

TOWN OF KENNEBUNK
BOARD OF SELECTMEN MINUTES

October 22, 2019 – 6:30 P.M.

1. CALL TO ORDER & PLEDGE OF ALLEGIANCE

On Tuesday, October 22, 2019, at approximately 6:30 p.m., in Room 301 of the Town Hall, L. Blake Baldwin, Chair of the Board of Selectmen for the Town of Kennebunk, called to order the Board of Selectmen. Present were Selectmen Edward Karytko, Wayne Berry, L. Blake Baldwin, Shiloh Schulte and Frank Paul.

Absent were Selectmen Christopher Cluff and William Ward, Jr.

Also present was Town Manager Michael Pardue.

The Pledge of Allegiance was recited.

2. APPROVAL OF MINUTES

- a. October 8, 2019 Regular Meeting [*Please refer to supporting material \(PDF\)*](#)

A motion was made to accept the minutes for October 8, 2019 (Regular Meeting).

MOVED: Karytko

SECONDED: Schulte

VOTE: 5 in favor, 0 opposed, 2 absent (Cluff, Ward). The motion passed.

3. ITEMS TO BE SIGNED

4. PUBLIC HEARINGS

- a. Municipal Officers of the Town of Kennebunk will hold a Public Hearing to act on the following:

A new application from Lani Dietz d/b/a Maine and Vine for a Victualer License. This establishment is under new ownership (formerly Downeast Wine) and is located at 13 Western Avenue.

A motion was made to approve the Victualer License Application for Lani Dietz d/b/a Maine and Vine.

MOVED: Karytko

SECONDED: Schulte

VOTE: 5 in favor, 0 opposed, 2 absent (Cluff, Ward). The motion passed.

- b. Municipal Officers of the Town of Kennebunk will hold a Public Hearing to act on the following:

The establishment of fines for violations of the ordinance entitled “Prohibiting the Release and Display of Balloons.” Recommended fines are: \$25.00 (1st offense), \$50.00 (2nd offense) and \$100.00 (3rd offense).

A motion was made to approve the fines noted above for violations to the Ordinance Prohibiting the Release and Display of Balloons.

MOVED: Karytko

SECONDED: Schulte

VOTE: 5 in favor, 0 opposed, 2 absent (Cluff, Ward). The motion passed.

- c. Municipal Officers of the Town of Kennebunk will hold a Public Hearing to hear public comment on the **November 5, 2019 Special Town Meeting Warrant** for the Town of Kennebunk.

Questions on the ballot are: Road Acceptances for Flagship Circle and Higgins Drive, Three-year Emergency Dispatch Services Agreement with the City of Sanford, and the Purchase of Property at 15 Portland Road.

Schulte noted the possibility of efforts to make information regarding the November 5, 2019 Special Town Meeting Warrant more prominently displayed on the Town website.

Some discussion ensued.

Ed Geoghan, from the public, expressed his skepticism of the proposed purchase of property at 15 Portland Road, saying there is no justification given for the purchase of the same, saying it is all very vague. Geoghan also discussed the property value of 15 Portland Road.

Chris Osterrieder, Town Engineer, responded to Geoghan, citing that the Town had conducted a professional appraisal of the property.

Pardue also made some comments. For instance, he said space concerns and visioning for the future were connected with the intent regarding the purchase of property at 15 Portland Road. Pardue also noted that they had to move quickly, due to the way the opportunity for purchase of this property unfolded, while meeting the November 5th meeting requirements.

Discussion continued.

Police Chief Robert MacKenzie spoke, saying he thinks it is a great idea for the Town to be looking at this property, saying it is a very unique piece of property that isn't going to come around again. He said too that they have to think about the generations to come, they have to think about the future, and they have to plan for that. He said he thinks putting it to the voters is the proper thing. He also noted that they've been out of space at their police department for some time now.

Discussion continued. For instance, Joel Downs, Finance Director, spoke with regard to where the money for the proposed purchase of property at 15 Portland Road is coming from. Additional information regarding such numbers and more can be found in the Voter Guide in the Town Clerk's office and on the Town's website.

5. PUBLIC COMMENTS

Town Clerk Merton Brown spoke with regard to the November 5, 2019 Special Town Meeting Warrant. Brown also mentioned that the 2020 dog licenses are in and that they can be purchased online or in the Town Clerk's Office.

Police Chief Robert MacKenzie mentioned a weekly meeting, hosted by The Family Restored (based out of Portland, Maine), to begin in Kennebunk on Tuesday, October 29, 2019. He noted that all are welcome to go to these meetings. MacKenzie noted too that information regarding this event is on the Kennebunk Police Department's Facebook page and the Town's website. He noted the meetings will be held at Seven Mile Road Church located at 71 Portland Road, Kennebunk. MacKenzie stated that they are utilizing the church space but that the event is not affiliated with any type of religion. These meetings will discuss substance use disorder.

Richard Morin, from the public, spoke, saying he thinks the Board of Selectmen need to think about the fact that many people in Town without kids are supporting the efforts of the community and the school. Morin said he is asking for the Selectmen to step in and hold the school leadership responsible and accountable.

6. ACKNOWLEDGEMENTS/ANNOUNCEMENTS

- a. **Accept a Donation** of \$200 from John White and Mary Daley in appreciation for services received from the Fire Department.

A motion was made to accept the donation and send a letter thanking them for their very generous donation.

MOVED: Karytko

SECONDED: Schulte

VOTE: 5 in favor, 0 opposed, 2 absent (Cluff, Ward). The motion passed.

- b. **Traffic Changes for Halloween (Thursday, October 31)**

Traffic changes for Halloween were noted.

7. TIME SENSITIVE BUSINESS & STAFF PRESENTATIONS

- a. **Discuss Boards and Committees**

- **Candidate to Appear for Appointment Consideration to Town Committee**

Cynthia Graves – Community Garden Committee
Vacancies: (1) Regular position - 2021

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

Cynthia Graves was in attendance at tonight's meeting and spoke.

A motion was made to appoint Cynthia Graves as a Regular Member on the Community Garden Committee with a term expiring in 2021.

MOVED: Karytko

SECONDED: Schulte

VOTE: 5 in favor, 0 opposed, 2 absent (Cluff, Ward). The motion passed.

- **Accept the Following Committee Resignation:**

Miriam Whitehouse, Economic Development Committee – Regular Member 2020

A motion was made to accept the resignation of Miriam Whitehouse from the Economic Development Committee and send a letter thanking her for her service.

MOVED: Karytko

SECONDED: Schulte

VOTE: 5 in favor, 0 opposed, 2 absent (Cluff, Ward). The motion passed.

- b. **Discuss the Award of the 2019 or 2020 Ford Fusion Hybrid Vehicle Bid** – The current budget of \$30,000.00 allows for the purchase of a multi-use vehicle to be shared for administrative purposes between police, fire and general government. We received the following bids for this purchase:

In-stock vehicles:

- Arundel Ford, Arundel, ME \$24,923.00
2019 Ford Fusion SE Hybrid Expected delivery date: 2 days
Exterior color: black or gray
- Arundel Ford, Arundel, ME \$25,154.00
2019 Ford Fusion Hybrid Expected delivery date: 2 days
Exterior color: silver
- Stoneham Motor Co., Inc., Stoneham, MA \$25,983.00
2019 Ford Fusion SE Hybrid Expected delivery date: 5 days
Exterior color:
Exterior 1-Velocity Blue Metallic
Exterior 2-no color selected

Vehicles, not in stock, must be ordered:

- Quirk Ford, Augusta, ME \$24,161.88
2020 Ford Fusion SE Hybrid Expected delivery date: 14 weeks
Exterior color: gray
- Arundel Ford, Arundel, ME \$24,276.88
2020 Ford Fusion SE Hybrid Expected delivery date: 12-16 weeks
Exterior color: any color

BID NOT CONSIDERED due to receipt of bid outside of bid deadline (due by 10:00 a.m.)

Bids were due by 10:00 a.m. on 10/17/19; this bid arrived at 12:46 p.m. on 10/17/19

- Key Ford of York, York, ME \$24,774.90
2020 Ford Fusion SE Hybrid
Expected delivery date: vehicle in stock available for delivery
Exterior color: silver

The Town Manager is recommending the low bid of \$24,923.00 for a 2019 Ford Fusion SE Hybrid as submitted by Arundel Ford.

Pardue confirmed for Schulte that the money for this purchase is in the budget.

Sergeant Andrew Belisle answered questions Schulte presented. Belisle noted that the purchase of the vehicle would replace a 2008 Ford Taurus the Town has owned for numerous years, noting that when the Town purchased the Taurus it was a used vehicle.

Karytko asked questions. For instance, he asked if there is a reason why it is suggested that they purchase a 2019 vehicle for more money than they can get a 2020 vehicle. He wondered if the delivery time is making a difference in which car is being suggested here for purchase. In response to Karytko, Belisle said, in part, that the 2008 Ford Taurus will need about \$2,200 worth of work done so the sooner a replacement vehicle can be obtained, the better.

A motion was made to accept the bid from Arundel Ford for a 2019 Ford Fusion SE Hybrid at a price of \$24,923.00.

MOVED: Karytko

SECONDED: Schulte

VOTE: 5 in favor, 0 opposed, 2 absent (Cluff, Ward). The motion passed.

8. OLD BUSINESS

- a. **Discuss Recovery Residences** – Selectman Karytko requested this item be placed on the agenda to allow for additional public discussion on this topic

Karytko spoke about this item, asking the Board if they think it's time that they start to take a good look at rentals in the area, if they think they need to do something about them and perhaps license them, etc. For one thing, Karytko mentioned that he has talked to some of their Bed and Breakfast owners and others in the hospitality industry and noted that the general comment is that they feel it's a little unfair. Karytko mentioned that Bed and Breakfast owners, for example, look at this as that they have to conform to Fire Codes but Air B and B's and similar businesses don't have to do any of that and basically are doing the same thing: renting out rooms.

Pardue noted that Attorney Burns addressed the Board and suggested a Disorderly House Ordinance. Pardue added that Attorney Burns sent that draft to him today and that the Ordinance Subcommittee will see that draft ordinance in the very near future. Pardue also offered that he thinks that this approach begins the ball moving toward addressing Air B and B's and other types of homes that may be disorderly in some fashion, moving. Pardue also noted that according to Attorney Burns, the proposed ordinance affords the Town the ability to act upon, and regulate, disorderly homes. Karytko, in response to Pardue, said he thinks it doesn't address the life safety issue.

One thing Pardue then said in response to Karytko is that they are advancing internally an Air B and B discussion to bring to the Board to address life safety issues in such settings. Karytko then thanked Pardue. Karytko then said all his comments, and all his directions, have not been to not support recovery houses, that his whole focus has been on trying to make them safe. Karytko noted that he has listened to the State representative who sponsored the bill, LD 353, and that that representative told him some horror stories about people who have run recovery houses.

Discussion continued. For instance, Schulte said that Air B and B's and recovery houses are not the same thing and said that a recovery house is a single-family home. Schulte also wondered about the details of the

draft Disorderly House Ordinance mentioned moments ago. Responding to Schulte, Pardue said it is predicated on the number of times the police might respond over a period of time.

Schulte said there is already relevant law that says this is a single-family home and that if we make any changes it applies to all homes in the community. Schulte also said that we, as a community, should be welcoming of this type of opportunity (recovery Residences) for people who are struggling with addiction and are in recovery. He said it is a laudable goal to make sure that people in recovery are not taken advantage of. He also worried about adding stigma to people in recovery by isolating such people.

Karytko said if somebody says they are going to put a sober house next door to you, there are going to be questions, people who wonder about something like if they have to put deadbolts on their door. He said too that if the people in the Town may be affected in any way, he has to at least try to address that. But then Schulte said that would be true of any house in the community, saying that there are people abusing substances all around the community, though you may not be able to pinpoint precisely where they are. Schulte said he thinks they need to be looking at this as how they can make recovery more effective in our community. To that last comment, Karytko said, "and not affect the residents who live in that community, because the residents in the community have rights too."

Paul said the residents are protected by the police. He added that it almost seems like the assumption is it is going to be disorderly because they are recovering alcoholics, and he said that's not fair.

Baldwin asked MacKenzie if he wanted to weigh in on this. Then MacKenzie spoke. One thing he said is that he believes that we tend to stigmatize it when we have discussions like this, because it does segregate folks. He said he wants to continue to reduce the stigma in our community.

Discussion continued. For instance, Baldwin said these folks deserve our benediction, our blessing, not our condemnation. Baldwin said he thinks they ought to do everything to support recovery. He made further comment getting at the point that recovery residences, due to legislation passed, being defined as single family houses, have less life safety standards needed to be followed than, say, a boarding house. He also said one could argue that the people who are in recovery are being discriminated against because others are protected by life safety issues while they are not necessarily afforded that same protection (the law doesn't require single family homes to have the same life safety protections as, say, a boarding house). Baldwin said that's a fair question to ask but that it's not a question for this Board to engage in. He noted that people in the legislature have created the set of circumstances where these rules apply. Baldwin also said that he thinks they would take a reputational hit if they were the town that said yes to recovery through our police department, but not just in our neighborhood.

John Costin, from the public, took issue with this discussion taking place. Costin stated that it is disingenuous what he is hearing: that people are really just concerned about safety with regard to the topic of sober homes in Kennebunk. He said they went from, over time, people saying stuff such as they don't want their property values damaged to they are just really concerned about the safety of these people, and Costin said it fails the straight face test. Costin said they have a considerable amount of elderly congregate housing and he said his understanding is that they, as a group, have a very high demand on Town services.

Dr. Meredith Norris, who stated she has been treating substance use disorder in Maine for over 13 years, spoke. She said she echoes the concerns people have with people stating that this is all about maintaining the safety of people in recovery, because discussions on the topic have largely not been about how to keep people in recovery safe but rather about property value and locking our doors. Norris said she often tells people when they are applying for jobs not to forget that getting sober is a skill, saying such a person is one

who can, for one thing, withstand hardship. Norris said if you want your community to be safer, then you should want more sober houses in your community.

Mike Davies, from the public, spoke. He said that in his opinion the best way to make something successful is to make sure it has some regulations and some guidelines. He noted that the NARR (National Alliance of Recovery Residences) has regulations on all these facilities. He said that without adopting the NARR principles on how recovery residences should be run and managed, you're giving this facility a lower chance of success. He said you best have an ordinance that says a license is required for these facilities.

Discussion continued.

9. NEW BUSINESS

- a. **Approve a Pole Location Permit for Central Maine Power Company** – CMP, together with Northern New England Telephone Operations LLC, has applied for permission to construct and maintain poles together with attached facilities and appurtenances upon, along or across certain streets and highways as described below:

Starting Point: Pole 25
Road: Landing Street, according to CMP (recognized by the Town as Port Road)
Direction: S
Distance: 40 feet
Number of Poles: One (25.1)

The site was reviewed and approved by Public Services Director Bryan Laverriere.

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

A motion was made to approve the Pole Location Permit for Central Maine Power as noted above.

MOVED: Karytko

SECONDED: Schulte

VOTE: 4 in favor, 0 opposed, 1 abstention (Berry), 2 absent (Cluff, Ward). The motion passed.

- b. **Approve Funding for the Replacement of the Cable Broadcast Management Hardware/Software System** – During the past several weeks, our six-year old cable broadcast system has become unreliable and requires frequent restarting. The Town's IT Manager Rich Boucher has been working to correct the problem and continues to attempt to find solutions to keep the system working. Parts are no longer available to repair the unit. Ultimately the current system has stopped working completely, requiring a quick replacement of the hardware/software. This replacement is unbudgeted for FY2019-2020; therefore, funding would be sourced from the Board of Selectmen's capital reserve fund. Based on the proposal from Connectivity Point for \$15,182, staff is estimating the total cost for the replacement may total \$17,000. Due to the specialized nature of the equipment and installation, staff is requesting that the Board's Purchasing Policy be waived, allowing the sole-sourcing of the system from Connectivity Point since the replacement requires wiring and connection changes that staff is not equipped to perform.

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

Schulte said 6 years doesn't seem like that long. He asked if they know why it's failing now.

Discussion continued.

A motion was made to authorize the Town Manager to spend up to \$17,000 from the Board of Selectmen's capital reserve fund for the replacement and installation of the cable broadcast system, and to waive the Board's Purchasing Policy allowing for sole-sourcing of the system.

MOVED: Karytko

SECONDED: Berry

VOTE: 5 in favor, 0 opposed, 2 absent (Cluff, Ward). The motion passed.

- c. **Discuss Jointly Establishing a Position at Southern Maine Planning and Development Commission** – Over the past couple months, a group of six towns have been meeting to discuss jointly establishing a position at the Southern Maine Planning and Development Commission (SMPDC) to work on issues related to energy planning, sustainability and coastal resiliency due to the impacts from rising sea levels and more frequent storm events.

As a result of these discussions, the six towns (Kittery, York, Ogunquit, Wells, Kennebunk and Kennebunkport) agreed that pursuing such a position, as a two-year pilot program, would be the most cost effective and efficient way to address these issues. SMPDC has worked with the communities and plans to establish a dedicated position which can support the efforts of all the communities. The proposal not only establishes a Sustainability/Coastal Resilience position, it provides cash match for ongoing grant efforts. At the end of two years all the communities involved and SMPDC will assess the results.

This would be a full-time position requiring approximately \$90,000 for salary, benefits and overhead.

- Funding would be \$15,000 per year/per town, of which \$30,000 will go towards matching grant funds as described above.
- As we will be basically half-way through a budget year soon, SMPDC is asking each town for \$7,500 for this year (FY19-20) and \$15,000 for a full year (FY20-21) beginning in July 2020.
- This is essentially a pilot program but the understanding through discussion is that SMPDC would need two years to assess results.

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

Pardue said, in part, that he thinks this is a unique opportunity to allow the Town to invest little to gain much.

Lee Jay Feldman, Director of Land Use and Planning at SMPDC, spoke about this agenda item.

Discussion continued. For instance, Schulte said two years is not very much time for this kind of thing, and so he wondered what sort of outcomes Feldman expects to be able to point to at the end of two years to see if this undertaking was successful. Feldman responded to Schulte.

Berry asked what exactly the six towns are being asked to fund. To that, Feldman responded.

Discussion continued. Berry asked what Feldman thinks Kennebunk can expect to gain for information from this two-year compilation of data. Feldman said they are going to start looking at tax and property implications based on storm surge and all the properties that become impacted and the loss of dollars to the community and to the state for that. He also noted that they're going to be assessing the energy

consumptions of all the municipal buildings in Kennebunk. He mentioned the ideal of coordinating the same data for all the communities involved.

Karytko made comments, in part explaining his initial apprehensions regarding agreeing to join the communities in the effort described above under this agenda item but now has a better understanding of the initiative.

Funding sources for the effort described in this agenda item were discussed by Joel Downs, Finance Director.

Sharon Staz, Chair of the Energy Efficiency Advisory Committee, spoke. Staz said she would encourage the Board to support this proposed position.

Maggy Bartenhagan, member of the Energy Efficiency Advisory Committee, spoke. She said she is thrilled that this is under consideration, because what it says to her is that you all in this community are taking this seriously. She made further comment.

A motion was made to authorize the Town Manager to expend up to \$7,500 from the Board of Selectmen's operational reserve fund in support of Southern Maine Planning and Development Commission's FY19-20 plan to establish a dedicated position to support the multi-town initiative.

MOVED: Schulte

SECONDED: Berry

VOTE: 5 in favor, 0 opposed, 2 absent (Cluff, Ward). The motion passed.

d. Discuss Any Other Business

Downs mentioned that the Finance Subcommittee met to discuss an unexpected repair to the Dorothy Stevens Building, a repair that's projected to cost about \$16,500. Downs said that since those repairs might need to occur very quickly, he'd like to ask the Board to consider taking funds either out of the current budget or the Selectmen capital contingency funds to perform this work contingent upon decision to actually go forward with it. He also talked about the sole-sourcing of the work to be performed by one vendor that's come forward.

Discussion continued, such as regarding the details of the repair.

A motion was made to authorize the Town Manager to expend up to \$16,500 from the Board of Selectmen's capital reserve fund for repairs to the Dorothy Stevens Center subject to review from the Finance Subcommittee.

MOVED: Schulte

SECONDED: Karytko

VOTE: 5 in favor, 0 opposed, 2 absent (Cluff, Ward). The motion passed.

A motion was made to authorize the Town Manager to waive the Town's Purchasing Policy, to use a single source contractor for the repairs to the Dorothy Stevens Center.

MOVED: Schulte

SECONDED: Karytko

VOTE: 5 in favor, 0 opposed, 2 absent (Cluff, Ward). The motion passed.

10. BOARD OF SELECTMEN COMMENTS

- a. **Subcommittee Reports**
- b. **Individual Selectmen Comments**

Selectman Karytko:

- Mentioned the Lions Club box for eyeglasses and cell phones, down by the Town Clerk's Office; said used and tattered flags can be brought to the American Legion. Apologized for suggesting that people put such flags in a plastic bag and hang it on the door knob of the American Legion building on Water Street. Said to put such flags in a *paper bag* and hang it on the door knob.
- The Energy Efficiency Advisory Committee had a meeting wherein they talked about dog waste and food waste, no idling policy, etc.
- West Kennebunk Village Committee Holiday Fair will be held on Saturday, November 2, 2019
- Are we still trying to get together with RSU 21?
- Karytko read a letter to the editor posted this past week. Therein, the writer admired the efficiency and thoroughness of road projects they encountered in Maine. Karytko said this is a great compliment to our road crews. Karytko said our roads are being done efficiently and well, and that he has to thank Pardue and our Public Works Department for that.

Selectman Schulte:

- Spoke about the Selectmen Outreach Session held this past Saturday
- Spoke toward the importance he sees in thinking about climate change when making decisions
- Spoke about not endorsing legislation, wondering if that is a Board policy or in the Charter
- Accessible information on voter issues—wondered if we can be doing more to push that information out to the community
- Said he thinks there is a lot of sadness and frustration on the part of former Skate Park Ad-hoc Committee members with regard to how the skate park situation started to turn.

Selectman Paul:

- Mentioned something the Historic Preservation Commission wondered about getting reprinted, and said that Commission indicated that such prints were not cheap. Mentioned another item the Commission was wondering about.

Selectman Berry:

- Asked Karytko in what capacity he (Karytko) was acting when discussing sober houses with people. Said he hopes they all recognize that they act as a Board and not as individuals.

Selectman Baldwin:

- First Amendment allows us to speak freely, freely assemble and redress grievances to the government; I reject the notion that we shouldn't be having conversations; to close conversations, in my view, is a violation of the First Amendment.
- Spoke about traffic enforcement, saying he sees a lot more blue lights now as traffic enforcement effort has increased

11. TOWN MANAGER ANNOUNCEMENTS

Pardue made announcements.

12. EXECUTIVE SESSION

13. ADJOURNMENT

At approximately 9:14 p.m., a motion was made to adjourn the meeting.

MOVED: Karytko

SECONDED: Schulte

VOTE: 5 in favor, 0 opposed, 2 absent (Cluff, Ward). The motion passed.



L. Blake Baldwin, Chair
Kennebunk Board of Selectmen

Date 11/14/19