

**Town of Kennebunkport  
Board of Selectmen's Meeting  
May 23, 2013-7 PM  
Village Fire Station, 32 North St.**

Minutes of the Selectmen Meeting of May 23, 2013

**Selectmen present:** Sheila Matthews-Bull, Allen A. Daggett, Edward W. Hutchins, and D. Michael Weston

**Selectman absent:** Stuart E. Barwise

**Others present:** Bruce Adams, Bob Almeder, Jens-Peter Bergen, Helen Conaty, Jean Conaty, April Dufoe, Leo Famolare, Werner Gilliam, Rick Griffin, Arlene McMurray, Larry S. Mead, Chris Perry, David Powell, Greg Reid,

**1. Call to Order.**

Chair Matthews-Bull called the meeting to order at 7:02 PM

**2. Approve the May 9, and 14, 2013, selectmen meeting minutes.**

**Motion** by Selectman Daggett, seconded by Selectman Weston, to approve the May 9, 2013, selectmen meeting minutes. **Vote:** 3-0-1/Selectman Matthews-Bull abstained because she was not present at that meeting.

**Motion** by Selectman Daggett, seconded by Selectman Weston, to approve the May 14, 2013, selectmen meeting minutes. **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).**

Town Clerk April Dufoe announced the next election date is June 11 for election of officers and referendum questions, at the Village Fire Station, from 8 AM to 8 PM; and continues on June 15, at 9 AM, at Consolidated School for funding and nonfunding articles. She is holding evening hours at Town Hall for voter registration or to make enrollment or address changes on Wednesday, June 4, from 4:30 to 6:30 PM. She pointed out that the last day to obtain a "no excuse" absentee ballot for the June 11 election is Thursday, June 6.

**4. Public Hearing on the June 11, 2013, Town Meeting ballot items.**

Chair Matthews-Bull opened the public hearing at 7:05 PM, and Greg Reid opened the public hearing for the Planning Board. Planner Werner Gilliam gave brief explanations of the first two amendments.

- a. **Amendments to Land Use Ordinance concerning nonconforming lots.**
- b. **Amendment to the Growth Planning Committee Ordinance.**

Bob Almeder said the GPC approved the amendment, and it is consistent with the Comprehensive Plan.

- c. **Amendment to the Solid Waste Ordinance.**

Town Manager Larry Mead explained the changes to the Solid Waste Ordinance to reflect the change of MERC

Chair Matthews-Bull closed the public hearing at 7:10 PM and Mr. Reid closed the Planning Board public hearing.

The Planning Board voted to support the changes to the Land Use Ordinance.

**5. Public Hearing to consider applications for Victualer's Licenses for the period from June 1, 2013, through May 31, 2014.**

Chair Matthews-Bull opened the public hearing at 7:11 PM. She said the police chief, fire chief, and code enforcement officer have approved the list of victualer's licenses. She closed the public hearing at 7:12 PM.

**Motion** by Selectman Daggett seconded by Selectman Hutchins, to approve the applications for Victualer's Licenses for the period from June 1, 2013, through May 31, 2014. **Vote: 4-0.**

**6. Consider an application for reconstruction of Grist Mill on Mill Lane Section 5.11 of the Land Use Ordinance. Kennebunkport Conservation Trust applicant.**

Since two of the four selectmen present are on the Board of Directors of the Conservation Trust, the Board could not take action on this item because there was no quorum to vote.

The Board agreed to take items 8 and 9 out of order and address them next.

**8. Consider request by Gerald and Melissa Rizzieri to enter into a Beach Use Agreement for property located at 307 Kings Highway.**

Mr. Mead explained that the Rizzieris recently purchased this property and are interested in joining in the Beach Use Agreement. Since this property was not part of the Goose Rocks Beach litigation, the judge's decision does not apply to this property. He said both sides of this property have signed the Beach Use Agreement and the Rizzieris were a signatory to the Beach Use Agreement as a

back lot owner with their property on 21 Crescent Street.

**Motion** by Selectman Weston, seconded by Selectman Hutchins, to approve the property located at 307 Kings Highway as a signatory to the Beach Use Agreement. **Vote:** 4-0.

**9. Consider fiscal year 2014 Dock Square parking lot enterprise fund budget.**

Mr. Mead explained that the Dock Square parking lot budget is an enterprise account that gets funded through operating revenues and not funds from property taxes. Anticipated revenues from this account for fiscal year 2014 is \$310,000. A total of \$283,000 will be transferred to the general fund to reduce the municipal tax rate, operate the Dock Square restrooms, and offset the costs of the Highway Department's front-end loader.

**Motion** by Selectman Hutchins, seconded by Selectman Weston, to approve the proposed fiscal year 2014 Dock Square parking lot budget as presented. **Vote:** 4-0.

**7. Consider consent agreement with Marilyn A. Seigle to acknowledge front lot line setback violation for property located at 55 S. Main Street.**

Attorney Jens-Peter Bergen was present on behalf of Marilyn Siegle. She owns the property on 55 S. Main Street in the capacity of a trustee. She purchased the property in 1992 with her late husband. In that year, her husband obtained a building permit and built a garage on that property. A recent inspection survey revealed that the garage was constructed inside the 20 foot setback. They believe the builder apparently measured the distance of the setback from the wrong position. They would like the Town to enter into an agreement to permit the garage to remain where it is so that they can sell this property.

Mr. Mead said he became aware of another similar land use issue that might be coming before the Board. Since these issues happen so infrequently, he decided it would be prudent for the Board to go into executive session to discuss them with town counsel.

**Motion** by Selectman Daggett, seconded by Selectman Weston, to go into executive session per 1 M.R.S.A. § 405 (6) (E) to discuss pending or contemplated litigation. **Vote:** 4-0.

The Board went into executive session at 7:40 PM and came out of executive session at 8:05 PM.

**Motion** by Selectman Weston, seconded by Selectman Daggett, for the Town to enter into a consent order with Marilyn Siegle (for property located at 55 S.

Main Street) to not bring enforcement against the violation of nonconforming setbacks, to assess a civil penalty of \$1,000 plus attorney fees and court costs, and to let the two attorneys work out the language of the agreement.

Mr. Bergen commented that Mrs. Siegle as an owner is ultimately responsible for the property, but did not have any involvement with the construction of the garage. He said she is elderly and not in good health which is why she is selling this property so she can move into assisted living. He asked the Board to consider lightening the sanctions.

Selectman Weston pointed out that the fines are not against Mrs. Siegle, but the property.

**Vote:** 4-0.

### **10. Other business.**

Chair Matthews-Bull reminded everyone to come to Walk the Port on Wednesday, May 29, from 5 to 8 PM at Dock Square Ocean Avenue area, and into Lower Village. There will be lots of events such as food sampling, chowder contest, farmers market, and entertainment by Straight Lace. She said it is an evening for locals to participate with families. before tourist season begins.

Mr. Mead made several announcements:

The spring newsletter is out today or arriving in the *Kennebunk Post* as a supplement.

The annual report is now available at Town Hall, Bradburys Market, and Graves Library.

On Monday, Memorial Day the town offices are closed,

The Memorial Day parade starts at 9:30 AM at Temple Street in front of the Masonic Hall.

June 8 is well water testing day. Residents should pick up their free test kit at the Public Health Office before June 8, and return them to the Village Fire Station on June 8 between 9 AM and 11 AM. Residents will receive a discount on the tests.

Stuff the Bus is June 11, at the Village Fire Station, from 8 AM until 5 PM. Voters can bring in nonperishable food items and personal need supplies or make a monetary donation.

### **11. Consider the May 23, 2013, Treasurer's Warrant.**

**Motion** by Selectman Weston, seconded by Selectman Hutchins to approve the May 23, 2013, Treasurer's Warrant.

**12. Executive Sessions**

- a. **Per 1 M.R.S.A. § 405 (6) (E) to discuss pending litigation.**
- b. Per 30-A M.R.S.A. § 2702 to discuss personnel matters.

**Motion** by Selectman Daggett, seconded by Selectman Weston, to go into executive session per 1 M.R.S.A. § 405 (6) (E) to discuss pending or contemplated litigation and per 30-A M.R.S.A. § 2702 to discuss personnel matters. **Vote:** 4-0.

The Board went into executive session at 8:15 PM.

The Board came out of executive session at 9:15 PM.

No action was taken.

**13. Adjournment.**

**Motion** by Selectman Weston seconded by Selectman Hutchins to adjourn. **Vote:** 4-0.

The meeting adjourned at 9:15 PM.

Submitted by

Arlene McMurray  
Administrative Assistant