

**Town of Kennebunkport
Board of Selectmen Meeting
Village Fire Station – 32 North Street
April 11, 2019 – 6:00 PM**

Minutes of the Selectmen's Meeting of April 11, 2019

Selectmen Attending: Stuart Barwise, Patrick A. Briggs, Sheila Matthews-Bull, Edward Hutchins

Selectman Absent: Allen Daggett

Others: Barbara Barwise, Dan Beard, David Betses, Michael Claus, Michael Davis, Doug Dicey, Jay Everett, Werner Gilliam, Dimitri Michaud, Dawn Morse, Arlene McMurray, Michelle Powell, Steve Riker, Laurie Smith, Jim Stockman, residents of Reid Lane, and others

1. Call to Order.

Chair Hutchins called the meeting to order at 6:05 PM. Budget Board Chair Barbara Barwise also opened the Budget Board meeting.

2. Joint Meeting with Budget Board to review final budgets and recommendations.

Discussion about the \$20,000 discrepancy between the Budget Board and Board of Selectmen regarding the KEMS's budget. The Board of Selectmen voted for \$155,000 and the Budget Board voted for \$175,000 at a previous meeting.

Jim Stockman, president of KEMS answered question on outstanding budget issues. He said so far KEMS received \$24,000 from their subscription service in which 90 people enrolled and 40% were new people. KEMS's total endowment is \$1,377,088.79. Of that amount, \$1,611,147.80 is restricted, which means it can only be used for specific items. He said the driver's pay is mandated to go up \$12 an hour, and in July 2021, KEMS would like to purchase a new ambulance which costs approximately \$250,000. He said KEMS is basically asking the Town to fund 50% of their payroll. He explained there are many variables to consider. KEMS could get more people to subscribe or get more donations. Their revenue from services is down. They have never been over 500 runs.

The Board of Selectmen did not wish to reconsider its vote on KEMS budget.

3. Review June town meeting warrant and vote on warrant articles.

Town Clerk Tracey O'Roak went through the Town Meeting Warrant Articles that had not been voted on by the Board of Selectmen.

Warrant Article 20: To see what sum the Town will vote to raise and appropriate for the Kennebunkport Emergency Medical Services account.

Amount recommended by the Board of Selectmen is \$155,000.

Amount recommended by the Budget Board is \$175,000.

For **Articles 2 through 10, 41 – 43**, Selectman Barwise made the **motion** to adopt the Article as written for the Town Meeting Warrant. Selectman Matthews-Bull seconded the motion, and the **Vote** was 4-0.

Article 2: To see if the Town will vote to authorize the Town Treasurer, with the advice and approval of the Municipal Officers on behalf of the Town to sell and dispose of Real Estate acquired by the Town for nonpayment of taxes thereon, and to execute quitclaim deeds on such terms as they deem advisable, and to authorize the Treasurer to discharge unmatured liens on payment of taxes, interest and costs.

Article 3: To see if the Town will vote to authorize the Town Treasurer, with the advice and approval of the Municipal Officers on behalf of the Town, to waive the foreclosure of any tax lien mortgage by recording a waiver of foreclosure in the York County Registry of Deeds for any real estate title to which they deem not in the best financial interest of the Town to hold, said authorization to waive not to prevent the Town Treasurer, with the advice and approval of the Municipal Officers, from later foreclosing on said tax lien pursuant to law, as they deem advisable.

Article 4: To see if the Town will vote to make all real and personal property taxes due and payable upon presentment of bills and to charge nine percent (9.00%) per annum on the first half if unpaid after September 10, 2019 (or 45 days after the date of commitment if commitment is after July 28, 2019) and on the second half if unpaid after March 10, 2020.

Article 5: To see if the Town will vote to set the interest rate to be paid by the town on abated taxes at seven percent (7.00%) for the fiscal year 2020.

Article 6: To see if the Town will vote to pay for tax abatements and applicable interest granted during the fiscal year of 2019/2020 from Overlay. *(Explanation: The Selectmen, as Assessors, are authorized to raise Overlay under Title 36 MRSA section 710 but require voter authorization to spend Overlay. Overlay cannot be more than 5% of the Tax Commitment.)*

Article 7: To see if the Town will vote to authorize the Tax Collector or Treasurer to accept prepayments of taxes not yet committed pursuant to 36 M.R.S.A. § 506.

Article 8: To see if the Town will vote to authorize the Selectmen to accept easement deeds on behalf of the Town granting the Town the right to plant and maintain certain trees on private property located within the Town.

Article 9: To see if the Town will vote to authorize the Selectmen to accept unconditional and conditional gifts of money or property on behalf of the Town,

other than gifts of sewer extensions, subject to ratification by the Town at an annual or special town meeting held within one year of the Selectmen's acceptance, except that such ratification shall not be required for a donation of money to the Town to supplement a specific appropriation already made, to reduce the tax assessment, or to reduce the permanent debt.

Article 10: To see if the Town will vote to authorize the Board of Selectmen to enter into and perform a Road Maintenance Agreement with the Wallace Woods Homeowners Association, the Association of homeowners at Wallace Woods residential subdivision located on the easterly side of North Street (the "Subdivision"), regarding the agreement of the Town to undertake certain limited maintenance and repair work, including snowplowing, sanding and paving, with respect to designated portions of Reid Lane within the Subdivision, while expressly excluding other obligations within or in the vicinity of the road right-of-way which obligations shall remain the responsibility of the Wallace Woods Homeowners Association. (A true copy of the Road Maintenance Agreement is on file in the Town Clerk's Office and is incorporated by reference.)

Article 41: To see if the Town will vote to appropriate the sum of \$2,777,800 from estimated non-property tax revenues to reduce the property tax commitment, together with all categories of funds, which may be available from the federal government, and to also use \$200,000 from undesignated fund balance to reduce the property tax commitment.

Article 42: Shall the Town vote to authorize the Selectmen to apply for, accept and expend from the following categories of funds as provided by the State of Maine: Municipal Revenue Sharing, Educational Certification Block Grant, Educational Tax Relief Grant, Public Library State Aid, Urban Rural Road Initiative Program, Civil Emergency Funds, Snowmobile Registration Funds, Tree Growth Reimbursement, General Assistance Reimbursement, Veterans Exemption Reimbursement, Department of Economic & Community Development Grant Program, Maine Emergency Management Agency, Homestead Exemption Reimbursement, and all other state and federal grants and funds including, when necessary, the authority to sign grant contracts, documents or other paperwork?

Article 43: To see if the Town will vote to authorize the Selectmen to carry forward unencumbered surplus fund balances on June 30, 2019, for the purposes originally appropriated and to the extent they deem advisable, such determination to be made at a properly noticed meeting of the Board of Selectmen.

The Budget Board also voted on some of the Warrant Articles. The Budget Board Meeting adjourned at 6:32 PM.

4. Approve the March 21, 26, 27, and 28, 2019, selectmen meeting minutes.

Motion by Selectman Barwise, seconded by Selectman Matthews-Bull, to approve the March 21, 2019, selectmen meeting minutes. **Vote:** 4-0.

Motion by Selectman Barwise, seconded by Selectman Matthews-Bull, to approve the March 26, 2019, selectmen meeting minutes. **Vote:** 4-0.

Motion by Selectman Barwise, seconded by Selectman Matthews-Bull, to approve the March 27, 2019, selectmen meeting minutes. **Vote:** 4-0.

Motion by Selectman Barwise, seconded by Selectman Matthews-Bull, to approve the March 28, 2019, selectmen meeting minutes. **Vote:** 4-0.

5. 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.).

There were no comments.

6. Consider a renewal liquor license submitted by RL Restaurant, LLC, DBA Salt and Honey, 24 Ocean Avenue.

Motion by Selectman Barwise, seconded by Selectman Matthews-Bull, to approve the renewal liquor license submitted by RL Restaurant, LLC, DBA Salt and Honey, 24 Ocean Avenue. **Vote:** 4-0.

7. Consider a renewal liquor license submitted by OWR, LLC, Kathleen Spang DBA Oceanwoods Resort/PJ's Pub and Dining, 71 Dyke Road. Vote:
4-0.

Motion by Selectman Barwise, seconded by Selectman Matthews-Bull, to approve the renewal liquor license submitted by OWR, LLC, Kathleen Spang DBA Oceanwoods Resort/PJ's Pub and Dining, 71 Dyke Road. **Vote:** 4-0.

8. Consider a renewal special amusement permit submitted by OWR, LLC DBA Oceanwoods Resort/PJ's Pub and Dining, 71 Dyke Road.

Motion by Selectman Barwise, seconded by Selectman Matthews-Bull, to approve the renewal special amusement permit submitted by OWR, LLC DBA Oceanwoods Resort/PJ's Pub and Dining, 71 Dyke Road. **Vote:** 4-0.

9. Consider the Dock Application for 22 Ebbs Cove Road.

Motion by Selectman Barwise, seconded by Selectman Matthews-Bull, to approve the Dock Application for 22 Ebbs Cove Road. **Vote:** 4-0.

10. Consider Road Maintenance Agreement for Wallace Woods.

Chair Hutchins said the only thing he sees that needs to be changed on the agreement is that he will not be the Chair after Town Meeting. See Exhibit A.

Motion by Selectman Barwise, seconded by Selectman Matthews-Bull, to approve placing the Road Maintenance Agreement for Wallace Woods on the Town Meeting Warrant. **Vote:** 4-0.

11. Consider proposed revenue increase for FY2020.

Planning and Development Director Werner Gilliam went over his proposed updates for the Permit Fee Schedule. See Exhibit B.

Motion by Selectman Barwise, seconded by Selectman Briggs, to approve the proposed Building Permit Fee Schedule to go into effect May 1, 2019. **Vote:** 3-1/Selectman Matthews-Bull opposed.

Other proposed fee increases:

Liquor License fee increase from \$100 to \$150.

Victualer's License fee increase from \$50 to \$100.

Special Amusement Permit fee increase from \$50 to \$100.

Trolley Permit increase from \$25 to \$50 per application.

Horse-drawn carriage permit increase from \$25 to \$50 per application.

Motion by Selectman Barwise, seconded by Selectman Matthews-Bull, to approve the other proposed fees. **Vote:** 4-0.

12. Authorize the Town Manager to sign the Animal Welfare Society Contract.

Motion by Selectman Barwise, seconded by Selectman Matthews-Bull, to authorize the Town Manager to sign the Animal Welfare Society Contract. **Vote:** 4-0.

13. Consider authorizing work 24/7 in Cape Porpoise Harbor for the dredge project between November 1, 2019, and March 30, 2020.

Motion by Selectman Barwise, seconded by Selectman Matthews-Bull, to authorize work 24/7 in Cape Porpoise Harbor for the dredge project between November 1, 2019, and March 30, 2020. **Vote:** 4-0.

14. Authorize award of brush truck.

Fire Chief Jay Everett said he send out 12 bid solicitations and received two back:

Vendor	Bid
Rowe Ford in Westbrook	\$31,426.22

Casco Bay Ford in Yarmouth \$38,600.00

Mr. Everett recommends the low bidder Casco Bay Ford.

Motion by Selectman Matthews-Bull, seconded by Selectman Barwise to award the bid for the brush truck to Casco Bay Ford at a cost of \$38,600.00. **Vote:** 4-0.

15. Accept the following donations:

- a. Lucille and Roger Seavey donated \$100 to the nurses fees account in memory of Ellen Dube.**

Motion by Selectman Barwise, seconded by Selectman Matthews-Bull, to accept the donation of \$100 from Lucille and Roger Seavey to the nurses fee account. **Vote:** 4-0.

- b. Kennebunk Portside Rotary donated \$220 to general needs account.**

Motion by Selectman Barwise, seconded by Selectman Matthews-Bull, to accept the \$220 donation from Kennebunk Portside Rotary to the general needs account. **Vote:** 4-0.

- c. United Way donated \$150 to the emergency fuel account.**

Motion by Selectman Barwise, seconded by Selectman Matthews-Bull, to accept the donation of \$150 to the emergency fuel account. **Vote:** 4-0.

- d. Madonna Chapter 144 donated \$50 to the emergency food account.**

Motion by Selectman Barwise, seconded by Selectman Matthews-Bull, to accept the donation of \$50 from the Madonna Chapter 144 to the emergency food account. **Vote:** 4-0.

- e. Kennebunk High School Wellness Committee donated \$190 to the emergency food account and \$190 to the emergency fuel account.**

Motion by Selectman Barwise, seconded by Selectman Matthews-Bull, to accept the donation from the Kennebunk High School Wellness Committee of \$190 to the emergency food account and \$190 to the emergency fuel account. **Vote:** 4-0.

16. Other business.

Public Works Director Michael Claus announced that today and tomorrow on North Street they are doing roadwork. They hope to have base pavement on Tuesday.

Mr. Claus also announced that at the intersection of Wildes District Road and Maine Street the Kennebunk, Kennebunkport, and Wells Water District is installing temporary water mains and services starting on April 15. Traffic will be disrupted until July.

Chair Hutchins thanked the Budget Board for their hard work.

17. Approve the April 11, 2019, Treasurer's Warrant.

Motion by Selectman Barwise, seconded by Selectman Matthews-Bull, to approve the April 11, 2019, Treasurer's Warrant. **Vote:** 4-0.

18. Adjournment.

Motion by Selectman Barwise, seconded by Selectman Matthews-Bull, to adjourn. **Vote:** 4-0.

The meeting adjourned at 6:54 PM.

Submitted by Arlene McMurray
Administrative Assistant

EXHIBIT A - 4-11-2019
10

ROAD MAINTENANCE AGREEMENT

THIS ROAD MAINTENANCE AGREEMENT (this "Agreement") is entered into as of the ____ day of _____, 2019, by and between WALLACE WOODS HOMEOWNERS ASSOCIATION, a Maine nonprofit corporation, with a mailing address of 124 Fletcher Street, Kennebunk, Maine 04043 (the "Association"), and THE INHABITANTS OF THE TOWN OF KENNEBUNKPORT, a Maine municipality, with a mailing address of P.O. Box 566, Kennebunkport, Maine 04046 (the "Town").

RECITALS

WHEREAS, the Association is the Association of homeowners in Wallace Woods, a residential subdivision located on the easterly side of North Street in the Town of Kennebunkport, County of York, and State of Maine (the "Subdivision"), as shown on a plan entitled "Final Subdivision Plan of Wallace Woods" approved by the Town of Kennebunkport Planning Board on August 5, 2015, and recorded in the York County Registry of Deeds in Plan Book 377, Page 26 (the "Subdivision Plan"); and

WHEREAS, the Association is the owner of (a) the areas comprising Open Space 1 and Open Space 2 within the Subdivision, (b) the access road within the Subdivision commonly known as Reid Lane, and (c) certain other easements within the Subdivision appurtenant to the Open Space areas and the access road, all as more particularly described in a Deed from Porter Holdings, Inc., the developer of the Subdivision, to the Association, dated _____, 2019, and recorded in the York County Registry of Deeds in Book _____, Page _____; and

WHEREAS, the Town has agreed to assume certain limited maintenance and repair obligations with respect to Reid Lane.

NOW, THEREFORE, for good and valuable consideration, the receipt whereof is hereby acknowledged, and in consideration of the foregoing and subject to the terms and conditions hereof, the Association and the Town hereby agree as follows.

1. ACCESS EASEMENT TO THE TOWN. The Association hereby grants the Town the right and easement to enter upon Reid Lane and all Association easements appurtenant thereto with persons, equipment and machinery at any and all times as necessary to permit the Town to undertake all maintenance and repair obligations with respect to Reid Lane as set forth herein.

2. MAINTENANCE AND REPAIR OF REID LANE. The Town shall undertake the following maintenance and repair work with respect to Reid Lane:

- (a) Snowplowing, sanding and other related work customarily undertaken by the Town with respect to Town roads; and
- (b) Repair as necessary, together with periodic paving, in accordance with the Town's schedule for repairing and paving Town roads.

Provided, however, that the maintenance and repair work described above shall not extend to, and the Town shall have no obligations under this Agreement with respect to, that portion of Reid Lane extending easterly beyond the cul-de-sac and labeled "Private R.O.W., 9,145 S.F., 0.21AC," on the Subdivision Plan.

3. NO OTHER OBLIGATIONS. Except as specifically set forth in Paragraph 2 above, the Town shall have no other obligations with respect to Reid Lane including, but not limited to, any obligations with respect to the maintenance and repair of any sidewalks, landscaping, including any landscaping within the cul-de-sac, drainage ways and culverts, light poles, underground utilities, street signs, or any other facilities and improvements located over, under or within Reid Lane and any easements appurtenant thereto, which obligations shall remain the responsibility of the Association. Furthermore, the Association shall remain responsible for repairing any damage to Reid Lane and any easements appurtenant thereto resulting from the acts of the Association, its agents or employees, in connection with such maintenance and repair undertaken by the Association.

4. TERMINATION OF AGREEMENT. This Agreement may be terminated by either party upon notice to the other party as provided herein except that in the case of termination hereof by the Town, such termination shall be conditioned upon approval thereof by the voters of the Town at an Annual or Special Town meeting. In the event the Town seeks to obtain voter approval to terminate this Agreement, the Town shall provide the Association notice of the Town's intent to pursue such voter approval not less than sixty (60) days prior to the date of the Annual or Special Town meeting at which such approval shall be sought.

5. MISCELLANEOUS.

- (a) This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties.
- (b) Any notice, demand and other communications hereunder shall be in writing and shall be deemed to have been duly given on the date of service if served personally on the party to whom notice is to be given, or on the second business day after mailing if mailed to the party to whom notice is to be given by first class mail, postage prepaid, registered or certified, return receipt requested, addressed to the party to whom notice is to be given at the address set forth above. Either party may change its address for purposes hereof by giving the other party notice of the new address in the manner described herein.
- (c) All paragraph headings in this Agreement are for convenience of reference only and are of no independent legal significance.

(d) This Agreement may not be modified, waived or amended except in a writing signed by the parties hereto. No waiver of any breach or term hereof shall be effective unless made in writing signed by the party having the right to enforce such a breach, and no such waiver shall be construed as a waiver of any subsequent breach. No course of dealing or delay or omission on the part of any party in exercising any right or remedy shall operate as a waiver thereof or otherwise be prejudicial thereto.

(e) Any and all prior and contemporaneous discussions, undertakings, agreements and understandings of the parties are merged in this Agreement, which alone fully and completely expresses their entire agreement.

(f) This Agreement may be simultaneously executed in any number of counterparts, each of which when so executed and delivered shall be an original, but such counterparts shall constitute one and the same instrument. This Agreement may be transmitted among the parties by facsimile machine or email attachment and signatures appearing on faxed or emailed instruments shall be treated as original signatures. Both a faxed or emailed Agreement containing either original or faxed signatures of all parties, and multiple counterparts of the same Agreement each containing separate original or faxed signatures of the parties, shall be binding on them.

(g) If any term or provision of this Agreement or the application thereof to any person or circumstances shall, at any time or to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which this Agreement is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law provided that the invalid provision does not have a material adverse effect upon the overall purpose of this Agreement.

(h) It is expressly understood and agreed that time is of the essence in respect of this Agreement.

(i) This Agreement shall be governed by and construed and enforced in accordance with the laws in effect in the State of Maine.

IN WITNESS WHEREOF, WALLACE WOODS HOMEOWNERS ASSOCIATION has caused this Agreement to be executed by its President, _____, hereunto duly authorized, and THE INHABITANTS OF THE TOWN OF KENNEBUNKPORT has caused this Agreement to be executed by its Board of Selectmen, hereunto duly authorized, as of the date first set forth above.

[End of page. Execution page follows.]

WITNESS:

WALLACE WOODS HOMEOWNERS
ASSOCIATION

By: _____
Its President

Print name

STATE OF MAINE
COUNTY OF YORK, ss.

_____, 2019

Personally appeared the above named _____, President of Wallace Woods Homeowners Association, and acknowledged the foregoing instrument to be his/her free act deed in his/her said capacity and the free act and deed of said Wallace Woods Homeowners Association.

Before me,

Notary Public/Maine Attorney at Law

Print name

My commission expires _____

WITNESS:

THE INHABITANTS OF THE TOWN
OF KENNEBUNKPORT

Deleted: UN

By: _____
Edward W. Hutchins, Chair of
its Board of Selectmen

By: _____
Allen A. Daggett, Vice Chair of
its Board of Selectmen

By: _____
Stuart A. Barwise, Selectman

By: _____
Patrick A. Briggs, Selectman

By: _____
Sheila Matthews Bull, Selectman

STATE OF MAINE
COUNTY OF YORK, ss.

_____, 2019

Then personally appeared the above named Edward W. Hutchins, Chair of the Board of Selectmen of the Inhabitants of the Town of Kennebunkport, and acknowledged the foregoing instrument to be his free act deed in his said capacity, the free act and deed of the Inhabitants of the Town of Kennebunkport

Before me,

Notary Public/Maine Attorney at Law

Print name

My commission expires _____

EXHIBIT B – APRIL 11, 2019

Memo

To: Laurie Smith, Town Manager, Board of Selectmen
From: Werner Gilliam CFM Director of Planning and Development
RE: Proposed Updates to Permit Fee Schedule
Dt: April 1, 2019

Please see attached for your consideration proposed updates to the Building Permit Fee Schedule. It is presented in a strikeout /underline format so that you may compare our current schedule with the proposed changes. These changes are the result of discussions with staff on activities that needed clarification, research into surrounding communities fees, and recent budget discussions with the Board of Selectmen and the Budget Board. Notable changes include:

- Clarification on fees for Shoreland Zone landscaping projects. These types of projects oftentimes require just as much staff time and review as a construction project, and yet oftentimes are assigned the minimum fee of \$40
- Standby Generators are fairly simple to review and issue, yet project costs can vary significantly. A standard \$40 fee is representative of time spent.
- Docks and Piers have typically been done based on square footage. This change makes it consistent with all other construction permits.
- Residential New construction/renovation is modified based on budget board/selectmen discussions. Using construction costs allows fees to follow market demands.
- Commercial new construction/renovation fees have been changed to follow the same methodology as used for residential.

EXHIBIT B – APRIL 11, 2019

TOWN OF KENNEBUNKPORT BUILDING PERMIT FEE SCHEDULE
Effective 1/1/2019 5/1/19

No building or use permit shall be issued by the Code Enforcement Officer without payment of the required fee according to the following schedule:

- Growth Permits are **\$250.00** per dwelling unit
- Plumbing permit fee: **\$15** per fixture
- Minimum Building Permit/Land Use Fee: **\$40**
- Shoreland Zone Landscaping/Hardscape: **\$ 10.00 per \$1,000** of estimated project cost
- Standby Generators: **\$40**
- Docks/Piers: **\$10 per \$1,000** of estimated project cost
- Residential new construction/renovation **\$10.00 per \$1,000** of estimated project cost
- ~~Residential decks/outbuildings (sheds, detached garages, etc.) under 400 square feet: **\$.20** per square foot~~
- ~~Residential new construction: **\$.80** per square foot~~
- ~~Residential renovation: **1%** of estimated project cost~~
- ~~Commercial new construction: **\$1.50** per square foot~~
- ~~Commercial renovation: **1.5%** estimated project cost~~
- Commercial new construction/renovation: **\$15.00** per \$1,000 of estimated project cost
- Wireless Telecommunications co-locations and small cell facilities: **\$250.00**
- Demolition or relocation of a building or interior demolition in preparation of remodeling or restoration: **\$100**
- Sign Permit **\$50** / Shop Opening **\$50**
- Flood Plain **\$100 non-refundable** application fee
- Condominium Conversion: **\$250** per condominium unit, plus all applicable legal and professional services fees.
- Blasting fee: **\$100**

EXHIBIT B – APRIL 11, 2019

Fee amounts will be rounded to the nearest dollar.

When work has begun prior to the issuance of a permit, the fees shall be DOUBLED.

Upon completion of a new building or major remodeling, a Certificate of Occupancy is required. There will be no charge for the first inspection. If a re-inspection is required due to failure to pass a previous inspection a re-inspection fee of \$25.00 shall be required.