



TOWN OF KENNEBUNKPORT, MAINE

**Board of Selectmen Agenda
August 25, 2022 @ 3:00 PM
TOWN HALL
6 Elm St**

This is an in-person meeting

1. Call to Order.
2. Approve the August 11, 2022, selectmen meeting minutes.
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.)
4. Discussion of whether to hold a special town meeting or place a question on the November ballot requesting permission for the placement of the Economic Development Administration 20-year mortgage on Cape Porpoise Pier as part of the grant requirements.
5. Other Business.
6. Approve the August 25, 2022, Treasurer's Warrant.
7. Adjournment.

AGENDA ITEM DIVIDER

Town of Kennebunkport
Board of Selectmen Meeting
August 11, 2022
6:00 PM

MINUTES

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

Others attending: Laurie Smith, Yanina Nickless, Christopher Simeoni, Eric Labelle, Werner Gilliam, David Gilchrest II, John Everett, Craig Sanford, and Michael Claus.

1. Call to Order

Selectman Hutchins called the meeting to order at 6:00 PM.

2. Approve the July 28, 2022, meeting minutes.

Motion by Selectman Matthews-Bull, seconded by Selectman Dykstra to approve the July 14, 2022, selectmen meeting minutes. **Voted:** 3-0-2. **Motion passed.** Selectman Daggett and Selectman Weston abstained since they had not been present at the last meeting.

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.)

4. Consider a renewal Liquor License Application submitted by Musette LLC.

Motion by Selectman Daggett, seconded by Selectman Matthews-Bull, to renew a Liquor License Application submitted by Musette LLC. **Voted:** 5-0. **Motion passed.**

5. Appointment of the Deputy Code Enforcement Officer/ Licensed Plumbing Inspector.

Werner Gilliam, Director of Planning and Development, introduced David Gilchrest II, a new Deputy Code Enforcement Officer/Licensed Plumbing Inspector at the Town of Kennebunkport. He mentioned that David came from working for the City of Portsmouth and already has a lot of certifications under his belt.

Motion by Selectman Weston, seconded by Selectman Daggett, to appoint David Gilchrest II as the new Deputy Code Enforcement Officer/Licensed Plumbing Inspector. **Voted:** 5-0. **Motion passed.**

6. Discussion of Pier Road Causeway project.

Megan McDevitt, Eric Labelle, and Chris Simeoni have been working on the project for some time now. Megan McDevitt, Senior Project Manager with Woodard and Curran, wanted to formally start the public process of the Pier Road causeway project for which the Town got the grant. She outlined the schedule of the public process for the project: surveyors start their work in August, collecting data and going to the field. In September, there will be a stakeholders meeting followed by a public meeting. September and October will be dedicated to the permit application development, with the final design being scheduled for December. Construction will start in the spring of 2023.

Meghan pointed out a few things that they want to focus on. The list included items like bicycle and pedestrian accommodations, on-street parking, flood resiliency, etc.

Selectmen had a few general questions and ideas about the project, where Megan said the company would stay open to the ideas and be happy to discuss them with the surveyors and engineers.

Elaine Carlson and Richard Perry, residents of Stone Haven Drive, asked who would do research on the deeds; Megan said that surveyors would do it at the later stages of the projects. Susan Basset inquired about all possible parking options on Pier Road. Dough May, a resident of Stone Haven Drive, was curious about who decides on the scope of the project like this. Selectman Hutchins said that the BOS would make the final say, but only after careful consideration of all public ideas. Dick Smith, another resident of Stone Haven, expressed that he is encouraged by the research process, but wanted to know if the scope of work would be kept strictly to the causeway itself. Laurie Smith, Town Manager, explained that this particular project pertains only to the causeway.

No motion was necessary.

7. Discussion of setting the short-term rental cap.

Eli Rubin, Community Planner, gave an overview of a new short-term rental cap process. He reminded the Board that the total number of licenses issued in each calendar year should be set annually by the Board of Selectmen. The limitation on the total number of licenses set by the Board of Selectmen shall first go into effect on January 1, 2023. The cap would not apply to Goose Rocks Beach, but they will still require licenses.

Selectman Matthews-Bull offered that this would show the demand and, if there won't be enough, the Board is willing to set a number at a higher rate later in time.

A member of the Zoom audience inquired if the board ever considered looking at the percentages by area in the Town, so the culture of a specific area would not change much.

Hayward, a person from a Zoom audience asked if there is any research on other areas in the Town and not just Goose Rocks beach. Eli Rubin replied that the ordinance is still very new, and there is not much research yet. Hayward requested more thorough research in the future. Werner Gilliam, Director of Planning and Development, also added that there is no surprise that the short-term rental is concentrated on the coastline in densely-populated areas.

Susan Bassett expressed her concerns about the short-term rental process in general: she was not sure where the percentage came from; she was also concerned about the limiting factor of the cap and its influence on the residents.

Eli Rubin also explained that there would be an open portal to apply for the license. Jon Dykstra offered to open the registration process for the short-term rental applications in in-person only for the first day. The Town staff will look into this.

Motion by Selectman Weston, seconded by Selectman Matthews-Bull, to accept the recommendation for the formula. **Voted: 5-0. Motion passed.**

Motion by Selectman Weston, seconded by Selectman Matthews-Bull, to apply 9.5% to the formula. **Voted: 5-0. Motion passed.**

Motion by Selectman Dykstra, seconded by Selectman Matthews-Bull, to keep licensing fees at the same level. **Voted: 5-0. Motion passed.**

8. Public discussion for the proposed ordinance revisions for the November ballot:

- a. **Kennebunk River Ordinance**
- b. **Administrative Code**
- c. **Shellfish Conservation**
- d. **Land Use Ordinance – Residential Rental Accommodations**
- e. **Comprehensive Plan adoption**

Werner Gilliam, Director of Planning and Development, updated the Board that the plan is moving along at the state level. The Town staff has submitted the Comprehensive Plan in time, but the State is understaffed, so we are not sure if it will be in time.

Motion by Selectman Daggett, seconded by Selectman Matthews-Bull, to accept a through e and place on the November ballot. **Voted: 5-0. Motion passed.**

9. Authorization of ballot question requesting permission for the placement of Economic Development Administration 20-year mortgage on Cape Porpoise Pier as part of the grant requirements.

Selectmen Hutchins explained that, since the ADA gave the Town money to rebuild Cape Porpoise Pier, we need to give them a lien, so we can't sell it. ADA asks for notification if the Town will ever decide to sell the Pier. In that case, we will have to repay some sum of money. The question is whether to hold a special Town Meeting or place it on the November ballot. Laurie Smith explained the Board could take some time to decide how the Board wanted to proceed.

No motion was necessary.

10. Conservation Commission – Healthy Ecosystem Ordinance timeline discussion

Carol Morris, the chair of the Conservation Commission, explained that she received the timeline for the June Town Meeting process from the Town Manager. She asked if the process is the same for a new ordinance as well as for a revised ordinance.

Carol also asked for a liaison from the Board. Jon Dykstra said that a member of the staff would be great, and Laurie confirmed that the member of the staff would be happy to work with the Commission, but they need a direction.

Carol explained that, because they withdrew the ordinance, the Commission is planning on starting from scratch and doing deep research with some educational workshops (starting this fall). Board members encouraged her to begin with an educational process.

No motion was necessary.

11. Discussion regarding the price escalation and purchase of the ladder truck.

John Everett, Fire Chief, talked about the price escalation and its influence on the targeted purchasing of a new ladder truck for the Fire Department in FY24. He explained that there is an option to buy a truck now and save some money from escalating costs by entering a lease purchase.

Motion by Selectman Matthews-Bull, seconded by Selectman Dykstra, to move forward and finalize the numbers for further consideration by the Board. **Voted:** 5-0. **Motion passed.**

12. Wastewater Pump Station Contractor Selection and bids Recommendation.

Eric Labelle, Principal Engineer, talked about the pump station contract. He mentioned that during the Town Meeting, \$6 million was approved for three projects at the Wastewater. We went out for a bid for the pump stations, and they came over budget. we went out for a bid. Eric introduced three options to the Board:

1. We could remove one of the pump stations from the construction list. Under this scenario, the contractor may choose to renegotiate their pricing as this would be a significant scope change.
2. Apex is working with the Woodard Curran and the Town to review the current \$1.2M estimate for the installation of the centrifuges and associated work. Apex could be awarded the pump station contract in its entirety. We would then be in a position to negotiate a change directive with Apex to install the centrifuges at a negotiated price. If we are unsuccessful in negotiating a satisfactory price, we could then proceed with Option 3.
3. Award the pump station contract to Apex. Advertise bids for the installation of the centrifuges. Should pricing exceed available funds, take possession of the centrifuges which have been ordered composting operations and disposal with Casella until funding is identified.

Motion by Selectman Dykstra, seconded by Selectman Matthews-Bull, to award the contract to Apex. **Voted: 5-0. Motion passed.**

13. Consider granting authorization to the Public Works Director to enter into a purchase and sales agreement for a replacement one-ton dump truck.

As part of FY23, the Town budgeted \$70,000 to replace the 2009 Ford F320 Dump truck. On June 21, the Public Works Department went for a bid but did not receive any due to supply chain issues. Chris Simeoni, Director of Public Works, asks to authorize him to take actions to purchase a vehicle as soon as it appears on the market within the budgeted amount.

Motion by Selectman Daggett, seconded by Selectman Dykstra, to grant authorization to the Public Works Director to enter into a purchase and sales agreement for a replacement of a one-ton dump truck. **Voted: 5-0. Motion passed.**

14. Owner's Certification Regarding the non-use of eminent domain for the Cape Porpoise Pier EDA grant.

Motion by Selectman Matthews-Bull, seconded by Selectman Dykstra, to authorize the owner's certification regarding eminent domain. **Voted: 5-0. Motion passed.**

15. Consider requests for the following Street Opening Permits:

- a. by **George Burr & Sons, Inc for 35 Turbats Creek Road**
- b. by **Mark Welch & Sons, Inc for Bath Lane and Old Cape Road**
- c. by **Nelson Property Services, Inc for 164 Wildes District Road**
- d. by **Coastal Creations of Maine for Slack Tide Road at Mills Road.**

Motion by Selectman Daggett, seconded by Selectman Dykstra to approve a request for the Street Opening Permit by George Burr & Sons, Inc for 35 Turbats Creek Rd. **Voted:** 4-0-1. **Motion passed.** Selectmen Matthews-Bull abstained.

Motion by Selectman Matthews-Bull, seconded by Selectman Dykstra to approve requests for the Street Opening Permits for b through d with the conditions noted by the Public Works Director. **Voted:** 5-0. **Motion passed.**

- 16. Consider the annual request from the Rotary Club to rename Dock Square to “Duck” Square for one day on August 13, 2022, for the Duck Race.**

Motion by Selectman Matthews-Bull, seconded by Selectman Daggett, to rename Dock Square to “Duck” Square for one day on August 13, 2022, for the Duck Race. **Voted:** 5-0. **Motion passed.**

- 17. Appointments for Boards and Committees.**

Motion by Selectman Matthews-Bull, seconded by Selectman Daggett, to appoint new members for the Boards and Committees as follows: Megan Bliss, Bruce Donath, Kyle Matthews, Susan Streiff to Recreation Committee with the term expiration in July of 2023; Charles McLaughlin and Ryder Noyes to the Cape Porpoise Committee with the term expiration in July of 2023; Christopher Audley to the Government Wharf Committee with the term expiration in July of 2023. **Voted:** 5-0. **Motion passed.**

- 18. Authorization of FY 22 carryforwards from available balances.**

Motion by Selectman Matthews-Bull, seconded by Selectman Daggett, to authorize \$210,000 of FY22 carryforwards from available balances. **Voted:** 5-0. **Motion passed.**

- 19. MMA Annual Election – Vice President and Executive Committee Members.**

Motion by Selectman Matthews-Bull, seconded by Selectman Dykstra, to approve the slate of officers. **Voted:** 5-0. **Motion passed.**

- 20. Accept a \$50 donation anonymous donation for Recreation Summer Camp.**

Motion by Selectman Matthews-Bull, seconded by Selectman Dykstra, to accept a \$50 anonymous donation for the Recreation Summer Camp. **Voted:** 5-0. **Motion passed.**

21. Accept radio headset donation from Port Fire Company.

Motion by Selectman Matthews-Bull, seconded by Selectman Daggett, to accept radio headset donation from Port Fire Company. **Voted:** 5-0. **Motion passed.**

22. Other Business.

- a. Consider the purchase of three police cruisers (one from FY22 and two from FY23 capital funds)

Craig Sanford, Police Chief, updated the Board that Ford canceled Department's order for the hybrid vehicles, and they have to wait for a few months to bid. He started looking around and found a few vehicles in Massachusetts. Those cruisers go out fast, so the Chief asked for the purchase authorization.

Motion by Selectman Daggett, seconded by Selectman Matthews-Bull, to authorize the purchase of three police cruisers. **Voted:** 5-0. **Motion passed.**

Jon Dykstra updated the public that the Town received a rebate from EcoMaine in the amount of. There was no other business.

23. Approve the August 11, 2022, Treasurer's Warrant.

Motion by Selectman Matthews-Bull, seconded by Selectman Dykstra to approve the August 11, 2022, Treasurer's Warrant. **Voted:** 5-0. **Motion passed.**

24. Adjournment.

Motion by Selectman Matthews-Bull seconded by Selectman Daggett to adjourn. **Voted:** 5-0. **Motion passed.** Meeting adjourned at 8:38 PM.

Submitted by,
Yanina Nickless,
Assistant to the Town Manager

AGENDA ITEM DIVIDER

Memorandum

To: Board of Selectmen

Fr: Laurie Smith, Town Manager

Re: Town Meeting Question for Cape Porpoise Pier Grant

Dt: August 22, 2022

Town successfully received a \$2.1 million Economic Development Administration (EDA) grant for the reconstruction of the Cape Porpoise Pier. The federal government (EDA) requires a mortgage lien on the Cape Porpoise Pier for the “useful life” of the project – which is anticipated to be 20 years. This is a requirement of the EDA grant, in order to ensure that the EDA investment will not be sold or transferred without EDA notification. The language in the grant states,

“WHEREAS, Mortgagor and EDA desire to establish an obligation for and first priority lien on Project Property in favor of EDA in the event that the Project Property is used, transferred, or alienated in violation of the Award, 13 CFR Chapter III, or 2 CFR part 200;

NOW THEREFORE, Mortgagor does hereby grant and convey unto EDA, its successors and assigns, a mortgage and a lien on said Project Property to secure Mortgagor’s obligation (i) to comply with the terms and conditions of the Award and the regulations set forth in 13 CFR Chapter III and 2 CFR part 200, and (ii) to use Project Property only for the purposes set forth therein for the Estimated Useful Life of Project Property.”

In order to grant a mortgage lien, the Selectmen will need authorization from the town meeting, through either a special town meeting or a ballot referendum question this fall.

The Town Attorney is recommending the follow question language for the ballot.

“To see if the Town will vote to authorize the Board of Selectmen to execute a 20-year first priority mortgage lien on the Cape Porpoise Pier property (York County Registry of Deeds Book 3122, Page 06) as required to secure a \$2,163,482 federal Economic Development Administration grant for the Cape Porpoise Pier reconstruction project?”