

TOWN OF KENNEBUNK

BOARD OF SELECTMEN MINUTES

TUESDAY, MAY 21, 2019 – 6:30 P.M.

TOWN HALL, ROOM 301

1. ATTENDANCE

Chairman Morin convened the meeting at 6:30 p.m. Present were: Selectmen Richard Morin, L. Blake Baldwin, Christopher Cluff, Wayne Berry, Edward Karytko, Shiloh Schulte and William Ward, Jr.

Also present was Town Manager Michael Pardue, Finance Director Joel Downs and Community Development Director Christopher Osterrieder.

Also present were members of the Tree Committee: Wayne Cutting, Robert Palmer, Patricia Kincaid and Paul Cotton.

2. REVIEW THE PARSONS BEACH ROAD TREE ASSESSMENT

Please refer to the following supporting material:

- [Parsons Beach Road - Tree Assessment Report – excluding appendices - 27 pages \(PDF\)](#)
- [Parsons Beach Road - Tree Assessment Report – full report - 396 pages \(PDF\)](#)

Noah Tucker, Arborist Representative for Bartlett Tree Experts of Scarborough, Maine, presented an overview of the Tree Risk Assessment he performed of the trees that border Parsons Beach Road in Kennebunk. The full report is 396 pages in length. There is also a condensed report consisting of 27 pages that has been issued. Both may be found at the links shown above.

During his presentation, Mr. Tucker explained how trees are assessed. He referenced having assessed a total of 47 trees during this assessment project.

Board members asked various questions related to the recommended timing for the removal of trees. Selectman Schulte asked about the removing and/or trimming of trees at this time and what impact, if any, this action might have on animals that are inhabiting the trees.

Selectman Karytko asked Mr. Tucker to further define how “risk” is determined. Mr. Tucker spoke of a scale that aids in determining the likelihood of the failure of a tree.

The Board asked Mr. Tucker questions related to his recommendation for replacing the trees that are removed. Mr. Tucker suggested that consideration be given to not simply planting a single species of trees to safeguard against insect infestation impacting all the trees at a single time. Diversifying the planting would likely aid in safeguarding against such an incident.

Attorney Paul Driscoll, legal counsel for members of the Parsons Beach Association, asked Mr. Tucker several questions related to the risk rating of several of the trees. He asked why trees rated as “low risk” are recommended for removal. Mr. Tucker explained that even trees assessed as low risk pose a risk to public safety due to certain defects.

Attorney Driscoll stated that the people he represents take safety very seriously and do not want to see anyone hurt due to falling trees and/or parts from a defective tree. Attorney Driscoll proposed a phased approach to tree removal. He expressed a desire for his clients and the Town to work together to remove trees of risk over a period of time.

Mr. Tucker again explained the risk factors that are present with the referenced trees. He stated that it really comes down to people deciding what level of risk they are willing to accept and be responsible for.

Selectman Berry asked Mr. Tucker to confirm that even low-level risk trees do pose a level of safety risk.

Mr. Tucker explained that the risk assessment also takes into account the likelihood of hitting a target, should it fall onto Parsons Beach Road. It was recognized that the vehicle and pedestrian traffic along Parsons Beach Road, particularly in the summer months, is high. Therefore, the number of potential "targets" that could be impacted by falling trees and branches etc. is significant.

Selectman Baldwin spoke to the Town's obligation to address the risk and the implications such risk can have on the Town's people, should a tree fall and harm someone. He further referenced insurance law and how an insurer could choose to not represent the Town in the event of an incident as the Town is "On Notice."

Selectman Baldwin and Selectman Morin posed the idea of closing the road for public use due to the dangers that are present.

Mr. Pardue was asked by Selectman Karytko if the plan for removal is to use staff or contract the service. Mr. Pardue explained that staff is stretched thin at this time and it is likely that the tree removal would need to be contracted but that he would make that determination after speaking with the Public Services Director.

Selectman Berry asked Attorney Driscoll if the Parsons Beach members were willing to contribute financially to this tree removal / replacement effort. Attorney Driscoll stated, "Yes." Attorney Driscoll cited the figure of \$25,000 as an amount he had spoken about with his clients.

Mr. Tucker provided additional information related to a "low risk" assessment of a tree and how the likelihood of it causing injury ties to the need for a low risk tree to be recommended for removal.

Mr. Pardue asked Mr. Tucker, and the members of the Tree Committee, to offer an estimate as to the costs associated with removing the recommended 29 trees, to include stump grinding and replanting. Mr. Tucker cited a fee of anywhere between \$1,500 and \$2,500 per tree for removal only. He also reminded that there is on-going work needed to include cabling and pruning, along with on-going monitoring.

It was noted that to-date, the Town has spent \$10,700 on the assessment, and \$5,400 on the trees that are in residence and waiting to be planted.

Selectman Baldwin asked those family members in attendance what they are looking for with regard to replacement of trees.

Dan Riley, an attorney and a member of the Parsons family, and also a law partner of Paul Driscoll spoke. He referenced that the trees that were planted a few years ago, especially near the farm, look "terrible." He is hopeful the Town does not repeat the selection that was made previously. Mr. Riley stated that as an attorney he understands the concern over the risk that has been identified. He said his view is that he and the majority of the family support the removal of the high-risk tree and the 14 moderate risk trees. He is hopeful that the Town will work with the family in selecting replacement trees.

A question was posed to Attorney Riley and Attorney Driscoll, asking them if the Parsons family would be willing to indemnify the Town of Kennebunk and its inhabitants against the referenced trees falling and harming someone. They indicated that they would not offer such indemnification.

Wayne Cutting, Kennebunk's Tree Warden spoke. He inquired of Mr. Tucker as to the risk level to trees that will remain due to being more susceptible to high winds once other surrounding trees are removed.

Mr. Tucker explained that often trees in a clustered setting serve to protect one another and that once trees are left with minimal protection, they oftentimes are uprooted or lose limbs etc.

Selectman Berry asked Mr. Riley what suggestions he has for replacement, i.e., alternative species of trees and what his timetable is for replacing the trees that are removed.

Sandy Liversidge spoke. She lives at 50 Parsons Rd. She spoke of the beautiful Linden Tree at her home. She asked about whether trees on Brown Street had been assessed, citing that visitors of Parsons Beach park on Brown Street.

Robert Palmer, Tree Arborist spoke to the intent of the Tree Committee to recreate the appearance along Parsons Beach Road, recognizing the recreation of the current canopy will take many years to become established.

Mark Gallagher, a local resident spoke of being a relatively new resident of Kennebunk and how he and his family enjoy the beauty provided by the trees along Parsons Beach Road. He recommends the Town and Tree Committee look closely at trees that have flourished in other communities before deciding on what trees to plant when replacing those that are planned for removal.

A motion to immediately remove the high and moderate risk rated trees, using Town staff to the degree possible, and if necessary, to identify and use available funds for this effort, with a goal of seeking added funding support from the legislative body at the November Town Meeting.

MOVED: Baldwin

SECONDED: Cluff

VOTE: 6 in favor, 1 opposed (Karytko). The motion passed.

Horace Liversidge spoke, asking if the Town could place "Enter at Your Own Risk" signs at the start of Parsons Beach Road, thereby notifying those wishing to use the road that they are entering a dangerous area.

More general discussion ensued for a brief period of time.

3. ADJOURNMENT

At approximately 8:32 p.m., a motion was made to adjourn the meeting.

MOVED: Cluff

SECONDED: Schulte

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



Christopher Cluff, Secretary
Kennebunk Board of Selectmen

Date: 5/28/19