

**TOWN OF KENNEBUNK**

**SELECT BOARD MEETING MINUTES**

**TUESDAY, JUNE 23, 2020 – 5:15 P.M.**

**1. CALL TO ORDER**

On Tuesday, June 23, 2020, at approximately 5:16 p.m., L. Blake Baldwin, Chair of the Select Board for the Town of Kennebunk, called to order the Regular Meeting of the Select Board. Present were Select Board members L. Blake Baldwin, Edward Karytko, Christopher Cluff, William Ward, Jr., Frank Paul, Wayne Berry and Shiloh Schulte.

**2. EXECUTIVE SESSION**

- a. **Discuss Matters of Litigation** with the Town Manager, Finance Director, Director of Community Development and Town’s Legal Counsel - Title 1 MRSA Sec. 405(6)(E).
- b. **Discuss a Personnel Matter** with the Town Manager and Town’s Legal Counsel - Title 1 MRSA Sec. 405(6)(A).

**A motion was made to enter into executive session, with the Town Manager, Finance Director, Director of Community Development, pursuant to Title 1 MRSA Sec. 405(6)(E) to consult with Legal Counsel regarding Matters of Litigation and pursuant to Title 1 MRSA Sec. 405(6)(A) to consult with Legal Counsel regarding a personnel matter.**

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

**At approximately 6:25 p.m., a motion was made to exit executive session.**

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

The Pledge of Allegiance was recited.

Upon coming out of executive session, the Board then reported they discussed matters of real estate litigation and directed the Town Attorney to make minor revisions to the Town Manager’s contract.

**A motion was made to move Item 8a up ahead of anything else right now, so we can get any legal opinion that we need.**

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

**8. OLD BUSINESS**

- a. **Discuss the Small Business Micro-Loan Program** – This was discussed at the Select Board’s regular meeting on June 9<sup>th</sup> and with the Finance Subcommittee on June 16<sup>th</sup>. The Economic Development Committee (EDC) drafted the framework for a “Small Business Micro-Loan Program,” which is designed to support small businesses with ongoing and extraordinary expenses incurred during the COVID-19 interruption in business.

*[Please refer to supporting material – EDC Micro-Loan Program Proposal \(PDF\)](#)*

Cluff gave an overview from the Finance Committee regarding the matter this agenda item addresses.

Baldwin asked for Town Attorney Natalie Burns' legal opinion regarding the propriety of offering loans under the TIF.

Burns said TIF funds can be used for this purpose, citing the provisions within the TIF documents.

Baldwin sought confirmation from Cluff regarding a matter of funding source.

Baldwin asked Will Armitage, from Southern Maine Finance Authority, if he could describe the program they've been talking about. Armitage then spoke about the proposed program.

Baldwin asked Armitage a few other questions, which Armitage answered. Baldwin asked Armitage to describe the relationship enjoyed between Southern Maine Finance Authority and the Town of Kennebunk.

Karytko expressed frustration with the process they're taking, because, he explained, at their last meeting it was stated that they were going to have a workshop to discuss this and understand what they were going to do. Karytko said they have not had a workshop to discuss such. He was reminded that the Finance Subcommittee of the Select Board met on this topic, along with representatives of the EDC. He expressed that he feels very uncomfortable with the Town being in the business of lending money. He said using the TIF money for its intended purposes, putting it into the infrastructure, is already helping the business. He noted too the police, fire, etc. that they do to support the businesses. Karytko also said he thinks there's going to be a lot of taxpayers that are going to be unhappy with this proposal, should it come to be.

Berry said they can have a workshop on this, suggesting the proposed workshop be held after the July 14<sup>th</sup> election. Berry then sought confirmation from Armitage that this proposed loan program is really a part of a larger quilt, that this does not have to be concurrent with the other program Southern Maine Finance Authority is spearheading with the Kennebunk Development Corporation; he asked if that is basically what they talked about. To that, Armitage said that is correct. Berry said he wants to make sure the possibility is out there.

Schulte made comments, questioning the notion that this is a handout from the Town, saying this is a loan program. He also asked if the terms they set up now in relation to COVID-19 will be adjusted once this crisis is passed. Cluff responded to him. Schulte then spoke again, and Cluff confirmed that it wouldn't have a sunset provision and then made further comment.

Schulte also questioned how only \$5,000 for a business would help a business much and he asked Armitage if the terms mandate that the applicants would have to present a business plan or something that would show what they're doing with that money and how it would help them or anything like that that they discuss with applicants as they're proposing. To that, Armitage said there isn't anything in the terms that would require that an applicant provide a business plan. He did say it could be added. He said part of their underwriting would be to analyze their ability to repay the loan. He made further comment, and Schulte responded to him.

Cluff said he thinks they can give this loan program a shot and see what's out there, though he agrees that \$5,000 is not a lot and that he doesn't see the demand.

Paul asked Armitage how it is determined who the money will be lent to if many people apply to the program. Armitage responded to him. One thing he mentioned is other funding sources they could try to tap into

Discussion continued.

Dick Morin, a member of the Budget Board, spoke in support of the proposed loan program. One thing he said is that if they don't do this and the businesses close, they will have more empty store fronts, more problems, less tax revenue in this community.

Ward said these are done with personal guarantees; we're not handing out money and saying, "Good luck." He also mentioned that if they have a shallow summer business-wise, you might see the real need for these loans in the October or November timeframe (to help these businesses survive the winter so that we maintain their viability).

John Costin, from the public, made comments, in part expressing concern that where the Town had never envisioned a \$50,000 revolving loan program going on into perpetuity, now it's being proposed as exactly that. He also said he thinks they need to be looking at their overall exposure. Costin said too that they are undoubtedly looking at losing money in this program. He wondered where the \$75,000 of undesignated surplus funds in next year's Budget appeared in the Budget (because he doesn't remember that). Costin said too that the money they are never expecting to come back (under what is envisioned here—he said they are talking about funding a revolving program in which those funds set aside for that never return to the Town Budget, they remain in a revolving loan program).

Joel Downs, Finance Director, then responded to Costin's inquiry as to where the \$75,000 is coming from, citing the minutes of the Budget Board Special Meeting of February 8<sup>th</sup>; he said the Select Board voted on \$75,000; it was part of the ongoing operating expenses for the TIF; it was a Select Board's reserve—the Budget Board took that out; the Select Board voted on that in its entirety. He said the larger number is going to the Town Meeting on July 14<sup>th</sup>.

Lionel Menard, from the public, spoke, saying that the fact that a stipulation is that if you have a business in Kennebunk but don't live there you are not eligible for this loan program should be in this document (should be more widely expressed). He also said there are a lot of small businesses, self-employed people, not in the TIF area; he was concerned of people basically being excluded because of lack of awareness of the opportunity. Keeping the businesses who receive the money confidential was something Menard said he doesn't believe should be allowed (because it is public money). Also, he said there should be an audit of these funds. He said he thinks the Town needs to know whose behind and who's not behind. He said too that there seems to be a lack of information. He was also concerned with people being excluded who don't own businesses and who aren't necessarily eligible for some kind of social services but are nonetheless struggling financially due to COVID-19 related stuff.

Rachel Phipps, from the public, expressed her opinion that this still puts them in the business of banking, and she said that's not their wheelhouse as a municipal government. She also said this is an equity issue (citing that if someone was the 11<sup>th</sup> applicant and couldn't get the assistance because others were first—she found that to be unfair).

Berry said that, given the comments they've heard tonight, he thinks it would be appropriate if this Board were to schedule a workshop perhaps for after the July 14<sup>th</sup> meeting and election (so they have time for more input, more discussion and new Board member(s)), saying it doesn't seem to be a time sensitive issue.

**A motion was made to schedule a workshop.**

**MOVED: Berry**

**SECONDED: Karytko**

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

**3. APPROVAL OF MINUTES, ITEMS TO BE SIGNED**

- a. June 9, 2020 Regular Meeting Minutes [Please refer to supporting material \(PDF\)](#)

**A motion was made to accept the Regular Meeting minutes from June 9, 2020.**

**MOVED:** Karytko

**SECONDED:** Ward

**VOTE:** 6 in favor, 0 opposed, 1 absent (Paul). The motion passed.

#### 4. PUBLIC HEARINGS

- a. Municipal Officers of the Town of Kennebunk will hold a Public Hearing to hear comment regarding:

##### **Proposed Warrants and Budget for the Annual Town Meeting on July 14, 2020**

[View the Special Town Meeting Warrant \(PDF\)](#)

[View the Annual Town Meeting Warrant \(PDF\)](#)

[View the Proposed Budget \(PDF\)](#)

Finance Director, Joel Downs, presented the proposed Budget.

Karytko asked Downs questions related to increases in the Budget, and Downs responded to him.

Costin said he believes the Charter is written so that in fact an opportunity to amend the Budget through the public hearing process is granted. He asked if it stated that the Warrant articles and Budget amounts cannot be changed because of the ballot printing schedule or is the wording in the Charter that in the first hearing they can be changed but can't in the second. To that, Town Clerk Merton Brown said he believes it's Charter-driven. He also said that, by State law, they have to have ballots 30 days before for absentees. He made a few more comments.

Some discussion continued.

Lionel Menard, from the public, thanked the Town Clerk's Office for the smooth process he experienced in obtaining a ballot. He also said the voter guide has proved to be very useful, mentioning that it is online. Menard then asked Downs a question concerning the Budget and Downs responded to him. Menard said one of the categories he noticed was rifles and tasers (the new rifles and tasers they're asking for). He asked if anyone would like to comment on that. Baldwin asked what his question is. And Menard then said he's not sure why they need new rifles and tasers. To that, Pardue said it is his understanding that they're replacement items (because of the age and wear of the other ones). Downs confirmed that these are indeed replacement items, referring to budget documents that have been in circulation for numerous months.

Baldwin then cited part of Section 2.03 of the Town Charter to respond to one of Menard's comments above.

#### 5. PUBLIC COMMENTS

Phipps spoke, first saying that there are a lot of advantages of virtual meetings for the public. She noted that Costin (her husband) wrote a very detailed email to the Select Board on Wednesday, June 10, 2020, after the last meeting. Phipps noted that the Select Board members spent Select Board comments taking "digs and attacks" at Costin for bringing up what she would say were really reasonable questions that many are also very curious about (noting that over 1,000 people in this Town have signed a petition regarding the Town Manager's contract). She also criticized the Town Manager's contract, arguing that the Town Manager would, if elected to the State Senate, essentially be working a second job during scheduled hours as Town Manager. She also said there has been no response to an email, which she was upset about.

Costin made comments relative to his comments made at the last Select Board meeting about the Town Manager's contract. He said it is, in his opinion, factually correct that the terms of the contract were misrepresented. Costin also noted that, in the time they have been discussing this contract, he and others who have asked for the contract to be reconsidered have been accused of various things such as false allegations. He took issue with that. Costin responded to some of the Select Board members' comments made during the Select Board member comment section of the last Select Board meeting.

Town Clerk Merton Brown spoke about the July 14, 2020 Town Referendum. He noted an increase in absentee balloting.

## 6. ACKNOWLEDGEMENTS/ANNOUNCEMENTS

### a. Accept the following Grants/Donations:

- The Town was recently awarded a grant from the Maine Community Foundation in the amount of \$7,500. In an effort to raise additional funds for the skatepark improvements, the Town applied for a grant in February of this year. The purpose of the grant was to improve the existing, aging skatepark and engage the community in the process of creating a safe, inclusive, recreational space for all to enjoy. The Maine Community Foundation approved a \$5,000 grant from their Ollie Foundation, as well as \$2,500 from the York County Children's Aid Society Fund.

*[Please refer to supporting material – grant award letters \(PDF\)](#)*

**A motion was made to accept the grants from the Maine Community Foundation and agree to the terms outlined in the grant award letters.**

**MOVED: Karytko**

**SECONDED: Berry**

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

### **The Town recently received the following Donations:**

- \$5,000 from the Tommy McNamara Charitable Foundation for the Parks & Recreation Department.
- \$20 from Christopher Parsons for the Fire Rescue Department in memory of Dr. David McConnell.

**A motion was made to accept the donations and send letters thanking each for their generous donation.**

**MOVED: Karytko**

**SECONDED: Ward**

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

### b. Hear an Update from the Town Manager regarding COVID-19 and the Town's Preparedness Plans:

Pardue went over this agenda item.

Pardue said he would ask the Board to ensure that dogs that are allowed on Parsons Beach be leashed at all times (that is at the request of Fish and Wildlife—anticipated time for that is through July 31<sup>st</sup>—that is for the safety and welfare of the piping plovers who are nesting at this point). Some discussion surrounding this ensued. For instance, Schulte offered his expertise on the topic of piping plovers. He said the best practice would be to have no dogs there (because of the disturbance they pose to piping plovers).

**A motion was made to ban dogs from Parsons Beach until such time as the U.S. Fish and Wildlife Service has declared it is safe for the nesting birds on that beach.**

**MOVED: Schulte**

**SECONDED: Karytko**

Cluff said they're touching the third rail of Kennebunk politics here (with dogs on the beach). He said he thinks this is a very reasonable proposal, but he asked if they should consult with their committee before they take a vote like this or solicit some sort of public feedback (so they don't get accused of shameful things again). Some discussion surrounding that ensued.

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

## 9. NEW BUSINESS

- a. **Discuss the Timing and Amount of General Obligation Bonds to be Issued** – During the June 11, 2020 meeting of the Select Board Finance Subcommittee, the members discussed the bonds currently authorized but not yet issued. The Town's Bond Advisor, Joe Cuetara of Moors & Cabot has recommended we issue bonds during the latter part of this summer due to favorably low interest rates. The question is whether to issue \$6,218,900 or \$9,432,000, if the additional \$3,213,100 of debt (or a portion thereof) is authorized at the Annual Town Meeting referendum vote on July 14, 2020.

*[Please refer to supporting material – General Obligation Bonds Info \(PDF\)](#)*

Finance Director Joel Downs went over this agenda item.

Ward made comments, to include wondering if it is possible, given the low interest environment, to delay. Downs responded to him. Discussion continued.

Karytko asked what the 2018 various and the 2019 roads—what has been the delay in spending that money, he wondered. Downs responded to him, mentioning that those 2019 dollars will be spent this year. He said the other projects—a substantial portion of those dollars have been spent already. Discussion continued.

Berry said he has some concerns about deferring the highway garage. He elaborated, citing the not good condition of that garage. He said he thinks they need to discuss this. Discussion surrounding this topic continued.

**A motion was made to move this matter to a second reading on July 14, 2020.**

**MOVED: Karytko**

Cluff asked if they need to move it to a second reading, wondering if they can vote on it tonight. Downs responded to him, in part saying at that point he was going to present bond orders that he needs to have the Board authorize.

**SECONDED: Cluff**

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

- b. **Review and Confirmation of the Town Manager's Annual Appointments** – Below you will find the Town Manager's Nominations for Annual Appointments for the period of July 1, 2020 to June 30, 2021.

<b>1 YEAR APPOINTMENTS</b>	<b>7-1-20 to 6-30-21</b>
Acting Town Manager	Joel Downs
Finance Director, Tax Collector, Treasurer	Joel Downs
Deputy Treasurer	Kris Fogg
Deputy Tax Collectors	Kris Fogg, Lynda Lightbody, Jenny Casey, April Jones, Merton Brown, Carrie Weeman, Tabettha Barden

General Assistance Agents	Michael Pardue, Karen Winton, Joel Downs, Kris Fogg
Town Clerk	Merton T. Brown
Tax Assessor, E911 Addressing Officer	Daniel Robinson
Police Chief	Robert F. MacKenzie
Fire Chief, EMA Director	Jeffrey Rowe
Director of Public Services/Road Commissioner	Bryan Laverriere
Parks & Recreation Director	Tasha Pinkham
Human Resources Director	Jeri Sheldon
Director of Information Services	Richard Boucher
Community Development Director, Town Engineer	Christopher Osterrieder
Town Planner	John Stoll
Code Enforcement Officer, Bldg. Insp., Plumbing Insp.	Paul A. Demers
Alternate Bldg. Inspector, Alternate Plumbing Insp.	Brian Paul
Alternate Bldg. Inspector, Alternate Plumbing Insp.	Jonathan Reed
Electrical Inspector	James H. Nichols
Alternate Electrical Inspector	William Clark
Alternate Electrical Inspector	Marc D. Lamontagne
Harbormaster	James Black
Shellfish Warden	vacant
Town Historian	Kathy Ostrander Roberts
Tree Warden	Wayne Cutting
Constables	Christopher Russell, Michael Tucci, Eric O'Brien

**A motion was made to confirm the Town Manager’s Nominations listed above for the 2020-2021 Annual Appointments.**

**MOVED: Schulte**

**SECONDED: Cluff**

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

- c. **Discuss Nominations to Maine Municipal Association’s 2020-2022 Legislative Policy Committee** – We received information from Maine Municipal Association (MMA) regarding the nomination of an official to serve on the Legislative Policy Committee (LPC). At the last meeting, Select Board member Ward indicated to the Board that he was interested in continuing in this capacity.

There are two seats on the LPC for each State Senate District. Members serve two-year terms, representing their own community and the other municipalities in their district. Our district (Senate District 34) is comprised of Acton, part of Berwick, Kennebunk, Lebanon, North Berwick and Wells. Kennebunk and the other municipalities in this district are entitled to nominate a representative (elected or appointed municipal official) to serve on the LPC. Kennebunk can choose to nominate a municipal official; however, we are not required to do so.

Once the nominations are in, a ballot will be mailed to municipalities where two municipal officials will be elected from each of Maine’s 35 Senate Districts.

Nomination forms (including an LPC Nominee Biography) must be received by MMA no later than **July 13<sup>th</sup>** at 5:00 p.m.

*[Please refer to supporting material – MMA’s LPC Information \(PDF\)](#)*

**A motion was made to nominate Bill Ward as Kennebunk's representative to the MMA Legislative Policy Committee.**

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

**d. Discuss Any Other Business**

10. SELECT BOARD COMMENTS

**a. Subcommittee Reports**

Schulte mentioned a subcommittee meeting held earlier today, which was held to discuss the Social Services in the Town. He elaborated. Baldwin made some comments too. Discussion continued.

**b. Individual Select Board Member Comments**

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

**Ward:** Thanked Town management for getting Town Hall up and running.

**Karytko:** Mentioned that if anybody has any torn or tattered flags, they should bring them to the American Legion on Water Street.

**Baldwin:** Karytko is going to be celebrating his 50<sup>th</sup> wedding anniversary this coming weekend. Mentioned the reopening of Town Hall, saying it has been done well. Mentioned a loan program the KDC is offering. Responded to comments Costin made earlier in tonight's meeting.

11. TOWN MANAGER ANNOUNCEMENTS

Pardue made announcements.

12. EXECUTIVE SESSION

13. ADJOURNMENT

**At approximately 9:15 p.m., a motion was made to adjourn tonight's meeting.**

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



L. Blake Baldwin, Chair  
Kennebunk Select Board

Date: 7/14/20