

Town of Kennebunkport
Board of Selectmen Meeting
August 24, 2023
6:00 PM

MINUTES

Selectmen attending: Mike Weston, Sheila Matthews-Bull, Allen Daggett, Jon Dykstra, Marybeth Gilbert.

1. Call to Order.

Chairman Weston called the meeting to order at 6:02 PM.

2. Approve the August 10, 2023, selectmen meeting minutes.

Motion by Selectman Matthews-Bull, seconded by Selectman Daggett, to approve the August 10, 2023, Selectmen meeting minutes. Chairman Weston requested that the spelling of Mr. Lamb's first name be corrected from Alan to Allyn. **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.)

Nina Perlmutter had two concerns:

- She said there are too many landscaping vehicles parking on streets, blocking traffic and resulting in dangerous & unsafe traffic conditions.
- She claimed that an increased amount of watercraft on the Kennebunk River upstream of the Dock Square bridge presents a safety concern because many of the kayakers & paddle boarders do not wear life jackets and because of speeding power boats. She also claimed that the wake caused by power boats is causing rapid erosion of the riverbank.

She asked that the Town do something more to address both concerns. Chairman Weston thanked her for her comments.

Town Clerk Tracey O'Roak reminded everyone of two upcoming deadlines:

- Nominations for the Boston Post Cane Award are due by Friday, September 1st. The award goes each year to the oldest Town resident who has lived here full-time for at

least 20 years. Two nominations have been received so far. The oldest candidate is 98 years old.

- Those interested in filling the vacant RSU 21 Director's seat should submit their application at Town Hall by 4:30 pm on September 1st. The Board of Selectmen will choose one of the applicants to fill the seat in the Selectman's meeting on September 14th. Applications are available on the Town website, or paper copies are available at the Town Hall.

4. Consider the renewal of a liquor license submitted by Musette LLC, located at 2 Pier Rd.

Chairman Weston asked if the Board had received answers to the missing questions. They responded yes and that they were satisfied with those answers.

Motion by Selectman Daggett, seconded by Selectman Matthews-Bull, to approve the renewal of a liquor license submitted by Musette LLC, located at 2 Pier Rd. **Voted:** 5-0. **Motion passed.**

5. Consideration of new Town Hall construction on Village Parcel.

Chairman Weston reviewed the presentation. He said concerns came up at the last Select Board meeting that the Town was not doing enough to communicate with the public about the process. The first slide of the presentation showed the public meetings and processes that have taken place from March 2019 up to the present. He also reviewed the Visioning Process that took place in 2019 & 2020.

The current Town Hall is 3,723 square feet. The new Town Hall is proposed to be 12,661 square feet. Meeting space will be required in the new Town Hall because the existing meeting space in the North Street Fire Station is planned to be converted to quarters for per diem firemen.

The projected cost for the new Town Hall is approximately \$8.8 million. This amount includes \$1.1 million for contingency costs. Cost reduction options - including the sale of 6 Elm Street, use of reserves, fundraising, and additional property sales - bring down the amount that would need to be bonded to \$5.8 million. For a 20-year bond, the increase to the mil rate for an \$8.8 million bond would be \$0.17; for a \$7.0 million bond would be \$0.14; and for a \$5.8 million bond would be \$0.11. Chairman Weston also mentioned debt retirements that will occur in FY26 – FY29, totaling \$481,837.83.

Town Manager Laurie Smith described the Capital Improvement Plan. She showed the plan that was developed in January 2023. The plan attempted to anticipate possible future expenditures so that we could prioritize and settle on our needs. The improvements are funded from a variety of sources. She described the projects that are in line for capital improvements from now through FY28. She stressed that this is a plan, not a budget, and it's a living document that changes each year as required. We have a number of CIP funding sources, including trust funds, grants, bonds, reserves, and

annual budgets. The bonds totaling \$16.9 million include, in addition to the Town Hall, other potential bond projects such as Fire Department renovations, resiliency at the head of the harbor and Ocean Avenue, and wastewater pump stations.

Currently, utility costs at 6 Elm Street are \$17,050 annually. The cost for the new Town Hall – because it is much larger – is estimated to be \$36,147. We are also looking into solar panels for the roof or the area surrounding the building to determine the cost and return on investment of this option.

The proposed public information timeframe before the November election is:

Sept 14 - Select Board authorizes ballot questions
Sept 28 - Public hearing & presentation on ballot questions
Oct 5 and/or Oct 10 - Open house at 6 Elm Street to tour current Town Hall
Oct 12 - Public hearing & presentation on ballot questions
Nov 7 - Vote on town ballot questions

Chairman Weston informed everyone that if the referendum is passed by the voters in November, the proposed new Town Hall construction timeframe is:

Oct. 23-May 24 – permitting and building design
Jun. 24-Jul 24 – bidding the project (design/bid/build/procurement)
Aug. 24-Dec 25 – project construction

Selectman Gilbert described the cost reduction options for the new Town Hall construction. They include the sale of the 6 Elm St. property (\$1 million), use of reserves (\$800,000), fundraising (e.g., memory wall in the new facility, \$500,000), and additional property sales (\$700,000). A committee will be formed to implement these options, assuming the new Town Hall project is approved by the voters. Volunteers for this committee should contact Selectmen Gilbert.

Kevin McDonald stated he feels there should be more communication about placing this project on the November ballot.

Melinda Anderson inquired via Zoom about faux windows on the new Town Hall building plan.

6. Consideration of Cape Porpoise Pier funding gap and updated cost estimate.

Barney Baker of BEI Consultants, the Engineer for the Cape Porpoise Pier Project, provided a brief overview of the project, talked about the funding shortfall; explained how they're addressing the shortfall, and discussed the next steps.

Mr. Baker explained that the project was started in 2018. Realizing that it was a significant cost for the Town, Mike Claus obtained an EDA grant for the project, and a feasibility study was done. They scaled up the costs of the recently completed Government Wharf project for this project. But the arrival of COVID brought with it a

marked increase in construction materials and labor costs. The project had to go through an extensive Army Corps of Engineers and Maine DEP review. The east end of the pier was replaced in the early 1990s and is in pretty good condition. The bait shed was built in the 1970s. It and the pier directly in front of it are in poor condition, and the substructure is failing, necessitating emergency repairs in 2020. The floats on the west side and the utilities are also substandard and in need of replacement.

The entire pier is in a flood zone, so all new construction must consider flooding and requires special considerations. Improvements will be made in structural integrity, flood resiliency, ADA compliance, and operational improvements. The design for the pier and shed includes moving the Harbormaster's office to a second floor above the flood zone and breakaway walls on the first floor of the shed in case of extreme flooding.

The projected increase between the initial (\$2.4 million) and updated (\$4.5 million) cost estimates is not due to a change in the project design but rather to several factors: increased cost of materials (e.g., the cost of pilings has doubled), increased cost of labor, and wide variation in the bids obtained from the few contractors who do this type of construction. To reduce the overall cost of the project, a base construction plan was developed, along with adding alternate items that could be included in later project(s): south gangway and floats, solar panels for the bait shed roof, and a new hoist. The cost estimate for the project without the additional items is \$4.1 million. Current available funding is \$3.4 million. In order to complete the project, we face a funding gap of \$706,752.

Laurie Smith stated that if the additional funding is approved, we would like to put the project out to bid with a deadline of the last week of February 2024 so that the budget can be discussed in March. Mr. Baker added that this time frame would be good to get the project on the contractor's schedule for the following season (November 2024) and to allow the contractor to obtain materials for the construction.

Selectman Gilbert inquired about the impact on the commercial fishermen if the add alternate items were delayed. Mr. Baker responded that these are additional to the configuration of the current facility. She also inquired if there is ongoing damage to the pier now that might require supplemental funding to remediate if the project is pushed back a year. Laurie Smith responded that minor damage (e.g., sinkholes in the parking lot broken pilings) occurs quite regularly. Mr. Baker added that significant damage could occur if there were a major storm – but that cannot be predicted. Aside from the storm threat, there is no imminent danger to the pier.

Melinda Anderson, via Zoom, asked if the sewer pump out station was still included in the project plan. Selectman Dykstra responded there is no sewer pump out station in the plan.

7. Consideration of an easement agreement between the Town of Kennebunkport and Green Marine Corporation.

Laurie Smith explained the sale of the Mooney's property to the Town for the Langsford Rd. Boat Ramp was completed in July. When the Town surveyed the property, it was discovered that the marine railway at the side of Green Marine was actually part of the property the Town had purchased. Town staff research discovered no additional deeds but evidence of Green Marine installing, operating, and maintaining the rails for decades. Discussions with John Green and his attorneys resulted in an agreement that the best option for both parties is to request authorization that the Town grant an easement to John Green, allowing him to continue to operate and maintain the railway as he has done for decades, and securing the Town's rights to the property.

Selectman Dykstra praised John Green's running of the boat ramp for several decades as a service to the harbor and voiced his full support for granting the easement. The other Selectmen agreed. John Green said that though he could make a case for adverse possession, he didn't want to go that route. He supports the granting of an easement as well.

8. Consideration of gift of Cape Porpoise Fire Station to the Town of Kennebunkport.

Fire Chief Everett recalled that the Atlantic Volunteer Engine Company (AVEC) approached him in July with the proposal that they sell the Cape Porpoise Fire Station to the Town for the nominal fee of \$1. To this point, the Town has been leasing the station from AVEC, paying them \$22,000 per year for its use. If the Town purchases the station, we will no longer have this leasing cost. Currently, Kennebunkport Emergency Medical Services (KEMS) pays for the majority of the utilities at the station, and that arrangement is expected to continue. AVEC has spent considerable effort and money maintaining and upgrading the facility. While the Town would take on the maintenance costs going forward, no longer leasing the building would result in a net decrease in Town expenditure for the station. Joe Frank, President of AVEC, added that the sale of the station has been considered for a while but that the group came to the unanimous decision that it was appropriate to sell the facility to the Town.

9. Potential November Ballot Questions.

Town Clerk Tracey O'Roak informed the Board that the draft of the warrant before them of the November ballot has all the items that have been discussed in previous Board of Selectmen meetings and tonight. Maine Title 30A of State statute requires that the Selectmen must sign the warrant at least 45 days prior to an election. This means that it must be signed at the next meeting on September 14th. She is seeking guidance as to which items the Selectmen want included. Then, she will finalize the draft, send it for legal review, and have it ready for the next meeting.

1) Comprehensive Plan updates.

Motion by Selectman Dykstra, seconded by Selectman Daggett, to accept Question 1, to see if the Town will vote to authorize the approval of the Kennebunkport 2030 Comprehensive Plan. **Voted: 5-0. Motion passed.**

2) Street Opening Permit updates.

Motion by Selectman Dykstra, seconded by Selectman Daggett, to accept Question 2, to see if the Town will vote to authorize the amendment to the street opening ordinance. **Voted: 5-0. Motion passed.**

3) Town Hall bond for new construction.

Motion by Selectman Daggett, seconded by Selectman Dykstra, to accept Question 3, to see if the Town will vote to authorize a twenty-year bond in an amount not to exceed \$8 million for the construction of a new Town Hall. **Voted: 5-0. Motion passed.**

4) Request for additional funding for Cape Porpoise Pier.

Motion by Selectman Daggett, seconded by Selectman Dykstra, to accept Question 4, to see if the Town will vote to authorize the Board of Selectmen or its agent to transfer an amount not to exceed \$710,000 from the Town's capital reserve fund balance for the Cape Porpoise Pier project. **Voted: 5-0. Motion passed.**

5) Authorize the Selectboard to enter into an easement agreement with Green Marine.

Motion by Selectman Daggett, seconded by Selectman Dykstra, to accept Question 5, to see if the Town will vote to authorize an easement agreement with Green Marine as discussed in this meeting and to be approved by the Selectmen in the September 14th meeting. **Voted: 5-0. Motion passed.**

6) Acceptance of ownership of Cape Porpoise Fire Station

Motion by Selectman Daggett, seconded by Selectman Dykstra, to accept Question 6, to see if the Town will vote to authorize the acceptance of the Cape Porpoise Fire Station. **Voted: 5-0. Motion passed.**

10. Cape Porpoise Pier Parking Ordinance Amendment.

Laurie Smith explained that earlier this year the Board changed the traffic ordinance and pier parking rules to allow only one permit per pier member. Since that time, Harbormaster Frank Orr has received feedback from the pier members on the change. The pier committee members say it's a problem to have only one parking place available

for boats with two or more crew members. They propose that two permits be issued to boats with two or more crew. They can stack their parking at the top of the hill near the flagpole in two rows, with vehicles for the same boat parking each other. Single crew boats would park their single vehicle near the parking attendant hut and the bait shed. This arrangement would provide more overall parking without impeding others.

The Pier Committee requested three permits in certain cases, and there was some discussion between Frank Orr and the Board about that. Frank feels that the request for two permits for boats with crew is appropriate. The Board agreed that they would allow two season-long permits per boat and leave it to Frank's discretion to allow a short-term pass for a third vehicle in certain circumstances.

Melinda Anderson asked how many parking spaces are currently available in the lot and said she is concerned about equitable allocation of parking spaces between fishermen and the general public. Chairman Weston said they didn't have the number of parking spaces at hand but would get that figure for the next Selectmen's meeting.

Though a vote was not needed at this time, Laurie Smith confirmed that the Board agreed to move forward with a public hearing on the topic at a later date.

11. Board of Selectmen liaison appointments to committees.

Selectman Gilbert volunteered to be the Select Board liaison to the Growth Planning Committee and the Southern Maine Planning and Development Commission.

Motion by Selectman Dykstra, seconded by Selectman Daggett, to accept the slate of committee appointments as amended. **Voted:** 5-0. **Motion passed.**

12. Consider two appointments for the Zoning Board of Appeals with a term expiring in June of 2026 from Kate Bauer-Burke and Allan Evelyn.

Motion by Selectman Daggett, seconded by Selectman Dykstra, to accept two appointments for the Zoning Board of Appeals with a term expiring in June of 2026 from Kate Bauer-Burke and Allan Evelyn. **Voted:** 5-0. **Motion passed.**

13. Consider appointing Mark Messer for an alternate position on the Board of Assessment Review with a term expiring in June 2026.

Motion by Selectman Matthews-Bull, seconded by Selectman Daggett, to accept Mark Messer for an alternate position on the Board of Assessment Review with a term expiring in June 2026. **Voted:** 5-0. **Motion passed.**

14. Accept donations to the general nurses' account:

- a. **\$50.00 donation from an anonymous donor**
- b. **\$50.00 donation from the Health Council in honor of Marty Forbes**
- c. **\$50.00 donation from an anonymous donor**

Motion by Selectman Matthews-Bull, seconded by Selectman Dykstra, to accept a \$50.00 donation from an anonymous donor, \$50.00 donation from the Health Council in honor of Marty Forbes, and \$50.00 donation from an anonymous donor. **Voted: 5-0. Motion passed.**

15. Other Business.

None of the Selectmen had other business. Laurie Smith reminded all that there are still vacancies on various Town committees – two on the Administrative Code Committee, one alternate on the Board of Assessment Review, one on the Government Wharf Committee, one on the Kennebunk River Committee, one seat, and two alternates on the Growth Planning Committee, and three on the Recreation Committee. Anyone interested in serving on these Committees should contact Town Clerk Tracey O’Roak or fill out a volunteer application form, which can be found under the Forms link at the bottom of the main Town web page.

Laurie Smith thanked the Support Services Department for their efforts to update the current website as they prepare for a new website. She noted that there is now a Projects button on the main web page at <https://www.kennebunkportme.gov> that takes you to a page with information about ongoing Town projects.

16. Approve the August 24, 2023, Treasurer’s Warrant.

Motion by Selectman Matthews-Bull, seconded by Selectman Daggett, to approve the August 24, 2023, Treasurer’s Warrant. **Voted: 5-0. Motion passed.**

17. Adjournment.

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

Meeting adjourned at 8:00 PM.

Submitted by,
Dave Powell,
Technology Specialist