, He was advised that the Town is exempt from such fees.

Karytko asked Rowe about his satisfaction with the vehicle. Rowe responded to Karytko.

Cluff asked if they need to waive the Purchasing Policy, make those words official. To that, Pardue said he does not believe so, saying that the Board had previously approved this purchase after bids were received but that the original successful bidder was unable to provide a vehicle.

**A motion was made to approve the Fire Chief to buy the vehicle in question for \$39,320.57 from Colonial Chevrolet in Acton, Massachusetts.**

**MOVED: Cluff**

**SECONDED: Karytko**

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

Pardue praised the efforts of Rowe in this matter, to include his efforts in looking into the potential of obtaining an electric vehicle for the future. Rowe elaborated on this, telling of vehicles he looked at, such as a Tesla. Chief Rowe emphasized how difficult a decision this was (to advance the Tahoe purchase), while recognizing the Town is making strides in becoming more energy efficient and reducing our carbon footprint.

Berry asked Rowe how representatives of electric vehicle manufacturers addressed the electrical current draw, speaking of the additional draw on the batteries. Rowe responded to him.

Discussion continued, such as with Schulte expressing his appreciation to Rowe for his efforts with regard to electric vehicle considerations. Others on the Board echoed this sentiment, as did Pardue.

8. OLD BUSINESS
9. NEW BUSINESS

- a. **Hear an Overview of the U.S. Fish and Wildlife Service Plans for Property they Purchased on Brown Street** – Karl Stromayer, Ph.D. was unavailable tonight due to illness.
- b. **Approve Road Closures for Special Events** – The following event will require road closures, per the Police Department:
  - **Saturday, May 9, 2020 – Shipyard Maine Coast Marathon**  
This event begins at the High School, travels to the beach then to Kennebunkport. Road closures and road re-opening times range from 7:15 a.m. to 9:40 a.m. Times are subject to change.

*[Please refer to supporting material – Road Closure Times \(PDF\)](#)*

**A motion was made to approve the road closures as recommended by the Police Department for the Shipyard Maine Coast Marathon as noted above.**

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

- c. **Discuss Any Other Business**

Baldwin made comments related to what John Costin brought up during the public comments section of this meeting. Baldwin said Costin was accusing them of criminal wrongdoing: of fraud, public corruption, behaving in a mob-like way, of giving Pardue a “Tony Soprano-like job”. Baldwin said that was the import and the only fair inference from the receipt of Costin’s email. Baldwin said he doesn’t appreciate being accused, as a Board, of wrongdoing, saying, in part, that he worked a long time on this reappointment and contract making sure they were dotting every “I” and crossing every “I” and that he did his level best to make sure they were doing this the right way.

Schulte also spoke, in part saying that he thinks questions about this topic are fair but that accusations and statements made with assumptions taken as fact are not helpful.

Discussion continued. Ward talked about conflict of interest, saying there is no individual gain anyone here would have from Pardue’s running for State Senate.

Schulte said he had some initial concerns about Pardue's interest in being a candidate for the Maine Senate while serving as Town Manager. He continued by saying what led him to be in full support of the contract agreed to with Pardue was that the Maine Senate is effectively a volunteer position because the compensation for a Senator is so minimal. He said if employers did not support people running for the Maine Senate, then we would have retirees and people who are independently wealthy as Senators, saying that would be the full extent of the Maine Senate. He said he thinks to a large degree that is true but that is not the profile he would like to see in our Senate. Schulte said looking at this as how we want the State of Maine to support our senators was the argument that swayed him. Schulte also countered Costin's argument that Pardue couldn't realistically hold down a job as Town Manager of Kennebunk and be a State Senator at the same time, arguing that it can be done if your work ethic and motivation is there, and saying he is confident that Pardue can do it.

Discussion continued. Karytko praised Schulte's comments. He also said they are all (the members of the Select Board) looking to do what is best in the interest of the citizens of this Town. Further, he said if he thought in any way that this was something that would be of some sort of personal gain to him, he would have recused himself from the whole conversation and let the rest of the Board decide what they want to do.

## 10. SELECT BOARD COMMENTS

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

### **Ward:**

- Applauded the Highway Department, Police and Fire for keeping operations going despite of horrible weather conditions.

### **Karytko:**

- Requested those with torn or tattered American flags to please bring them to the American Legion on Water Street and put them by the door; said somebody will take care of it
- Mentioned the box by the Town Clerk's Office wherein one can leave old cellphones or eyeglasses; said those items will go to the Lion's Club in Kittery
- Mentioned upcoming meetings of Town bodies
- Suggested that they have next year's Budget on the agenda for next week, saying he mentions that because it seems they spend an awful lot of time on things at Budget time that they probably could take care of earlier in the year (other than voting on it)
- Mentioned the loan closet, saying he met last night with the Knights of Columbus to let them know about the closet and seeing if that might be an option for them

**Schulte, Cluff, Paul, Berry:** None.

### **Baldwin:**

- Mentioned that the Tree Committee met, and he said the committee has come up with the idea that a certain type of tree be put in place of the captured German Howitzer on the corner of Main Street and Fletcher Street
- Mentioned the Bicentennial Celebration; said Chris Osterrieder (Town Engineer), Kathy Ostrander Robert (Chair of Bicentennial Committee) and he had a nice meeting, noting one thing they did: search for the time capsule. Said Ed from the electronics store on Route One South came out with a special metal detector that distinguishes different kinds of metals and that he got a hit in a place where they suspected the time capsule is probably located and that Osterrieder is now mulling over ways of confirming the presence or absence thereof.
- Mentioned needing volunteers for the next few Select Board Outreach Sessions

11. TOWN MANAGER ANNOUNCEMENTS

The Town Manager provided an update on the sale of the 1994 International Pumper Fire Truck through GovDeals. Rowe also spoke about this, in part saying he thinks they had another successful sale with GovDeals. This was their second sale through GovDeals. Some discussion on this topic continued. Pardue made other announcements such as that the Budget, to include Capital, has been advanced and that Warrant Articles are being drawn up. He mentioned the 2x4 School meeting. Paul, who along with Baldwin, represented the Select Board, said he was pleased with that (2x4) meeting. Pardue explained that the 2x4 meetings are comprised of 2 representatives of the Select Board from each of the 3 communities and 2 members from the RSU Board.

13. ADJOURNMENT

**At approximately 7:53 p.m., a motion was made to adjourn tonight's meeting.**

**MOVED: Cluff**

**SECONDED: Karytko**

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



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Christopher Cluff, Secretary  
Kennebunk Select Board

Date: 2/25/20

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Line ID	Accounts	Account Number	Description	Proposed 7/1/2019 Carry-forward & Assigned into FY19-20	
<b>Carryforward for Boards &amp; Committees</b>					
1	Conservation / Open Space Commission	16601-54002	Prior year CF; plus Conservation Commission spent \$351.00 in FY18-19, balance CF	6,667.64	To be used for a \$5,000.00 grant (matching funds) on Kbk River quality.
2	Lower Village Committee	16609-54002	FY18-19 Budget \$2,500, donations \$306.00, expended \$564.10, balance CF	2,241.90	To be spent during FY19-20.
3	West Kennebunk Village Committee	16612-54002	Prior year CF; plus FY18-19 Budget \$2,000.00; Donations received assigned to WKVC \$1,227.20, spent \$5,542.16, balance CF	1,445.95	Donated Funds: \$1,445.95
4	Tree Committee	16617-54002	Prior year CF; plus FY18-19 Budget \$2,000.00, balance CF	3,650.00	To be spent during FY19-20.
5	Community Garden	16620-	Prior year CF; plus FY18-19 Budget \$4,000.00, Grants of \$20,400.00, Plot Fees of \$3,160.00, Other Donations \$1,377.40; Spent \$21,063.28, balance CF	12,505.46	Donations, Grants and Plot Fees
6	Committee on Aging / Medical Loan Closet	16623-	Prior year CF; plus FY18-19 Budget \$2,500.00, Other Donations \$1,285.00; Expended \$1,635.25, balance CF	2,359.30	Donated Funds: \$1,494.55
7	Dog Park Committee	16624-	Prior year CF; donations received \$3,666.00; expenditures \$9,800.00, balance CF	119.15	Donated Funds: \$119.15
8	Bicentennial Celebration Committee Fund	16615-54002	FY18-19 Donations \$18,950.00; expended \$6,619.00, balance CF	12,331.00	Donated Funds: \$12,331.00
<b>9</b>	<b>Total Carryforward for Boards &amp; Committees</b>			<b>41,320.40</b>	<b>( A )</b>
<b>Other Carryforwards</b>					
10	Heating Assistance	14400-54046	Prior yr CF; plus \$8,065.70 donations and parking tickets, less \$8,830.51 spent during FY18-19, balance CF	32,805.61	
11	Property Tax Assistance	14400-54047	Prior yr CF; FY18-19 Budget was \$0, Spent \$2,180.25, balance CF	20,701.86	
12	General Government Training	11103-	Prior year CF, plus FY18-19 Budget \$2,000.00, spent \$356.00, balance CF	8,535.08	On and Off-site training in MUNIS software; GFOA seminars
13	IT / Computer Training	11113-	Prior year CF, plus FY18-19 Budget \$2,000.00, expended \$0, balance CF	16,685.32	To be used for staff network/systems and cyber security training.
14	Community Development Training	11110-	Prior year CF, plus FY18-19 Budget \$2,830.00, expended \$1,303.99, balance CF	12,120.46	To be used for new initiatives and new hires.
15	Assessors Office Geo Information System (GIS)	11108-	Prior year CF, plus FY18-19 Budget \$7,000.00, expended \$6,084.16, balance CF	3,159.25	To be spent during FY19-20.
16	Select Board Operational Contingency	17700-54052	Prior year CF, expended \$0, balance CF	13,343.83	For non-budgeted operational expenses.
17	Donations	11005-40538	Police \$325.00; Recreation FY17-18 \$3,257.23, FY18-19 \$9,890.00; Social Services \$4,035.00	17,507.23	Donations received in FY17-18 and FY18-19, moving to FY19-20.
18	Bus Revenues	11004-40417		27,880.00	Transfer to Debt Service: FY17-18 remaining bal \$4,335, FY18-19 bal \$23,545, total CF
19	Grants	11005-40530	Grants - FEMA (March 2018 Storm)	175,209.80	Transfer to Capital Fund
<b>20</b>	<b>Subtotal - Other Carryforwards</b>			<b>327,948.44</b>	<b>( B )</b>
<b>21</b>	<b>Total Carryforward at 6/30/19 (Sub-total)</b>		<b>Board Vote</b>	<b>369,268.84</b>	<b>= (A) + (B)</b>
<b>ASSIGNED GENERAL FUND BALANCE at 6/30/2019</b>					
22	Matching Grant Funds	17700-61061	See 6/13/2007 Town Meeting Art #23;	41,200.00	Town Meeting (remaining bal)
23	Bicentennial Celebration Committee Fund	16615-54002	Carryforward allowed by 6/11/2008 Town Meeting	5,069.33	Town Meeting
24	Capital Assets and Projects	16680-57501 (transfer to Fund 300 for FY15-16)	Funds assigned by Town Meeting Referendum Vote Dated 6/11/2019 - Article #4 (Ref Q #2)	1,084,000.00	Town Meeting
25	Debt Service	16680-57501 (transfer to Fund 300 for FY15-16)	Funds assigned by Town Meeting Referendum Vote Dated 6/11/2019 - Article #3 (Ref Q #1)	100,000.00	Town Meeting
26	2020 Bicentennial Celebration		Funds assigned by Town Meeting Referendum Vote Dated 6/13/2017 - Article #4 (Ref Q #2) and 6/12/2018 - Article #4 (Ref Q #2) - 2020 Bicentennial (yr1 of 2) - 2020 Bicentennial (yr2 of 2)	50,000.00	Town Meeting
27	November Town Meeting - Assigning General Fund Balance		Funds assigned by Town Meeting Referendum Vote Dated 11/5/2019 - Article #2 (Ref Q #A) - 15 Portland Road	97,372.00	Town Meeting
28	Emergency Spending Reserve		Funds committed by Town Charter, Section 3.06 (4) (0.5% of FY19-20 Municipal Budget) Town Meeting Referendum Vote Dated 6/11/2019 - Article #3 (Ref Q #1)	78,465.00	Town Charter
<b>29</b>	<b>Total Authorized by Town Meeting Approval (Sub-total)</b>		<b>COMMITTED GENERAL FUND BALANCE at 6/30/2019</b>	<b>1,456,106.33</b>	<b>( C )</b>
<b>30</b>	<b>6/30/19 Total Assigned Fund Balance</b>	10100-39900		<b>1,825,375.17</b>	<b>= (A) + (B) + (C)</b>

*Voted by Select Board at Public Hearing 2/11/20*