

Town of Kennebunkport
Board of Selectmen Meeting
October 26, 2023 @ 6:00 PM
Village Fire Station (32 North St)

MINUTES

Selectmen attending in person: Mike Weston, Jon Dykstra, Marybeth Gilbert.

Selectmen attending via Zoom: Allen Daggett

1. Call to Order.

Chairman Weston called the meeting to order at 6:00 PM, noting that Selectman Daggett was attending via Zoom, and Selectman Matthews-Bull was absent.

Yanina Nickless, Interim Town Manager, spoke briefly about the horrific mass shooting in Lewiston the previous night. She said she had reached out to Lewiston to offer any support our Town can provide to them. She asked everyone to consider that despite these divisive times, there are more important things in life, like family and community. She encouraged all to reach out to family and loved ones.

The group had a moment of silence to remember those lost in Lewiston.

Police Chief Sanford told everyone that the situation in Lewiston was still unfolding. School was canceled, so he had the School Resource Officers (SROs) on patrol in Town today, checking public buildings and maintaining a vigilant position. He asked everyone to reach out to the police and speak up if they saw anything unusual. Be cautious and take care of your loved ones.

2. Approve the Approve the October 12, 2023, and October 19, 2023, selectmen meeting minutes.

Motion by Selectman Dykstra, seconded by Selectman Gilbert, to approve the October 12, 2023, meeting minutes. **Voted:** 4-0. **Motion passed.**

Motion by Selectman Dykstra, seconded by Selectman Gilbert, to approve the October 19, 2023, executive session meeting minutes. **Voted:** 4-0. **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.)

Lorrie Ouellette felt that the request in the last Select Board meeting for police assistance when Nauto Inoue was speaking was unnecessary and intimidating. She asked why this was not included in the meeting minutes and said she thought Chairman

Weston should apologize. She also felt an opportunity was missed by not placing a notice of the public meeting in the News section of the website's front page. In addition, she questioned how firm the Board's commitment was to include solar in the new Town Hall plan.

Yanina Nickless responded that minutes are not a word-for-word transcript but rather a summary of the important points of a meeting. Regarding the notification of public hearings, she stated that the agendas for public hearings are sent out to everyone on the email list and posted in the local newspaper. The thinking was that it would be redundant to put that on the website's front page. If the public feels it is important, however, she will direct the communications staff to do so in the future. She went on to explain that solar is definitely part of the plan for the new Town Hall but that the source of funding might not be the bond. Another possibility is grants.

Chairman Weston added that solar has always been a part of the plan and that several options have been considered, though a final design has not been set. He then addressed the issue of Mr. Inoue speaking before the board in the last meeting. He stated that Mr. Inoue did not abide by what he agreed to just before the meeting – that he would not distribute any flyers or display any materials that were political in nature during the meeting. Further, knowing the contentious nature of many public meetings in many municipalities, Chairman Weston erred on the side of public safety by calling upon the police officer. The officer merely stood in the doorway, and Mr. Inoue calmed down, making any action unnecessary.

Wayne Burbank stated that he attended a Town Hall tour and agrees that the employees are working in a cramped environment. While he supports a new Town Hall building, he believes that the current plan is for a facility that is too large and expensive, drawing comparisons to the recent Arundel Town Hall construction. He thinks we should get offers on the current Town Hall and other Town properties proposed to be sold and do aggressive fundraising before putting the new Town Hall out for bond. He supports solar but feels that it would be inappropriate and unsightly to put solar panels on the new Town Hall's parking lot. He would prefer a different solar option.

Selectman Dykstra responded regarding the Kennebunkport–Arundel comparison, stating that we have a population close to 12,000 for several months in the summer, as well as two working harbors, many restaurants, and hotels. While he is thrilled that Arundel residents built a Town Hall that serves their needs a few years ago, for a lesser amount when building costs were half of what they are today, he pointed out that Kennebunkport is a very different town with different municipal needs. The current proposal is for a building that meets Kennebunkport's needs for the next 20 to 50 years. Comparisons between the proposed new Town Hall for Kennebunkport and the recently built Arundel Town Hall are not credible and, in his opinion, borderline disingenuous.

Selectman Gilbert added that Town Manager Laurie Smith and a team did due diligence to determine what the sale of the current Town Hall building would likely yield. The determined values of the other Town properties considered for sale were conservative.

Town Clerk Tracey O'Roak reminded the group that Thursday, November 2nd, is the last day to request an absentee ballot and that Town Hall will be open until 7 p.m. on that day to obtain or submit an absentee ballot or register to vote. She encouraged anyone

registering to vote to do that in advance so that they don't have to wait in line twice on election day.

Melinda Anderson made a few points. She felt that Mr. Inoue was not a threat to anyone, was treated wrongly because he is a minority, and that Mr. Weston should apologize. Regarding solar, she feels that it should be part of the plan and not just part of a potential grant, claiming that federal grants also cost us money. She pointed out that an error was made in the designation of the map lot designation for the "McCabe property" and that David James had also gotten this wrong in the KRA email newsletter.

Yanina Nickless responded that she feels it's unfair for Melinda to accuse the Board of treating Mr. Inoue differently as a minority. As a Ukrainian immigrant herself, she has received nothing but support and fair treatment from the Board, noting that they voted to approve making her Interim Town Manager. As to the issue of the need for solar to be included in the new Town Hall plan, she said that both the Board and Ms. Anderson agree.

Ms. Anderson continued that David James had made a mistake in the KRA newsletter and asked the Board to correct him. Board members responded that David James is a member of the community who performs a volunteer service, providing an email newsletter to members of the community. He is not a Town employee, nor does he create official minutes for Board meetings. To obtain official meeting minutes, one should go to the Town website.

David James, via Zoom, responded to Ms. Anderson that his email newsletters have a disclaimer stating that they are the editor's understanding of events transpiring at the meetings and should not be confused with the official minutes of a Town board or committee.

No motion was necessary. No motion was taken.

4. Approve the renewal of the following liquor licenses:

- a. The Lost Fire, located at 62 Mills Rd.

Motion by Selectman Dykstra, seconded by Selectman Gilbert, to renew the liquor license for The Lost Fire, located at 62 Mills Rd. **Voted: 4-0. Motion passed.**

- b. HAMASA LLC d/b/a 1802 Bed and Breakfast, located at 15 Locket Street.

Motion by Selectman Dykstra, seconded by Selectman Gilbert, to renew the liquor license for HAMASA LLC d/b/a 1802 Bed and Breakfast, located at 15 Locket Street. **Voted: 4-0. Motion passed.**

5. Sidewalk project update.

Chris Simeoni, Public Works Director, noted that there were no electronic records of sidewalks in town. All records were in paper format and starting to deteriorate. He saw the need to map the sidewalks in town electronically and put information about the sidewalk lengths, composition, and condition into a layer on the Geographic Information Systems (GIS) map. The information will be used for future infrastructure capital planning. There are often storm drains at the ends of sidewalks. Therefore, mapping the sidewalks also assists in determining the location of storm drain infrastructure.

The Town partnered with the University of New England to find an intern proficient in GIS, Abigail O'Hern, an Environmental Science major with a minor in GIS, to do the sidewalk mapping. Ms. O'Hern explained that she has an app on her phone she uses when walking all of the sidewalks in Town to map them. She recorded the sidewalk composition (asphalt, brick, concrete, wood), condition (good, fair, poor), as well as the presence of wheelchair ramps, catch basins, and crosswalks.

Selectman Dykstra asked what defined the sidewalk segments, and Ms. O'Hern replied that it was an obvious change in sidewalk composition or condition. Yanina and the Selectmen thanked Abigail for her work.

No motion was necessary. No motion was taken.

6. Boatswain Lane public street proposal.

Selectmen Gilbert described the four-step process for making a private road a public road in Kennebunkport: 1) the Planning Board approves the application, setting requirements for that approval; 2) the Town officers review and approve the application; 3) the Select Board reviews the application and decides if it should be put on the town warrant; 4) the voters vote to approve the road being made public. In the case of Boatswain Lane, a group comprised of several Selectmen and Town officers looked through the records and could find no sign that it had been brought before the Planning Board. Public Works Director Chris Simeoni walked the road to determine what would be needed before the Town could consider making it public.

Selectman Gilbert continued, stating that in 2018, an ordinance was approved by the voters stipulating that a road must meet one or more of three criteria for consideration to be made public. It must: 1) lead to a public facility; 2) lead to another road or is a thoroughfare; or 3) provide other public benefits. The group examined the Boatswain Lane proposal but could not find that it met any of these three requirements.

Town staff searched for documentation of the rationale for returning the escrow amount to the developers before the topcoat paving had been done but could find none. The group also examined cases where an application requesting a private road be made public was submitted after the 2018 ordinance was passed. They found one case, Reid Lane, that was in step 1 of the process when the ordinance was passed. The Selectmen did not allow that road to go public. This Reid Lane case set a precedent. If Boatswain Lane were permitted to go public, it would be directly counter to that precedent.

Charles Tremblay, speaking for the Boatswain Lane residents, stated that Boatswain Lane meets the road acceptance policy because it connects Cape Woods Road to Mills Road. The Selectmen responded that even though it's not explicitly stated in the policy, previous private-to-public road application rejections make clear the implication that the roads being connected would all need to be public. Selectmen Gilbert continued with background regarding the 2018 ordinance – that it was a reaction to the increasing number of cul-de-sacs being developed and subsequently applying to be made public. Cul-de-sacs present a significant challenge for snow clearing by Town plows, and making them public is of no benefit to the Town.

Mr. Tremblay brought up the issue of the topcoat escrow refund by the Town to the developers, asking if there was some control process in place for the Town doing that. The Selectmen responded that there was no record one way or the other and also pointed out that nothing about the escrow refund helps move the application through the process of acceptance of Boatswain Lane as a public road.

Don Coburn, a resident of Boatswain Lane and one of the builders at Reid Lane, said he was informed that Reid Lane had been taken as public by the Town as the Town does plow that road. Selectmen Gilbert responded that Reid Lane was not made public, but because the public disapproval of it came during the 2018 ordinance change, the Town agreed to plow it to “soften the blow” of this decision.

A conversation ensued between Mr. Coburn, Mr. Tremblay, Steve Kingston, and the Board regarding the escrow amount that was refunded to the developers, Mr. Blood & Mr. Hughes, but should have been used for the topcoat. The Board agreed that Boatswain Lane could not be accepted as a public road but that they were willing to have a discussion with the developers and the residents about getting topcoat put on the road. They directed Yanina to arrange a meeting.

Motion by Selectman Dykstra, seconded by Selectman Gilbert, to reject the proposal of making Boatswain Lane a public road. **Voted:** 4-0. **Motion passed.**

7. Climate Action Planning Taskforce update.

Pam Morgan represented Kennebunkport's Climate Action Planning Taskforce and made a presentation providing an update. She defined the Climate Action Plan as policies and programs to build resiliency in the community and reduce greenhouse gas emissions through community engagement, pooling input, resources and feedback from Kennebunkport and neighboring communities. We are part of the Southern Maine CAP cohort, including Kennebunkport, Kennebunk, Kittery & Biddeford. While each town is developing its own plan, we also support each other. The taskforce is making all decisions using the three pillars of sustainability: social, economic, and environmental.

The taskforce put together a vulnerability assessment, including impacts such as sea level rise, storm surge, frequency of storm events, extreme precipitation events, ice storms, and extreme heat days, among others. These changes are expected to cause changes in community cohesion due to people moving out of own resulting in a smaller tax base and, thereby the Town's ability to meet residents' needs, and downturns in the

fishing, tourism, construction, and real estate industries. They are also likely to bring less snowpack and, therefore, more frequent and severe droughts and changing marine conditions of increased ocean temperatures and acidification. Most of our greenhouse emissions come from transportation (51%), followed by residential (32%), commercial (14%) and waste (3%).

From March to May 2023, the taskforce conducted an online and paper survey with 381 respondents. 92% expect climate change impacts in Town, with the most expected impacts being effects on the natural environment and on infrastructure. Younger respondents (<40 years old) had concern levels that were 15%-20% higher than older respondents.

The taskforce has engaged with the community via meetings and presentations/discussions at Graves Memorial Library, and with Rotary, Kennebunkport Conservation Trust, Goose Rocks Beach Advisory Committee, the Chamber of Commerce, the Kennebunkport Public Health Department, Kennebunk High School, and upcoming with various local businesses. The taskforce is examining more than 70 strategies with the criteria: 1) Is it effective? 2) Is it cost efficient? 3) Is it feasible? 4) Does it advance equity? They are currently working on their second draft of strategies. Future efforts include ongoing public outreach and completing a climate action plan by March 2024. That plan will go to the Select Board for final approval, and then Town staff will create an implementation plan.

Selectman Gilbert asked if the emissions were taken at a particular point in time or averaged over a period. Pam responded that it was averaged over the year, so it would include emissions from buses and summer visitors. Pam requested that the Select Board meet with the taskforce before March 2024 to give feedback on the strategies devised to that point. Selectman Gilbert asked if the strategies would include things that residents can do to be more energy efficient, as 32% of the emissions come from residences. Pam assured the Board that resources for residents would be available to offer a suite of solutions and not to prescribe what residents should do. Both Pam and Chairman Weston commended all the members of the taskforce for their commitment and time investment.

No motion was necessary. No motion was taken.

8. Accept donations towards the general nurses' account.

- a. \$50.00 donation from an anonymous donor
- b. \$50.00 donation from an anonymous donor
- c. \$200.00 donation from Pam Davis in honor of Lois Badger
- d. \$12,500.00 donation from Mary Woodman and the Flynn Family Foundation

9. Accept donations from Mary Woodman and the Flynn Family Foundation.

- a. \$5,000.00 donation dedicated towards the emergency food fund
- b. \$5,000.00 donation dedicated towards the emergency fuel fund

Motion by Selectman Dykstra, seconded by Selectman Gilbert, to gratefully accept all donations in Items 8 and 9. **Voted:** 4-0. **Motion passed.**

10. Other Business.

Selectman Gilbert thanked Town staff for setting her up with a tablet computer, signaling a move towards paperless provisioning of agendas and supporting documentation for Selectmen. The tablets have been distributed to her and Chairman Weston and will be rolled out to the remaining Board members soon.

Chairman Weston commented that David James has done a terrific job of informing residents about Town meetings and other happenings for many years with no pay.

Yanina informed the meeting attendees that the Citizens' Academy had finished. A survey sent to the participants gave an average rating of 8.9 on a 10-point scale. She thanked the Town Department Directors who led the various sessions. She is encouraged by the participants' positive acceptance of the Academy and plans to do it again next year.

Tanya Alsberg, via Zoom, thanked Yanina and Town employees for the Citizens' Academy as a participant in this first group, saying it was very informative and she feels more connected to the Town.

11. Approve the October 26, 2023, Treasurer's Warrant.

Motion by Selectman Daggett, seconded by Selectman Dykstra, to approve the October 26, 2023, Treasurer's Warrant. **Voted:** 4-0. **Motion passed.**

12. Adjournment.

Motion by Selectman Dykstra, seconded by Selectman Gilbert, to adjourn. **Voted:** 4-0. **Motion passed.**

The meeting adjourned at 7:51 PM.

Submitted by,
Dave Powell,
Technology Specialist