

**Town of Kennebunkport
Selectmen's Meeting
October 8, 2009
7 p.m. - Village Fire Station - 32 North Street**

Minutes of the Selectmen's Meeting of October 8, 2009

Selectmen attending: Stuart E. Barwise, Allen A. Daggett, Mathew J. Lanigan, and Sheila Matthews-Bull

Selectman absent: D. Michael Weston

Others: Joseph Bruni, Carol Cook, April Dufoe, Wayne Fessenden, David James, Jeff Lagasse, Jennifer Lanigan, Molly Lovell, Larry Mead, Arlene McMurray, Michael Davis, and others.

1. Call to Order.

Chairman Daggett called the meeting to order at 7 p.m.

2. Approve the September 24, 2009, Selectmen Meeting minutes.

Motion by Selectman Lanigan, seconded by Selectman Barwise, to approve the Selectmen Meeting minutes of September 24, 2009. **Vote:** 4-0.

3. Public Forum (This is an opportunity for anyone who wants to address the Board of Selectmen with any issue that is not on the agenda).

Jennifer Lanigan of American Sailor announced the "Gathering of Scarecrows" week long event taking place on the green from October 11 - 17. There will be many activities such as a craft fair, scarecrow building, craft making by local artisans, and a parade.

Town Clerk April Dufoe mentioned that absentee ballots are now available at the Town Office for the November Special Town Meeting, and that she is working additional hours on Wednesday, October 28, from 4:30 to 6:30 p.m. for anyone who would like to register to vote, vote by absentee, pick up an absentee ballot, or make a change of address.

Ms. Dufoe also mentioned a public hearing at the Board of Selectmen's Meeting on October 22, to take public comment on the Referendum Questions for the November Special Town Meeting.

Police Chief Joseph Bruni passed out motor cycle "Ride Quiet, Ride Safe" brochures. He said they purchased 10 signs which they will post in the spring.

Chairman Daggett read a statement by the Kennebunkport Board of Selectman regarding the public's right to use Goose Rocks Beach. (See Exhibit A).

4. Sign Municipal Valuation Return.

The Board signed the Municipal Valuation Return.

5. Consider the following property tax abatements and supplemental tax bill:

Property Owner	Location	Map	Blk	Lot(s)	Abatement Amount	Supplemental Amount
Desmond O'Hara, Trustee	Sand Point Rd.	35	7	6	\$341.09	
William A. Katherine C. Nixon	Sand Point Rd.	35	7	6		341.09
James P. & Cheryl B. DeMarre	20 Crescent Ave.	35	23	9	\$15.85	
Brian T. Deveaux	37 Old Cape Rd.	12	5	3B	\$13.31	
Goose Rocks at K'port LLC	Unit 7 F, 272 Mill Rd.	37	2	2	\$463.51	
Carolyn & John McNamara	17B Grove St.	22	1	10-G2	\$120.46	
Gary Roth & Sue Ann Brayley Roth	3-5 Dorrance Rd.	35	16	12 & 12A	\$4,155.87	
Gary Roth & Sue Ann Brayley Roth	3-5 Dorrance Rd.	35	16	12		\$2,077.94
Theo Glickman & Steven Thomas Snyder	5 Dorrance Rd.	35	16	12A		\$2,077.94
Jonathan T. Trudo	91 Goose Rocks Rd.	15	2	1	\$978.26	
Alyse H. Trudo		15	2	1J		\$978.26
GE Capital Information Tech	No assets in K'port				\$426.43	

Town Manager Larry Mead read and explained all of the property tax abatement requests and supplemental tax bills listed above.

Motion by Selectman Barwise, seconded by Selectman Lanigan, to approve the abatement requests and supplemental tax warrants as read. **Vote:** 4-0.

6. Consider request from Parks and Recreation Department to close Temple Street for Halloween party on October 30.

Director of Parks and Recreation Carol Cook requested closing Temple Street from 5 to 8 p.m. for a Halloween party on the street on October 30. She said they will have food, games and entertainment.

Motion by Selectman Barwise, seconded by Selectman Lanigan, to approve the

closing of Temple Street for a Halloween party on October 30. **Vote:** 4-0.

7. Consider Street Opening Permit for Cape Arundel Golf Club to install water service to the clubhouse.

Motion by Selectman Barwise, seconded by Selectman Lanigan, to approve a Street Opening Permit for Cape Arundel Golf Club to install water service to the clubhouse. **Vote:** 4-0.

8. Consider bid awards for the Sewer Department:

a. To replace tile floors in the Control building.

Motion by Selectman Lanigan, seconded by Selectman Barwise, to award the bid to Sanford Flooring at a cost of \$3,068.00 to replace tile floors. **Vote:** 4-0.

b. To replace the wet well covers at Green Street and Chicks Creek Pump Station.

Motion by Selectman Lanigan, seconded by Selectman Barwise, to award the bid for replacing the wet well covers at Green Street and Chicks Creek Pump Station to George R. Roberts Co. at a cost of \$4,280. **Vote:** 4-0.

9. Consider purchase of calcium chloride.

Motion by Selectman Lanigan, seconded by Selectman Barwise, to award the bid for calcium chloride to Branch Brook at a cost of \$1.30 per gallon. **Vote:** 4-0.

10. Consider purchase of management software for Fire Department.

Motion by Selectman Lanigan, seconded by Selectman Barwise, to award the bid for the purchase of management software for the Fire Department to Fully Involved LLC at a cost of \$5,000. **Vote:** 4-0.

11. Revisit Traffic and Parking Control Ordinance concerning five parking spaces on Maine Street between North Street and Spring Street.

Police Chief Joseph Bruni said that in May the Board authorized parking for five vehicles on Maine Street near the corner of North Road on a trial basis with the condition to revisit this issue after Labor Day. He said he and the Highway Superintendent observed the parking throughout the summer and reported that it went well. There were no accidents or problems. He would like the Board to approve these parking spaces on a permanent basis so that the area can be paved in October.

Mr. Mead added that he needed approval to extend the curbing on Maine Street.

Motion by Selectman Barwise, seconded by Selectman Lanigan to approve the five parking spaces on Maine Street permanently and to extend the curbing along the five spaces. **Vote:** 4-0.

David James commented that several residents were wondering why there was no public discussion before installation of the blinking yellow light at the corner of Maine and North Streets. Mr. Mead and Chief Bruni explained that public discussion was not necessary because it was a safety issue.

12. Consider resolution opposing State Referendum initiatives on excise tax and on Tabor II.

Mr. Mead read two resolutions: 1) Opposing Question 2 on state ballot that would reduce the municipal excise tax (See Exhibit B); and 2) Opposing Question 4 on state ballot that removes budget authority from Town Meeting (See Exhibit C).

Motion by Selectman Barwise, seconded by Selectman Lanigan, to adopt the resolution opposing Question 2. **Vote:** 4-0.

Motion by Selectman Barwise, seconded by Selectman Lanigan, to adopt the resolution opposing Question 4. **Vote:** 3-1/Selectman Matthews-Bull, voted in opposition.

13. Other business.

Mr. Mead mentioned several items:

- The *Kennebunk Post* will include the *Kennebunkport Town Review* as a supplement in the October 16 edition and will also be delivered to Cape Porpoise Post Office boxes since the *Kennebunk Post* has no delivery to that zip code.
- The FEMA issue has changed since the last meeting. The deadline for appeals has been delayed and a firm date has not been set. He reiterated that property owners are responsible for filing an appeal and should submit them to the Code Enforcement Office, The Town will forward them to FEMA. Anyone appealing should have documentation based on scientific or technical evidence. He encouraged people to come to the Town Hall to look at maps.
- Public Health Nurse Judy Barrett said that the Kennebunkport Marina was successfully certified as a Clean Marina under the State of Maine's

Clean Marina Boatyard Program. This accomplishment required an extensive amount of hours put in by management and staff.

- The Town Offices will close on October 12 to observe Columbus Day.
- Thanksgiving and Christmas fall during the weeks of the regularly scheduled Selectmen's Meetings. The Board agreed to meet at the Village Fire Station on November 12, December 3, and 17; and at the Town Office for a short meeting to sign the Treasurer's Warrant on November 25.

14. Consider the October 8, 2009, Treasurer's Warrant.

Motion by Selectman Lanigan, seconded by Selectman Barwise, to approve the October 8, 2009, Treasurer's Warrant. **Vote:** 4-0.

15. Adjournment.

Motion by Selectman Lanigan, seconded by Selectman Barwise, to adjourn the meeting. **Vote:** 4-0.

The meeting adjourned at 8:37 p.m.

Submitted by

Arlene McMurray
Administrative Assistant

Statement of the Kennebunkport Board of Selectmen Regarding the Public's Right to Use Goose Rocks Beach

A small group of beachfront property owners along Goose Rocks Beach is asserting the right to restrict public access to most of Goose Rocks Beach between Sand Point and the Batson River. The group, which has retained a Portland attorney to represent its interests, contends that property owners along the beach have title to the low water mark. They ask that the Town acknowledge the right of beachfront property owners to determine who may or may not use the beach from the high dry sand down to the low water mark. They have stated their intention to sue the Town to seek a court determination that the beach is privately owned unless the Town accedes to conditions, including posting signs acknowledging that all but a small portion of Goose Rocks Beach is private, and enforcing trespass laws against members of the beach-going public who seek to use the beach for general recreation purposes.

The Board of Selectmen has met with the Town's Attorney to discuss the Town's rights and legal position. The Selectmen believe that this group's attempt to restrict access to and use of the beach is contrary to the traditional and long-established patterns of open public use of Goose Rocks. Extensive areas of Goose Rocks Beach have been used by neighborhood residents and visitors without conditions and without explicit permission from property owners for generations. The Selectmen unanimously reject the claim that vast portions of Goose Rocks Beach are private and accessible by permission only.

Selectmen have over the summer spoken with a great many residents of Goose Rocks Beach and other Town neighborhoods about this attempt to control who may use Goose Rocks Beach and under what conditions. A consistent theme that emerges from these conversations is that Kennebunkport residents have enjoyed unrestricted access to the beach for as far back as anyone can remember. Residents cannot imagine that, going forward, they would have to seek permission from dozens of individual property owners to travel across and use the beach at Goose Rocks for general recreational purposes.

The Town remains ready to work cooperatively with property owners to address any inappropriate or unreasonable recreational use of the beach. The Town's policy is to support the maintenance of the status quo at the beach and to continue the longstanding tradition of reasonable public access to and recreational use of this important public resource within our Town. The Town does not wish to engage in protracted litigation over this matter. However, the conditions that have been presented are unacceptable. The Selectmen will continue to defend the public's right to use and enjoy the beach.

TOWN OF KENNEBUNKPORT

RESOLUTION OPPOSING QUESTION TWO ON STATE BALLOT THAT WOULD
REDUCE THE MUNICIPAL EXCISE TAX

WHEREAS, Question two would cut over \$80 million annually in vehicle excise tax revenue used by Maine's towns and cities to repair and maintain local roads and bridges; and

Whereas, excise tax revenue is a significant source of revenue to Kennebunkport accounting for over \$800,000 each year, and

Whereas, voters in Kennebunkport consistently demonstrate support for adequately funding road maintenance and repairs by authorizing more spending each year on road maintenance and repairs than is collected in excise taxes, and

Whereas, the excise tax proposal would cut approximately \$320,000 in revenue from the Kennebunkport budget, and the loss in revenue would need to be made up either by cutting expenditures on roads or some other municipal service, or by raising additional property taxes, and

Whereas, vehicles less than six years old receive most of the tax reductions, while vehicles six years and older will not experience a reduction in excise taxes, and

Whereas; 68% of the vehicles in Kennebunkport are more than five years old, and

Whereas, the new tax rates would take effect in January in the middle of the current tax year, resulting in the need to either significantly cut services or convene a special town meeting to approve alternative sources of revenue for the remaining six months of the fiscal year,

NOW, THEREFORE, BE IT RESOLVED by the Kennebunkport Board of Selectmen that the Board of Selectmen oppose Question two for the following reasons:

Reducing excise tax revenues will increase the Town's reliance on the property tax and likely require property tax increases to maintain essential services otherwise funded through excise taxes;

The excise tax is more directly related to ability to pay than the property tax in that it reflects the value of the vehicle purchased and decreases over time as vehicles age;

The excise tax, in conjunction with State provided local road assistance, is less than the amount the Town typically spends on road maintenance and repair, functioning as a form of user fee for street maintenance;

The majority of vehicles currently registered in Kennebunkport would see no change in excise tax since they are six years old or older;

If approved, these reductions would go into effect in the middle of the Town's budget year, requiring significant expenditure reductions, much of which could only be accomplished through eliminating services or convening a special town meeting to appropriate alternative sources of revenues.

NOW BE IT FURTHER RESOLVED THAT


The Board of Selectmen urge all citizens to become fully informed on this proposal prior to the November election by becoming familiar with the language of the proposal and reviewing materials provided by those supporting and opposing this measure.

Approved by the Kennebunkport Board of Selectmen on the eighth day of October, 2009









TOWN OF KENNEBUNKPORT

RESOLUTION OPPOSING QUESTION FOUR ON STATE BALLOT THAT
REMOVES BUDGET AUTHORITY FROM TOWN MEETING

WHEREAS, the history of spending decisions being made at Town Meeting in Kennebunkport dates from at least 1678 in Cape Porpus; and

WHEREAS, the Town Meeting continues today to exercise legislative and budgetary authority in Kennebunkport; and

WHEREAS, Question four would interfere with the Town of Kennebunkport's authority to approve the final town budget at Town Meeting by requiring the use of referendum voting to comply with state imposed property tax limitations; and

WHEREAS, the requirement for referendum voting will disrupt the budgeting process and result in additional time and expense for special elections and special Town Meetings; and

WHEREAS, Question four interferes with local decision making by requiring that all towns and cities adopt a uniform budget format to be developed for Kennebunkport by the State Planning Office;

NOW, THEREFORE, BE IT RESOLVED by the Kennebunkport Board of Selectmen that the Board of Selectmen oppose Question four for because it unnecessarily interferes with the long history of local Town Meeting authority in Kennbunkport: and

BE IT FURTHER RESOLVED THAT

The Board of Selectmen urge all citizens to become fully informed on this proposal prior to the November election by becoming familiar with the language of the proposal and reviewing materials provided by those supporting and opposing this measure.

Approved by the Board of Selectmen on the eighth day of October, 2009

