

KENNEBUNK SELECT BOARD MEETING MINUTES
TUESDAY, JULY 20, 2021 – 6:30 P.M.
Room 300-301, 3rd Floor, Town Hall

1. Call to Order

The meeting was called to order at 6:30pm by Chair and presiding officer L. Blake Baldwin. Baldwin welcomed newly elected members Sally Carpenter, Kortney Nedeau, and Lisa Pratt, then led attendees in the Pledge of Allegiance. Those in attendance were:

Present: Select Board members L. Blake Baldwin, Sally Carpenter, Kortney Nedeau, Frank Paul, Lisa Pratt, Shiloh Schulte and William Ward, Jr. [7 voting members in total]

Absent: None

Also Present: Michael Pardue [Town Manager], Joel Downs [Finance Director], Chris Osterrieder [Director of Community Development]; Karen Winton [Deputy Director, Community Development], Natalie Burns [Jensen Baird and Town Attorney], Bryan Laverriere [Director, Public Services], and Merton Brown [Town Clerk]

Baldwin next recommended a change of agenda, asking the Board to move forward Agenda Item 7a, the Election of Officers, to the first order of business. Board members concurred and a series of motions ensued.

7a. Election of 2021-22 Select Board Officers

Motion: To advance Agenda Item 7a and move to the Election of Select Board Officers for 2021-22.

Moved: W. Ward

Seconded: S. Schulte

Vote: Roll call vote. 7 in favor, 0 opposed; the motion passed.

Town Clerk M. Brown briefly described the nomination and voting procedure, then initiated the election process.

M. Brown asked for nominations for Select Board Chair.

Motion: To nominate Blake Baldwin for the position of Select Board Chair.

Moved: W. Ward

Seconded: S. Schulte

M. Brown asked if there were other nominations for the Chair position. There being no other nominations, nominations ceased. M. Brown proceeded to a single ballot vote.

Confirmation of Above Motion: That the Town Clerk cast a single ballot for the only nominee (Baldwin, for the position of Chair)

Vote: Show-of-hands vote. 7 in favor, 0 opposed; the motion passed.

M. Brown asked for nominations for Select Board Vice Chair.

Motion: To nominate Shiloh Schulte for the position of Select Board Vice Chair.

Moved: B. Baldwin

Seconded: S. Carpenter

M. Brown asked if there were other nominations for the Vice Chair position. There being no other nominations, nominations ceased. M. Brown proceeded to a single ballot vote.

Confirmation of Above Motion: That the Town Clerk cast a single ballot for the only nominee (Schulte, for the position of Vice Chair)

Vote: Show-of-hands vote. 6 in favor, 0 opposed, 1 abstention [Schulte]; the motion passed.

M. Brown asked for nominations for Select Board Secretary.

Motion: To nominate Kortney Nedeau for the position of Select Board Secretary.

Moved: S. Schulte

Seconded: W. Ward

M. Brown asked if there were other nominations for the Secretary position. There being no other nominations, nominations ceased. M. Brown proceeded to a single ballot vote.

Confirmation of Above Motion: That the Town Clerk cast a single ballot for the only nominee (Nedeau, for the position of Secretary)

Vote: Show-of-hands vote. 7 in favor, 0 opposed; the motion passed.

With the election complete, the Chair returned to the sequence of the meeting's published agenda.

2. Approval of Minutes

The Board then reviewed the Minutes of the Meetings of (a) June 22, 2021, (b) July 1, 2021; and (c) July 8, 2021. Approvals of these minutes were entertained individually as not all of the Board members were in attendance at all meetings.

Motion: To accept the Minutes of June 22, 2021 as presented.

Moved: W. Ward

Seconded: F. Paul

Vote: Roll call vote. 3 in favor, 0 opposed, 4 abstentions [Schulte, not in attendance at that meeting, and Pratt, Carpenter and Nedeau were not Board members on that date]; the motion passed.

Motion: To accept the Minutes of July 1, 2021 as presented.

Moved: W. Ward

Seconded: F. Paul

Vote: Roll call vote. 6 in favor, 0 opposed, 1 abstention [Schulte]; the motion passed.

Motion: To accept the Minutes of July 8, 2021 as presented.

Moved: W. Ward

Seconded: K. Nedeau

Vote: Roll call vote. 5 in favor, 0 opposed, 2 abstentions [Schulte and Paul]; the motion passed.

3. Items to be Signed - There were none.

4. Public Hearings - There were none.

5. Public Comments

The Chair solicited public comments or questions, asking speakers to limit their remarks to five minutes. Several speakers came forward.

Dr. Jo Johnson, former owner of 9 Barnard Lane, advised the Board that she had placed a restriction of non-demolition in the deed when she sold that property. The new owners [the Gates], she said, have stated that they were not aware of the covenant when they bought the property. However, Johnson stated, that covenant exists. The interior, Johnson added, has now been gutted and historic flooring and woodwork have been removed.

It is the Town's right to defend or release the "cannot-tear-down" restriction, Johnson observed. However, Johnson said that she, herself, can also decide whether to release the restriction. She recommended that a structural engineer with a historical preservation specialty be engaged to examine the building and give guidance to her [Johnson], the Historic Preservation Commission, as well as the Town.

Randy Gates, the current owner of 9 Barnard Lane, introduced himself and his wife (Kari) as "year-round residents" seeking to contribute to the Town's development ("but not developers with deep pockets"). He voiced interest in finding a reasonable solution to satisfy the interests of the community as well as investors.

Mr. Gates cited guidelines from the Department of the Interior which state that, when a historic building is deemed to be "un-repairable," investor/owners have the right to deconstruct and reconstruct using as much historical material as possible. Mr. and Ms. Gates seek authorization to do that.

Kari Gates expanded on the couple's intent. The Gates seek to build apartments for senior citizens, and are motivated to do so with some haste as Ms. Gates's mother is currently living in the Gates's garage. However, years of neglect and a massive fire in the 1970s, Ms. Gates said, have done irreparable damage to the Barnard Lane structure. "I'm concerned that if nothing is done," Ms. Gates stated, "the building will fall down on itself."

Abutters or residents Mary Folsom, Tom Nelson, Nicky Harper, June Huston, and Maggie Bartenhagen voiced hope that the building could be spared as an important piece of local history. Huston, a contractor and Chair of Kennebunk's Economic Development Committee, said she had viewed the interior of the structure and considers it to be in a "dismal" condition. There was overall consensus that the Town should act to "preserve whatever can be saved".

Peter Brewitt of Whitten Road alerted the Board to the need for a crosswalk at Mechanic and Fletcher Streets. Ed Karytko reminded the public to take torn flags to the Veterans and unused eye glasses and hearing aids to the "Lion's Club box" outside the Town Clerk's office. He [Karytko] also urged Town officials to give priority landscaping attention to the "triangle gardens" located at Kennebunk's expressway entries/exits.

Mariam Whitehouse asked the Board to delay consideration of candidates for the Lower Village Committee as a former committee member seeks re-instatement.

Brenda Bryant called for an amendment of the Town ordinance to require “silent fireworks” in order to stop terrorizing animals. B. Baldwin and M. Pardue responded, briefly describing ways to gather petition signatures for such action.

There being no other public comment or question, the Chair closed this public segment.

6. Acknowledgements and Announcements

a. Donations

The Chair advised the Board of the following donations recently made to Kennebunk Fire Rescue:

- \$200 from Frances Harrison
- \$25 from Andrew & Betty Golub, in memory of Richard Gordon
- \$30 from William and Connie Collins in memory of Richard Gordon
- \$25 from Christopher Parsons in memory of George Cressey

Motion: To accept the above donations and send letters thanking the donors for their generosity.

Moved: S. Schulte

Seconded: W. Ward

Vote: Show-of-hands vote. 7 in favor, 0 opposed; the motion passed.

b. Grant from the Tommy McNamara Charitable Foundation

The Chair advised Board Members that the Town was awarded a grant in the amount of \$6,275 from the Tommy McNamara Charitable Foundation for the purpose of purchasing a portable beach access mat.

Baldwin explained that Kathryn Palano, a local physical therapist, had approached the Town expressing interest in improving beach access for individuals with mobility challenges. Kennebunk’s Public Services Department, Parks & Recreation Department, and Community Development Department then submitted a proposal to the Tommy McNamara Foundation, requesting funding to purchase a “Mobi-Mat” — a durable, ADA compliant, reusable woven polyester mat, which will allow for access from the parking area at Mother’s Beach to the water for individuals with mobility challenges. Staff anticipates completing the mat installation this summer.

Motion: To accept the grant from the Tommy McNamara Charitable Foundation in the amount of \$6,275 to purchase a portable beach access mat to be installed at Mother’s Beach, and send a letter thanking the Tommy McNamara Charitable Foundation for its generosity.

Moved: S. Schulte

Seconded: W. Ward

Vote: Show-of-hands vote. 7 in favor, 0 opposed; the motion passed.

This motion was informally amended [without vote] to include sending a letter of thanks to Kathryn Palano, suggested by L. Pratt.

c. **New Officers – Kennebunk Police Department**

The Chair noted that two new officers have recently joined the Police Department:

- Lawrin Demo was hired as a Kennebunk Police Officer effective July 12, 2021. Lawrin is originally from Maine, but has been working for the Germantown Police Department in Ohio since 2013. There, he started as an Auxiliary Officer, then became full-time, and in 2017, became a Field Training Officer. Lawrin has also served in the United States Coast Guard.
- Frank Marcotti was hired as a Kennebunk Police Officer effective July 13, 2021. Frank is originally from Massachusetts, where he earned his Bachelor's degree in Criminal Justice at Springfield College. Shortly after, Frank joined the U.S. Army, working in several States until April 2020. Upon discharge from the Army, Frank earned his Master's degree in Homeland Security and moved to Maine. While attending the Maine Criminal Justice Academy, he became a Reserve Officer with the Town of York until accepting the full-time position with Kennebunk.

The Board expressed a warm welcome to Lawrin and Frank and wished them much success.

7. Time Sensitive Business and Staff Presentations

a. **Election of 2021-22 Select Board Officers**

This item had been moved forward and addressed under Item #1 above.

b. **Consider Placing an Article on the Special Town Meeting Warrant to Release the Town's Right of Enforcement of a Deed Restriction**

The Chair explained the deed restriction placed on "Barnard Tavern", the building at 9 Barnard Lane that had been erected circa 1780. The property is one of the oldest in Kennebunk. A restriction was created on it in a deed from Dr. Jo R. Johnson, Trustee of the Johnson Property Trust, to C & K Realty Corporation, dated February 25, 2016 and recorded in the York County Registry of Deeds in Book 17191, Page 469. The restriction states: "This conveyance is made subject to the following restrictive covenant: the structure on the land being conveyed, the 'Barnard Tavern,' so-called, may not be torn down." The deed authorizes the Town and others to enforce this covenant. The current owners of the property, Randy Gates and Kari Gates, have asked the Town to release its right of enforcement so that they [the Gates] might demolish or "deconstruct" and then reconstruct the building.

N. Burns, Town Attorney, explained that this deed covenant "runs with the property" until it is released. The Town has the right to enforce the restriction or release it. However, such release, Burns stated, would not release the owners from any HPC and Ordinance restrictions. Likewise, Town officials cannot, themselves, unilaterally release the Town's right to enforcement. Such release, Burns clarified, must be an action approved by the public by vote.

Robust discussion ensued about how the Town acquired this enforcement right and how Town officials might proceed. S. Carpenter questioned whether condemning the building would make further Town involvement moot, and K. Nedeau questioned whether a vote on the matter could be speeded up rather than wait until the Town's next scheduled November election.

N. Burns explained the “condemnation” process, the need for a public vote, and the need for public hearings and notifications before a public vote takes place. The November election date, she concluded, is the earliest.

K. Gates addressed the Board, warning that “the house may not be standing in November.” Ms. Gates complained that she and her husband had requested demolition on April 19, 2021 and the Town has yet to grant authorization. Ms. Gates has had to tell workers to stay away from the building. “The house is dangerous and a liability”, she stated, and any further delay adds to the danger.

B. Baldwin observed that all parties seek a “win-win” outcome and that a motion to bring the Town’s release of the right of enforcement to public vote was a necessary step in the right direction.

Motion: To place an article on the Special Town Meeting warrant for November 2, 2021, releasing the Town’s right of enforcement of a covenant in a deed from Jo R. Johnson, Trustee of the Johnson Property Trust, to C & K Realty Corporation, dated February 25, 2016 and recorded in the York County Registry of Deeds in Book 17191, Page 469.

Moved: S. Schulte

Seconded: W. Ward

Vote: Show-of-hands vote. 7 in favor, 0 opposed; the motion passed.

J. Johnson reiterated her willingness to lift the “no-demolition” covenant herself, if there were independent, expert engineering guidance advising her to do so.

Board members discussed the idea of a “peer review” by a specialist engineer and question the cost and availability of Town funds for such a study. J. Downs responded that \$20,148 was available in a Special Revenue Fund. B. Baldwin stated that the cost of such a study was not immediately known, but would perhaps to be in the \$15,000 range.

S. Schulte and K. Nedeau questioned the precedence which such a study might set, inquiring whether the Town has paid for or is likely to be routinely called upon to pay for studies of this nature in the future. N. Burns and K. Winton responded that the HPC has typically sought free guidance when needed in the past. This particular case is unique, Burns stated, because of its complexities and the need for judgements beyond the expertise of the Historic Preservation Commission.

F. Paul opposed an additional study since the current property owners already have one. However, K. Nedeau countered that an independent engineer’s study would be important “like a medical second opinion.”

Motion: To authorize the contracting of a structural engineer with historical preservation expertise to perform a peer review of the structural report of the Barnard Tavern done by L.L. [Structural] Engineering [Services, Inc.].

Moved: S. Schulte

Seconded: W. Ward

Vote: Show-of-hands vote. 6 in favor, 1 opposed [Paul]; the motion passed.

c. **Candidate for Committee Appointment Consideration**

Mr. Wayne Berry came before the Board expressing interest in joining the following four committees:

- Energy Efficiency Advisory Committee, consisting of 9 Regular and 1 Youth Members. [Vacancies: (1) Regular 2024, (3) Regular 2023, and (1) Youth];
- Fair Hearing Authority, consisting of 3 Regular Members [Vacancies: (1) Regular 2024, and (1) Regular 2022];
- Lower Village Committee, consisting of 9 Regular and 2 Alternate Members [Vacancy: (1) Alternate 2022];
- Zoning Board of Appeals, consisting of 5 Regular and 2 Alternate Members [Vacancies: (2) Alternate 2022]

The Board had been advised that an alternative candidate also sought consideration for the Lower Village Committee post, but that individual’s application had not been received by the Town Manager as of 4:00pm this date. Nevertheless, W. Berry withdrew his candidacy for the Lower Village post to enable the consideration of the other candidate, Bill Guay.

Motion: To appoint Wayne Berry as (1) a Regular Member on the Energy Efficiency Advisory Committee for the remainder of a three-year term expiring on June 30, 2024, (2) a Regular Member on the Fair Hearing Authority for the remainder of a three-year term expiring on June 30, 2024, and (3) an Alternate Member on the Zoning Board of Appeals for a one-year term expiring on June 30, 2022.

Moved: S. Schulte

Seconded: W. Ward

Vote: Show-of-hand vote. 7 in favor, 0 opposed; the motion passed.

d. **Award the Bid for a 2021 GMC Sierra 2500 4x4 with a Fisher 8’6” Plow for the Public Service Department.**

B. Baldwin explained that the Town had received the following bid for this purchase:

Company	Bids
Weirs Motor Sales	Base Bid (per vehicle): \$45,973.00
Arundel, ME	Deduct Alt. 1 (allowance for trade-in) \$10,000.00
Year: 2022	Add Alt. 1 (extended warranty) \$ 3,000.00

Public Services Director B. Laverriere recommended purchasing the 2022 GMC Sierra 2500 4x4 with Plow (\$45,973) with an extended warranty (\$3,000) from Weirs Motor Sales for \$48,973.00 in total. The approved budget for this vehicle was \$55,000.00.

Motion: To award the bid for a 2022 GMC Sierra 2500 4x4 with plow and an extended warranty in the total amount of \$48,973.00 to Weirs Motors Sales

Moved: S. Schulte

Seconded: W. Ward

Vote: Show-of-hands vote. 7 in favor, 0 opposed; the motion passed.

e. **Award the Bid for a 2021 Tandem Axel Dump Truck for the Public Service Department**

B. Baldwin led the Board in a review of the following bids:

Company	Bids	
1. Allegiance Trucks	Base Bid (per vehicle):	\$201,863.00
Falmouth, ME Year: 2023	Deduct Alt. 1 (allowance for trade-in)	\$ 23,000.00
Make/Model: Int'l HV513 SFA	Add Alt. 1 (extended warranty)	\$ 6,976.00
Body Manufacturer: Everest		\$185,839.00
2. Daigle & Houghton	Base Bid (per vehicle):	\$199,623.00
Hermon, ME Year: 2023	Deduct Alt. 1 (allowance for trade-in)	\$ 20,000.00
Make/Model: Int'l HV513 SFA	Add Alt. 1 (extended warranty)	\$ 7,226.00
Body Manufacturer: Everest		\$186,849.00
3. O'Connor Motor Co.	Base Bid (per vehicle):	\$210,891.51
Augusta, ME Year: 2023	Deduct Alt. 1 (allowance for trade-in)	\$22,000.00
Make/Model: Western Star 4700 SF	Add Alt. 1 (extended warranty)	\$4,686.00
Body Manufacturer: Everest		\$193,577.51
4. Freightliner of Me.	Base Bid (per vehicle):	\$209,915.00
Westbrook, ME Year: 2022	Deduct Alt. 1 (allowance for trade-in)	\$ 7,500.00
Make/Model: Western Star 4700	Add Alt. 1 (extended warranty)	\$ 6,936.00
Body Manufacturer: Everest		\$209,351.00
5. Daigle & Houghton	Base Bid (per vehicle):	\$114,500.00
Hermon, ME	Deduct Alt. 1 (allowance for trade-in)	\$ 20,000.00
Chassis only: Int'l HV513 SFA	Add Alt. 1 (extended warranty)	\$ 7,226.00
		\$101,726.00
6. HP Fairfield	Base Bid (per vehicle):	\$85,123.00
Skowhegan, ME Year: 2022		
Body Only: Everest		

Because of its superior motor, B. Laverriere recommended the purchase of vehicle #3 [above], a 2023 Western Star 4700 Tandem Axle Dump Truck from O'Connor Motor Co, with an extended warranty and trade allowance for a total price of \$193,577.51. Other costs to customize the vehicle would be incurred. The authorized budget for this purchase is \$225,000.00.

Motion: To award the bid for the 2023 Western Star 4700 Tandem Axle Dump Truck with trade allowance and extended warranty in the total amount of \$193,577.51 to the O'Connor Motor Co.

Moved: S. Schulte

Seconded: W. Ward

Vote: Show-of-hands vote. 7 in favor, 0 opposed; the motion passed.

8. **Old Business**

Correction of the Town Manager's Annual Appointments

At its June 22nd meeting, the Board confirmed the Town Manager's nominations for the 2021-22 annual appointments. On the list of appointments, Franklyn Kunkel was inadvertently listed as *Alternate* Building Inspector and *Alternate* Plumbing Inspector. He should have been appointed as the *Assistant* Building Inspector, *Assistant* Plumbing Inspector, as well as *Assistant* Code Enforcement Officer.

Motion: To confirm the Town Manager's Nominations of Franklyn Kunkel as Assistant Code Enforcement Officer, Assistant Building Inspector and Assistant Plumbing Inspector for the 2021-2022 Annual Appointments.

Moved: S. Schulte

Seconded: W. Ward

Vote: Roll call vote. 6 in favor, 0 opposed, 1 abstention (Schulte had been absent); the motion passed.

9. New Business

a. Select Board Code of Ethics

The Town Manager had provided members with copies of the Select Board's Code of Ethics. Members read the Code and signed an enlarged version which will be framed and displayed at Select Board Meetings in room 301. B. Baldwin reminded the Board that the Code can be modified at any time and that members are welcome to recommend changes.

b. Select Board Liaison Posts

In advance of today's meeting, a sheet had also been provided to Board members listing the various Town Committees that have Select Board Liaisons. Members had been asked to review the list and select committees in which they had particular interest. The following liaison assignments were agreed upon:

COMMITTEE	SELECT BOARD LIAISON
Bicentennial Committee	Baldwin
Budget Board	Ward
Committee on Aging	Pratt
Community Garden Committee	Baldwin
Conservation Commission	Schulte
Dog Advisory Committee	Ward
Economic Development Committee	Nedeau
Energy Efficiency Advisory Committee	Pratt
Historic Preservation Commission	Carpenter
Kennebunk River Committee	Schulte
Lower Village Committee	Paul
Planning Board	Ward
Site Plan Review Board	Paul
Tree Committee	Baldwin
West Kennebunk Village Committee	Carpenter

c. Select Board Subcommittee Appointments

The Select Board also has Subcommittees which meet as necessary and typically have no more than three members. In advance of this meeting, Board members were given a list of these subcommittees and asked to express their preferences. Members agreed on these assignments:

SELECT BOARD SUBCOMMITTEE	MEMBERS
Finance	Baldwin, Schulte, Ward
Legislative Policy Committee	Ward
Ordinance Review	Baldwin, Paul, Schulte
PAYT, Recycling, Transfer Station Review	Paul, Pratt, Ward
RSU 21 (liaison post)	Nedeau
Social Service Agencies Review	Baldwin, Schulte, Ward

d. **Appointment of a Kennebunk Sewer District Trustee**

The Chair next notified the Select Board that Mark Allenwood had resigned from the Kennebunk Sewer District (KSD) Board of Trustees. The three-year term for Mr. Allenwood's post expires on June 30, 2024. The KSD has identified a replacement and will submit a letter to the Board identifying that candidate. However, Baldwin urged Board members to agree in advance on a process for filling this position.

S. Schulte recommended that a policy be formulated for such appointments which includes (a) some minimum open time for applications, (b) website visibility about open positions, (c) social media exposure, as well as (d) candidate interviews by the Board.

For the time being, Board members agreed that M. Pardue should post the Sewer District Trustee vacancy, solicit applications, include the KSD's recommended candidate, and plan for Select Board interview of candidates at their August 24, 2021 meeting.

e. **Maine Municipal Association Officers**

Each year, member municipalities have the opportunity to participate in the election of an MMA Vice President and Executive Committee Members.

Motion: To (a) vote for Elaine Aloes for Vice President and David Cyr, Melissa Doane, and Justin Poirier for Executive Committee Members, as well as (b) authorize the Town Manager to sign the ballot on the Board's behalf.

Moved: S. Schulte

Seconded: W. Ward

Vote: Show-of-hands vote. 7 in favor, 0 opposed; the motion carried.

f. **Other Business**

There was none.

10. **Select Board Comments**

a. **Subcommittee Reports:**

There were none.

b. **Comments of Individual Select Board Members**

Baldwin: Expressed enthusiasm about the Board's new composition and commended the Board's "collaborative" approach to rules of order and group discussion.

Carpenter: Expressed pleasure in joining the Board and voiced interest in helping to cultivate community engagement.

Nedeau: Relayed public questions about the beach and park services, [M. Pardue suggested advising the public about the "beach app".]

Paul: No comment.

Pratt: Reiterated the call for turning town flags over to the Veterans as well as glasses and hearing aids to the Lions Club. Also recommended changing the "Selectmen" language in the Town Charter.

Schulte: Happy to be back and anxious to harness the good energy.

Ward, Jr. Thanked the Police Department, Fire Department and Public Services team for their work.

11. Town Manager Announcements

Upcoming Select Board Meetings

M. Pardue reminded the Board of these three upcoming meetings:

- August 24, 2021 (summer schedule – only one meeting in August))
- September 14, 2021 (regular meeting schedule resumes, 2nd & 4th Tuesday of each month)
- September 28, 2021

Pardue advised the Board that he and staff were closely monitoring the growing COVID-19 / Delta variant infection rates in the region and are preparing to respond as necessary to safeguard staff and visitors at municipal buildings.

12. Adjournment

Board members having no additional comments or topics for discussion, the presiding officer adjourned the meeting at 9:36pm.

Motion: To adjourn the meeting

Moved: S. Schulte

Seconded: W. Ward

Vote: Roll call vote. 7 in favor, 0 opposed; the motion passed.

Respectfully submitted by J. Schlagheck, Recording Clerk

Adopted by the Board in the meeting of 8-24-2021
DATE OF MEETING

Signed by _____
Select Board Member: 

SIGNATURE
Kortny E. Nedean
NAME IN PRINT