

Town of Kennebunkport
Board of Selectmen Meeting
December 22, 2022
6:00 PM

MINUTES

Selectmen attending: Edward Hutchins, Sheila Matthews-Bull, Allen Daggett, Jon Dykstra Michael Weston.

1. Call to Order.

Selectman Hutchins called the meeting to order at 6:01 PM.

2. Approve the December 8, 2022, meeting minutes.

Selectman Dykstra noted that item #4 had him as both making and seconding the motion. The board agreed that Selectman Dykstra made the motion and Selectman Matthews-Bull seconded it. **Motion** by Selectman Matthews-Bull, seconded by Selectman Dykstra to approve the amended December 8, 2022, selectmen meeting minutes. **Voted:** 5-0. **Motion passed.**

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.)

No one in the community room nor attending via Zoom came forward.

No motion was necessary. No motion was taken.

4. Authorization of Confirmatory Supplemental Agreement Regarding Joinder of Beachfront Owner to Beach Use Agreement.

Town Attorney Amy Tchao explained that in 2013 there was a limited period when beachfront owners were allowed to join the beach use agreement. At that time, the countersignature of TigerEleven LLC, members of which include Gerald and Melissa Rizeieri, was misplaced and never officially recorded. The Rizeieris signed an affidavit asserting that they had signed the agreement in 2013. Attorney Tchao acknowledged there might be a concern that others will want to sign the beach use agreement if the board allows the Rizeieris to do so now. But she does not think that is likely due to the unique circumstances of this request.

Ralph Austin, representing the Rizeieris & TigerEleven agreed with Amy Tchao's recitation of the facts. He added that in the files, there was a letter dated December 10, 2013, from Brian Willing indicating that the Rizeieris' signature page was misplaced,

which corroborates their statement that they had signed the Supplemental Agreement in 2013.

Motion by Selectman Weston, seconded by Selectman Daggett, to accept the Joinder.

Voted: 5-0. **Motion passed.**

5. Update from Megan McDevitt, of Woodard & Curran, on the Pier Road causeway project:

Ms. McDevitt gave a presentation providing an update on this project with an overview of the preliminary design. Her slide show gave the details of the existing condition, roadway profile & elevation comparisons, roadway layout, opinion of probable project cost, and alternate ideas for the kayak launch area.

The Town was able to obtain a grant from the Maine Infrastructure Adaptation Fund of \$2.6 million to cover the cost of construction. The grant requires the project to be fully constructed by 2026.

The existing condition of the causeway is that the lowest point is Elevation 6.5 NAVD (North American Vertical Data). This is roughly a 5-foot difference between NAVD and a tide level. So, 6.5 NAVD is about an 11.5-foot tide. There is riprap on both sides and an existing marsh on the east side. There are vehicle guard rails on both sides but no sidewalk or pedestrian walkway. There is a sewer force main under the roadway and a water main under the marsh on the east side of the causeway. There is overhead electrical on the west side of the causeway. Those are outside the Town's right of way and on private property. There is also a beloved kayak launch on the east side.

The preliminary proposed construction would elevate the causeway to a new low point of elevation 11 NAVD, with an average of 4 feet 9 inches of additional fill above the current elevation. This would bring the entire causeway above the 10- and 50-year still water elevations and the 100-year flood elevation. This increase will improve our resilience over some storm events and sea level rise, though it is not enough to meet the projected year 2100 sea level rise. The proposed construction elevates the roadway to the best storm resilience level possible, given budgetary constraints.

The proposed construction would use precast segmented blocks to allow vertical walls with a compact horizontal footprint, as was done with the Ocean Ave project. Included is an 8-foot-wide concrete sidewalk with granite curb and combo pedestrian/vehicle guardrail on the east side and vehicle guard rail on the west side. Feedback already received is that the 8-foot sidewalk is excessively wide; it could be reduced to a 5-foot width and still meet ADA minimum standards (required for the grant).

Construction cost for the preliminary design is projected to be \$1.8 million, carrying a 10% (\$180,000) design contingency and another 10% owner's contingency. There is also an in-lieu compensation allowance of \$50,000 for possible impact to the surrounding wetlands, engineering, permit & bid services cost of \$189,700, and construction administration services cost of \$65,000. This brings the total cost of the project to \$2,470,700.

An updated rendering of the project shows a step at the top of the retaining wall and a guard rail on top to keep parts of the retaining wall as low as possible. Feedback received, however, is that it would be more aesthetically pleasing to have the entire retaining wall & guard rail at one continuous level.

Two options were presented regarding the kayak launch area:

- Granite stairs permitting hand carry only for kayaks to the launch area.
- 20-foot-wide ramp down to launch area, steeper slope and narrower than the existing ramp but with greater impacts to wetlands and natural resource areas.

Questions and discussions ensued from the Selectmen regarding the dimensions of the current and proposed kayak ramp.

Residents Elaine Carlson and Richard Perry - abutters who provided a recreational easement on their property to allow the kayak launch - expressed concern and opposition to extending the ramp further into the marsh. Mr. Perry also expressed his opposition to a road height increase of 4 feet 9 inches based on FEMA data and support for a lesser height increase of 2 feet 6 inches based on Maine Climate Council data. He feels this smaller increase would allow for a better access ramp for kayak launching and would also have less negative visual impact.

Nearby resident Dick Smith expressed concern that the lack of parking spaces for cars loading and unloading kayaks would embolden people to park on the sidewalk near the ramp, causing a pedestrian hazard. He suggested that there be a physical barrier to prevent cars from pulling up onto or parking on the sidewalk.

Mr. Smith also read a letter into the record from Doug May & Wendy Wise of 2 Stonehaven Drive, who could not attend the meeting. Their two concerns were: 1) that the height of the causeway addition was being driven by budget, not data; and 2) that an 8-foot-wide sidewalk would make pedestrians less safe because it would encourage drivers to park on the sidewalk. They support a narrower sidewalk that is 5 feet 6 inches wide.

Ed Hutchins asked the Board for feedback from Woodward & Curran on the proposed design. A majority of the Board agreed that a 5-foot-wide sidewalk should be included.

Selectmen Dykstra, Daggett & Weston agreed that the elevation increase should be the 4 feet 9 inches that Woodward & Curran is recommending, while Selectmen Hutchins & Matthews-Bull tended toward less of an increase.

Selectmen Weston, Daggett, Matthews-Bull & Hutchins agreed that the retaining wall and guard rail should be level for the length of the causeway. Selectman Dykstra was ambivalent.

No motion was necessary. No motion was taken.

6. Wildes District Road Project Update.

Eric Labelle informed the Board that an informational meeting was held with residents along Wildes District Road. Participation was good, with well over 100 residents in attendance. Feedback from that meeting was that residents on nearby streets should also be included in the process. They also held three meetings with residents along specific segments of the road to get more granular feedback and concerns for a specific location of the road. The goal is to have a maximum total road width of 28 feet, 14 feet to each side from the centerline. But they will also consider natural features such as ledge and elements like phone poles, having the road be narrower as appropriate in those places. One concern of residents was drainage, which will be addressed. There was some agreement that a sidewalk should be extended from the intersection with Ward Road to the new "Bowsprit" subdivision.

No motion was necessary. No motion was taken.

7. Waste Hauling Permits.

These once-a-year permits are needed for Waste Management of Portland and Casella.

Motion by Selectman Matthews-Bull, seconded by Selectman Daggett, to authorize the permits. **Voted:** 5-0. **Motion passed.**

8. Street Opening Permit for South Main Street.

Chris Simeoni, Public Works Director, informed the Board that he had received a street opening request on December 6th from Woods Excavating to connect a new water main for Woodland Drive 8x20 trench from Main Street into the property. The Town recently paved South Main Street on September 28th, with notice going to property owners on August 2nd. Our Ordinance currently states that there is to be a 5-year moratorium on street openings after a repaving or reconstruction.

Selectman Matthews-Bull asked if the owners requesting the street opening were owners at the time of the August notification. Tom Shoening spoke on behalf of BCD Woodland & Duncan McDougal. He stated that they purchased the property (a vacant lot) in March 2022 and said the owners have been working with the Town since May 2022 to get underground water and utilities extended from South Main Street into two lots for houses to be built at the end of Woodlawn Drive. Mr. Shoening asserts that the owners were working with KK&WWD in planning the main water extension, were not informed of the paving, and were shocked when they discovered that the street had been paved.

Selectman Weston had concerns that the bond for the street opening was for only \$2,000, not \$7,000, and that the bond contained no statement of work with specific. The Board agreed that they would table this request until the owners could come before them to provide more information.

No motion was necessary. No motion was taken.

9. Authorize purchase of Invent HyperClassic Mixers.

Chris Simeoni informed the Board that \$50,000 had been approved in FY 2023 for the replacement of these mixers, which are 20+ years old and becoming more problematic, requiring repair in one instance as they are in a harsh submerged environment. They would like to purchase new mixers that are not submerged. Aqua Solutions is the only regional provider, and the cost for purchase, installation & related services for these mixers totals \$43,000.

Motion by Selectman Dykstra, seconded by Selectman Daggett, to purchase the mixers from Aqua Solutions. **Voted: 5-0. Motion passed.**

10. Purchase of Waste Pump.

Chris Simeoni informed the Board that they just had the second of two waste pumps fail last month. He has funds in the building maintenance line item of the budget to pay for this replacement from Bow Hopkins for a total cost of \$10,120.

Motion by Selectman Weston, seconded by Selectman Daggett, to purchase the pump. **Voted: 5-0. Motion passed.**

11. Parks Master Plan Update.

Stephanie Simpson, Parks & Recreation Director, informed the Board that the online survey was now live and running through the end of January 2023. They've made a

social media, email, and postcard push to make the public aware of the survey. They will do so again after the holidays.

Stephanie had a meeting and has conducted a walkthrough of all four parks with TJD&A to provide them with familiarity with our parks. She has also scheduled meetings in January with various stakeholders to get their input. The public meeting for public comment will take place at the end of February. She hopes to have them start on a final concept design for Firefighter's Park and Parson's Field by the end of March, with a final presentation to the Board by the end of May.

No motion was necessary. No motion was taken.

12. Purchase of Ford F-350 For Fire Department Brush Truck.

Fire Chief Jay Everett stated that we have money in the current capital budget for this purchase. He received no response from dealers when requesting a bid because of fluctuating prices, so he went to 4 local dealers who would hold a price for a short time. Rowe Ford was the low bid and might have a government program discount, which puts the price between \$45,000 - \$50,000.

Motion by Selectman Weston, seconded by Selectman Daggett, to purchase the replacement truck for Brush 35 in the price range cited. **Voted: 5-0. Motion passed.**

13. Accept donations to the general nurses' account:

- a. **\$50.00 from an anonymous donor to the general nurses' account;**
- b. **\$100.00 from Janet Henry and Vernon Moore to the general nurses' account.**

Motion by Selectman Daggett, seconded by Selectman Matthews-Bull, to accept \$50.00 from an anonymous donor and \$100.00 from Janet Henry and Vernon Moore for the general nurses' account. **Voted: 5-0. Motion passed.**

14. Accept donations to the emergency fuel fund:

- a. **\$100.00 from David Kling & Kathryn Sanders to the emergency fuel fund;**
- b. **\$360.00 from Church On The Cape to the emergency fuel fund.**

Motion by Selectman Daggett, seconded by Selectman Dykstra, to accept \$100.00 from David Kling & Kathryn Sanders and \$360.00 from Church On The Cape to the emergency fuel fund. **Voted: 5-0. Motion passed.**

15. Other business.

None of the Selectmen nor Town Manager Laurie Smith had any other business to discuss.

No motion was necessary. No motion was taken.

16. Approve the December 20, 2022, Treasurer's Warrant.

Motion by Selectman Matthews-Bull, seconded by Selectman Daggett, to approve the December 20, 2022, Treasurer's Warrant. **Voted: 5-0. Motion passed.**

17. Executive session (per MRSA 1 §405-6A) for discussion regarding personnel compensation.

Motion by Selectman Daggett, seconded by Selectman Dykstra, to enter executive session (per MRSA 1 §405-6A) for discussion regarding personnel compensation. **Voted: 5-0. Motion passed.**

Chairman Hutchins resumed the meeting after the executive session.

Motion by Selectman Weston, seconded by Selectman Daggett, to award Town Manager Laurie Smith a \$10,000 bonus this year. **Voted: 5-0. Motion passed.**

18. Adjournment.

Motion by Selectman Matthews-Bull, seconded by Selectman Dykstra, to adjourn. **Voted: 5-0. Motion passed.** The meeting adjourned at 8:13 PM.

Submitted by,
Dave Powell,
Technology Specialist