

## TOWN OF KENNEBUNKPORT, MAINE

### **Board of Selectmen Agenda January 13, 2022 @ 6:00 PM VIRTUAL MEETING VIA ZOOM**

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#### **Ways to join this webinar:**

Join by **computer or mobile device** and click on: <https://us06web.zoom.us/j/85270109217>  
or go to **ZOOM** and enter the **webinar ID**: 852 7010 9217

By **phone** 1 (929) 205 6099 US

International numbers available: <https://us06web.zoom.us/j/85270109217>

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1. Call to Order.
2. Approve the December 22, 2021, 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. Annual Investment Presentation by H.M. Payson.
5. Award bid for ANSI Certified Class 2 Jackets for the Fire Department.
6. Capital Improvement Plan
7. Review of correspondence from Norman Hanson DeTroy regarding School Board Recall Initiatives.
8. Accept the following donations:
  - \$250 donation from Helen McConnell to the Nurse's account to assist with supplies, equipment, training, or any other needs.
  - \$1,000 from Atlantic Hall to the emergency fuel fund.
9. Other business.
  - a. Short-term rental update
10. Approve the January 13, 2022, Treasurer's Warrant.
11. Adjournment.

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# AGENDA ITEM DIVIDER

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Town of Kennebunkport  
Board of Selectmen Meeting VIA Zoom  
December 23, 2021  
9:00 AM

**MINUTES**

**Selectmen attending via Zoom:** Allen Daggett, Patrick Briggs, D. Michael Weston, Edward Hutchins, and Sheila Matthews-Bull.

**Others attending via Zoom:** Michael Davis and Tracey O’Roak.

**1. Call to Order**

Selectman Matthews-Bull called the meeting to order at 9:01 AM. She took roll call of Selectmen present: Allen Daggett, Patrick Briggs, Michael Weston, Edward Hutchins, and Sheila Matthews-Bull. She noted that there were three participants in the audience.

**2. Approve the December 9, 2021, meeting minutes.**

**Motion** by Selectman Briggs seconded by Selectman Weston to approve the December 9, 2021, selectmen meeting minutes. **Roll Call Vote:** Briggs, Weston, Matthews-Bull, and Daggett. Selectman Hutchins abstained as he was not at the December 9<sup>th</sup> meeting. **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.)

Selectman Matthews-Bull suggested giving Laurie Smith, Town Manager, a \$10,000 Christmas bonus. She and the other selectmen listed just a few of the many reasons why Ms. Smith deserves the bonus:

- Recipient of the Town Manager of the Year award for the State of Maine;
- The patience, diplomacy and fairness she brings to every situation;
- Her guidance through the challenges of COVID;
- She has managed top-level staff changes very well;
- Whether it’s short-term rental challenges or staff changes, Ms. Smith lead with minimal interruption;
- She received a prestigious Rotary award;
- Her budget skills through the unexpected pandemic demonstrated her solid management skills;
- Finally, it was agreed that the Board is very proud of Laurie and her accomplishments over the past year.

Ms. Smith stated that she was very humbled and appreciative of the gesture and the support of the Board.

**Motion** by Selectman Briggs seconded by Selectman Hutchins to give Laurie Smith a \$10,000 Christmas Bonus. **Roll Call Vote:** Briggs, Weston, Hutchins, Daggett and Matthews-Bull. **Voted:** 5-0. **Motion passed.**

**4. Accept a \$500 donation from Richard Driver to the emergency fuel fund.**

**Motion** by Selectman Hutchins, seconded by Selectman Briggs to accept the generous \$500 donation from Richard Drive to the emergency fuel account. **Roll Call Vote:** Briggs, Weston, Daggett, Hutchins and Matthews-Bull. **Voted:** 5-0. **Motion passed.**

**5. Other business.**

Selectman Weston wished everyone a merry and safe Christmas.

Selectman Hutchins wished everyone a Merry Christmas.

Selectman Briggs thanked the Board for supporting the Housing Trust. The last homes will be turned over in the next month. It has been a very challenging year and the project couldn't have happened without the Board's support.

Selectman Daggett wished everyone a Merry Christmas.

Selectman Matthews-Bull wished everyone a Merry Christmas and Happy New Year. She also stated that Prelude was a huge success in spite of the changes that were made due to COVID.

Laurie Smith thanked the Board and staff for their hard work this year.

**6. Approve the December 23, 2021, Treasurer's Warrant.**

**Motion** by Selectman Hutchins seconded by Selectman Briggs to approve the December 23, 2021, Treasurer's Warrant. **Roll Call Vote:** Briggs, Weston, Daggett, Hutchins, and Matthews-Bull. **Voted:** 5-0. **Motion passed.**

**7. Adjournment.**

**Motion** by Selectman Hutchins seconded by Selectman Daggett to adjourn. **Roll Call Vote:** Briggs, Weston, Daggett, Hutchins, and Matthews-Bull. **Voted:** 5-0. **Motion passed.** Meeting adjourned at 9:13 am.

Submitted by,  
Tracey O'Roak  
Administrative Assistant

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# AGENDA ITEM DIVIDER

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**HM**Payson

# Investment Review

DECEMBER 31, 2021

PREPARED FOR

Town of Kennebunkport

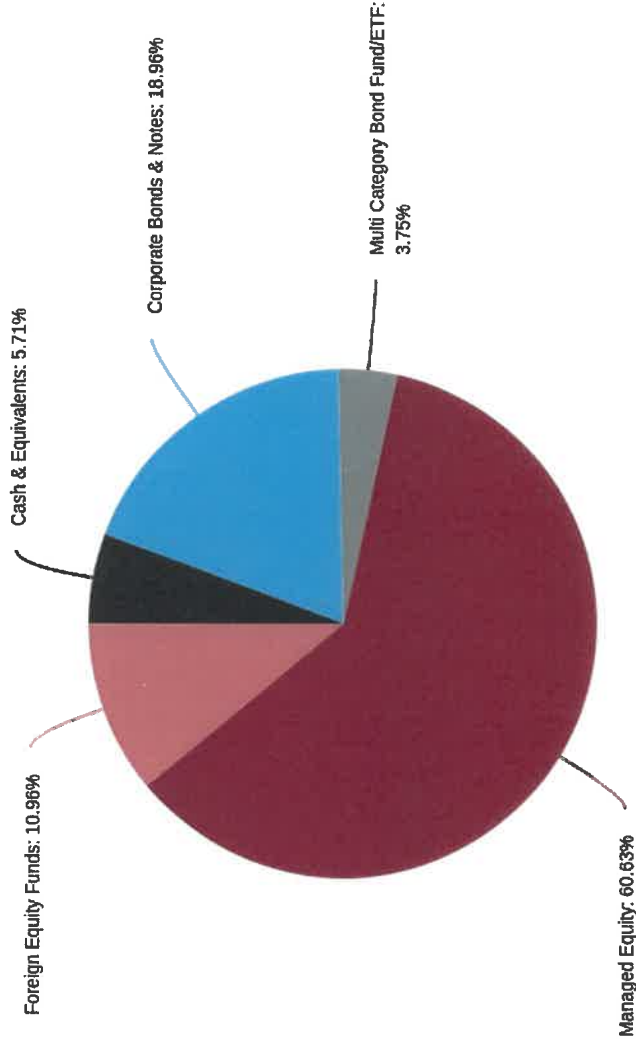
**Daniel M. Lay, Esq.**  
PORTFOLIO MANAGER

**Noah J. Petrucci, CFA**  
RELATIONSHIP MANAGER

**Jenny L. Robinson**  
RELATIONSHIP ADMINISTRATOR

# Asset Allocation by Account

## TOWN OF KENNEBUNKPORT



Style Class	Current Value	Current Percent
Cash & Equivalents	\$110,805	5.71%
Corporate Bonds & Notes	\$367,908	18.96%
Multi Category Bond Fund/ETF	\$72,791	3.75%
Managed Equity	\$1,176,696	60.63%
Foreign Equity Funds	\$212,705	10.96%
<b>Total</b>	<b>\$1,940,905</b>	<b>100.00%</b>

As of December 31, 2021

## Individual Account Gross Performance

## TOWN OF KENNEBUNKPORT

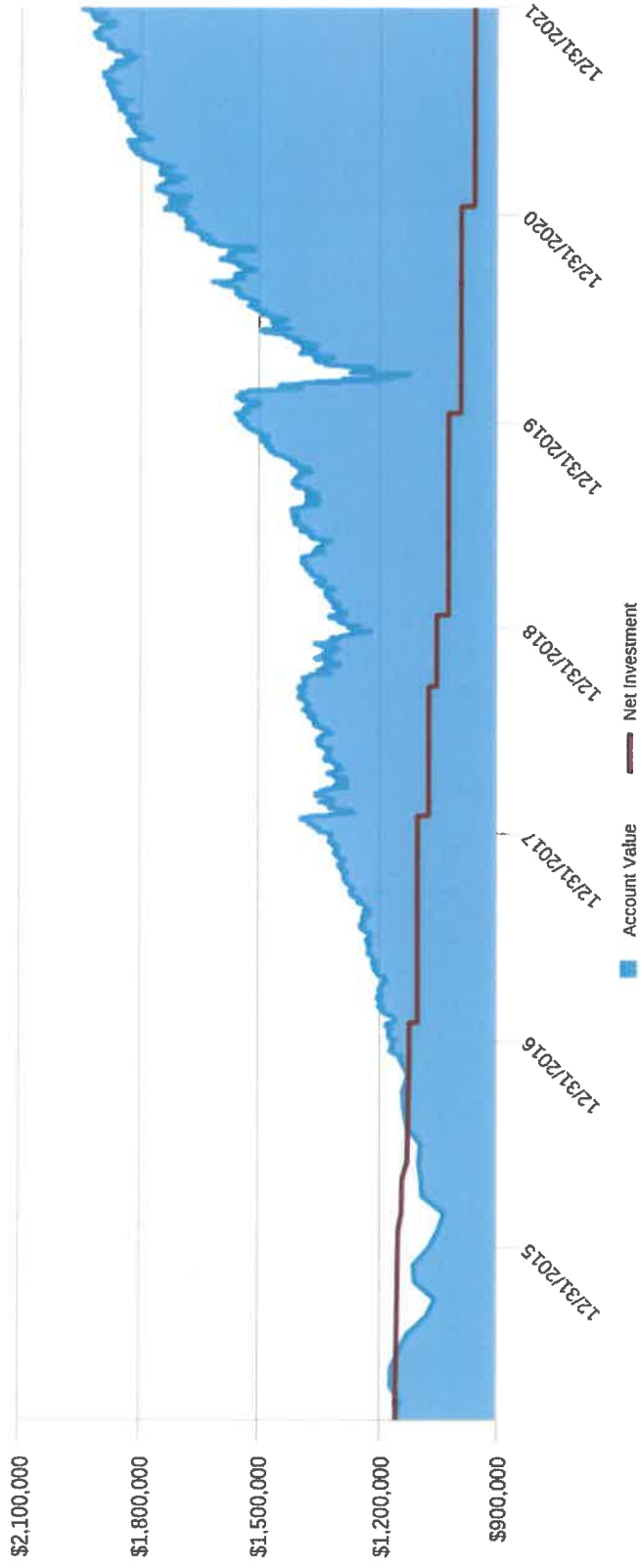
Asset Class	Fiscal YTD beginning 7/1 Gross Return	Previous 1 Year Gross Return	Previous 3 Years Gross Return	Previous 5 Years Gross Return	Inception to Date (02/28/2015) Gross Return
<b>Cash &amp; Equiv</b>	<b>0.05%</b>	<b>0.10%</b>	<b>1.03%</b>	<b>1.17%</b>	<b>0.90%</b>
FTSE USBIG 1 Mo. Treasury Bill	0.03%	0.04%	0.89%	1.06%	0.81%
<b>Fixed Income</b>	<b>(0.35%)</b>	<b>(0.42%)</b>	<b>3.80%</b>	<b>3.01%</b>	<b>* 2.62%</b>
Bloomberg US Government / Credit 1 -5Y	(0.67%)	(0.97%)	2.88%	2.25%	1.91%
<b>Equity</b>	<b>8.44%</b>	<b>24.65%</b>	<b>24.57%</b>	<b>19.39%</b>	<b>14.58%</b>
75% S&P 500, 25% ACWI ex-US	8.35%	23.23%	22.78%	16.26%	12.64%
<b>Total</b>	<b>6.03%</b>	<b>17.31%</b>	<b>18.34%</b>	<b>14.38%</b>	<b>10.86%</b>
70% (75% S&P 500;25% ACWI exUS);25% BB US Int Gvt/Crd;5% 3MTB	5.73%	15.49%	16.98%	12.27%	9.64%

\* Partial period return  
Returns for periods exceeding 12 months are annualized.



# Account Value vs. Net Investment

TOWN OF KENNEBUNKPORT



**Inception to Date (02/28/2015)**

Start Value	\$1,154,444
Net Contribution	(\$198,223)
Investment Gain/Loss	\$984,684
Ending Value	\$1,940,905

**Fiscal YTD beginning 7/1**

Start Value	\$1,836,345
Net Contribution	\$0
Investment Gain/Loss	\$104,560
Ending Value	\$1,940,905

As of December 31, 2021

# Town of Kennebunkport Distribution Review as of 12/31/2021

	Market Value 12/31/2020	2017	2018*	2019	2020	2021	Since Inception through 11/30/2021
<b>Kittredge Trust</b>	\$953,600.76	-\$14,554.52	-\$27,929.65	-\$29,365.39	-\$31,863.29	-\$33,951.39	-\$149,686.01
<b>Macomber Trust</b>	\$0.00	-\$5,869.26	\$0.00	\$0.00	\$0.00	\$0.00	-\$5,969.44
<b>Picavet Trust</b>	\$690,912.33	\$0.00	-\$19,811.05	\$0.00	\$0.00	\$0.00	-\$27,725.38
<b>TOTAL</b>		-\$20,423.78	-\$47,740.70	-\$29,365.39	-\$31,863.29		-\$183,380.83

\*Began using the 4% spending calculation in 2018

## TOWN OF KENNEBUNKPORT

Holdings as of: December 31, 2021

$$\text{V-Ratio} = \frac{\text{ROIC} + \text{Dividend Yield}}{\text{Price-to-Earnings Ratio}}$$

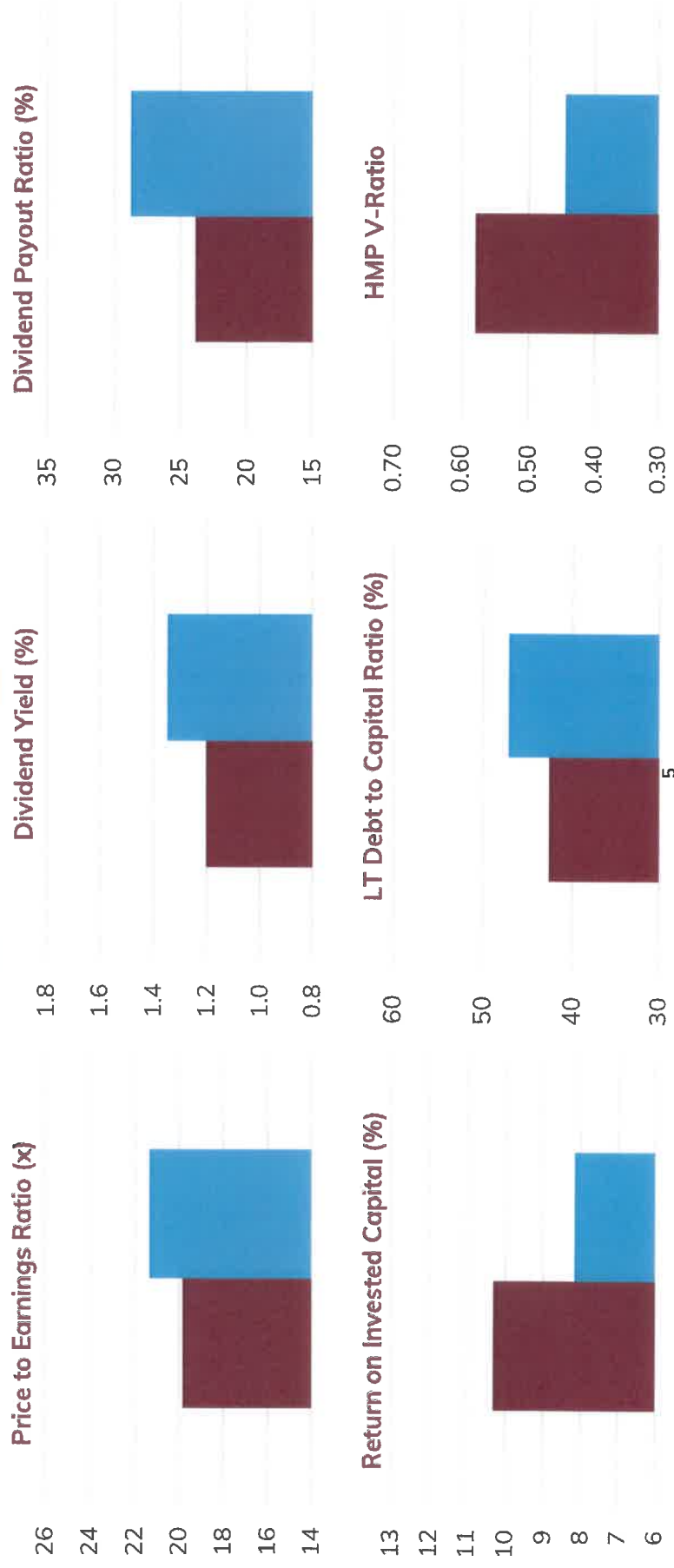
$$\text{ROIC} = \frac{\text{Earnings} - \text{Dividends}}{\text{Total Capital}}$$

### Characteristics Summary

	Client	S&P 500
Price to Earnings (x)	19.8	21.4
Dividend Yield (%)	1.2	1.3
Payout Ratio (%)	24	29
Return on Invested Capital (%)	10.3	8.2
Long term Debt to Capital (%)	43	47
<b>V-Ratio</b>	<b>0.58</b>	<b>0.45</b>

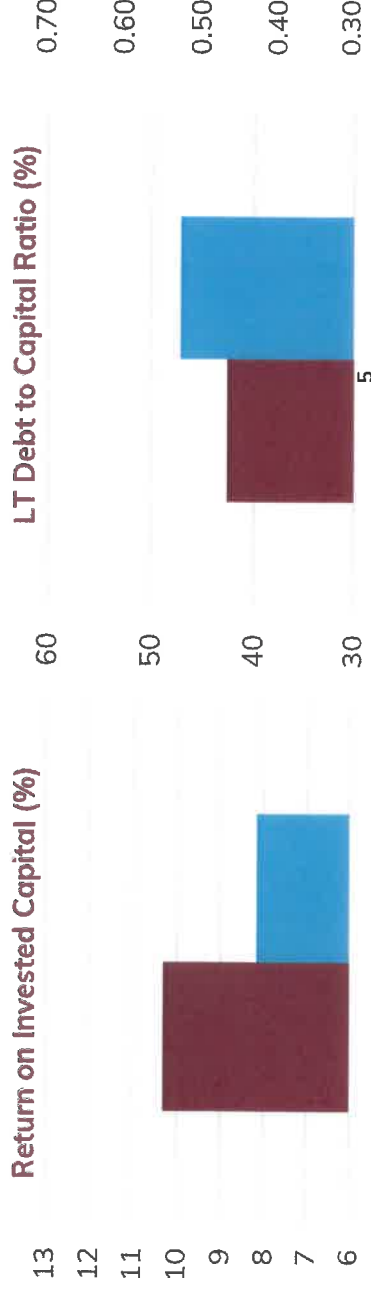
Consistently profitable companies with shareholder-friendly capital allocation tend to outperform over time. We believe that portfolios constructed around these characteristics, combined with a disciplined approach toward valuation, offer enhanced potential long-term returns. HM Payson's V-Ratio captures these features by weighing an approximation of quality against a measure of price.

■ Client ■ S&P 500

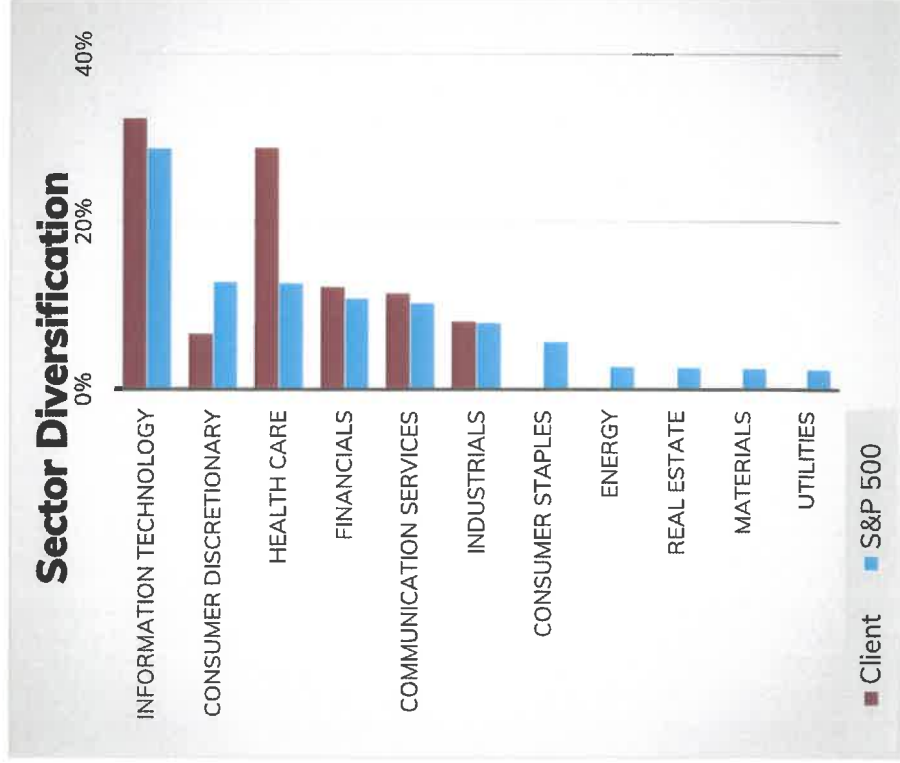


### LT Debt to Capital Ratio (%)

### HMP V-Ratio



**TOWN OF KENNEBUNKPORT**  
 Holdings as of: December 31, 2021



Sector	S&P 500 Index: Median Values		Portfolio Weighted	
	Return on Tangible Assets	*AFG Economic Margin™	ROTA	AFGEM™
Information Technology	15.9%	14.4%	20.9%	25.4%
Consumer Discretionary	5.1%	4.6%	5.6%	8.1%
Health Care	13.0%	13.4%	15.9%	18.0%
Financials	1.3%	0.1%	11.9%	18.4%
Communication Services	8.0%	7.9%	15.1%	NA
Industrials	10.8%	10.8%	3.9%	12.7%
Consumer Staples	15.6%	12.1%		
Energy	-7.6%	-3.8%		
Real Estate	3.3%	5.8%		
Materials	5.3%	2.9%		
Utilities	2.6%	0.4%		
Index/Portfolio	7.1%	7.4%	15.2%	18.3%

Value is greater than Index Median

\* Economic Margin = Economic Profit as a % of a firm's productive capital base (Trademark of The Applied Finance Group™, Ltd.)

# TOWN OF KENNEBUNKPORT

Holdings as of: December 31, 2021



## Stock Characteristics - 10 Largest Holdings

Company	Sector	Weight	Yield	Payout	5 Yr Div Growth	5 Yr EPS Growth	P/E	ROIC	LT Debt to Capital
Alphabet Inc Class C Capital Stock	Communication Services	8.4%	0.0%	0.0%	NM	20.7%	25.9	27.9%	9.5%
Berkshire Hathaway Cl B	Financials	6.0%	0.0%	0.0%	NM	12.7%	24.6	4.6%	20.4%
Microsoft Corp	Information Technology	5.4%	0.7%	25.2%	9.2%	30.8%	34.1	24.8%	32.4%
Accenture Plc Ireland Shs Cl A	Information Technology	3.9%	0.9%	36.4%	9.9%	7.3%	38.9	19.6%	12.3%
Pfizer Inc	Health Care	3.9%	2.7%	34.7%	6.1%	9.0%	12.8	15.4%	32.4%
Johnson & Johnson	Health Care	3.9%	2.5%	42.0%	6.2%	0.1%	16.9	15.6%	30.0%
Thermo Fisher Scientific Inc	Health Care	3.7%	0.2%	4.7%	8.0%	26.6%	30.0	13.9%	35.9%
CVS Health Corporation	Health Care	3.4%	2.1%	27.2%	6.3%	3.4%	12.7	5.2%	50.3%
Broadcom Limited Shs	Information Technology	3.4%	2.5%	55.4%	53.0%	5.3%	22.5	8.8%	62.2%
S&P Global Inc Com	Financials	3.2%	0.7%	21.8%	15.2%	18.1%	33.3	41.4%	71.5%
<b>Top 10 Stocks</b>		<b>45.1%</b>	<b>1.0%</b>	<b>23.1%</b>	<b>10.3%</b>	<b>11.3%</b>	<b>22.6</b>	<b>10.3%</b>	<b>32.5%</b>
<b>Total Stock Portfolio</b>			<b>1.2%</b>	<b>23.9%</b>	<b>10.7%</b>	<b>8.8%</b>	<b>19.8</b>	<b>10.3%</b>	<b>42.6%</b>
<b>S&amp;P 500 Index</b>			<b>1.3%</b>	<b>28.8%</b>	<b>5.8%</b>	<b>4.6%</b>	<b>21.4</b>	<b>8.2%</b>	<b>47.2%</b>

## Disclosures

Account data is on a trade date basis and income is included in the account returns on an accrual basis.

Account returns can be gross or net of management fees. Past performance is not indicative of future results.

All returns include the effects of all principal change and income, and returns for longer than one year are annualized.

Any Gross returns do not reflect the deduction of investment advisory fees, which will reduce investment returns. Advisory fees are described in Part 2 of our SEC Form ADV.

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# AGENDA ITEM DIVIDER

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## KENNEBUNKPORT FIRE DEPARTMENT

To: Laurie Smith  
 Board of Selectman  
 From: John Everett  
 Re: Purchase of ANSI certified Class 2 Jackets

I am requesting approval to purchase thirty (30) ANSI certified Class 2 Jackets to be issued to the membership. The number of coats requested does not cover all personnel but covers the personnel that respond the most often. These coats have a replaceable name tag so they can be re-issued as personnel change.

The main reason for the request is to keep our personnel safe. All calls the FD responds to involve the roadways in town in one fashion or another. Many times, our first responders arrive on a scene in their personal vehicles. Having this garment either already on or readily accessible, can protect the responder when visibility is compromised, and drivers are not paying as close attention to the road as they should.

These jackets are manufactured by 5.11 Tactical Gear. They have an excellent track record for quality. The garments have a zip in winter liner. The removable liner allows our members to use the jackets most of the year. The jackets are made with a high visibility outer shell that meets ANSI, (American National Standards Institute) class 2 safety vest. In essence the jacket will protect the responders by keeping them visible and warm and dry, something a traffic vest does not do.

I have included pricing from a local vendor and two online vendors. Each vendor has priced the exact same garment. Since the online vendors do not offer to silk screen "KPF" on the back of the coats or provide the name tags I have added the local vendor costs for those items to the internet costs as a comparison. A second local vendor was asked to provide pricing and has not responded to my inquiry.

	Bergeron Protective Clothing	U.S. Patriot	Fire Penny
Coat	\$277.22	\$325.00	\$299.95
Silk Screen	\$ 9.86	\$ 9.86	\$ 9.86
Name Plate	\$ 18.00	\$ 18.00	\$ 18.00
Total	\$305.08	\$352.86	\$327.81

All three vendors had an upcharge for 3XL AND 4XL sizes.

	\$ 45.00	\$ 50.00	\$ 35.00
3XL's and 4XL's If Needed	\$350.08	\$412.18	\$362.81

I request approval to purchase 30 coats with the silk screening and name plates for Bergeron Protective Clothing in the amount of \$9,323.40 The total price includes up to 4 coats that will have the larger size upcharge.





## KENNEBUNKPORT FIRE DEPARTMENT

I would like to pay for these coats by using some current FY22 budget funds and some carry forward funds from FY21. I asked to carry forward funds from three different line-item accounts from FY21 to FY22. These accounts were Training, Personnel Protective Equipment and Uniforms. The PPE and Uniform line were carried forward specifically to purchase these coats. The Training line was carried forward to cover expenses in our Physicals line. During FY21 it appeared due to a change at Workwell that we were going to be paying a much higher amount than anticipated for our compliance with Maine's respiratory protection law and the mandated medical questionnaire reviews. Fortunately, this has not materialized. I will maintain just over \$2,000.00 in carry over funds in the Physicals line for any increases over the remainder of the current fiscal year.

### Funds from FY21

Line Carry Forward	Amount	Amount used for purchase
Training	\$4,635.00	\$2,600.00
PPE	\$4,580.00	\$4,580.00
Uniform	\$ 400.00	\$ \$400.00
		Carry over Total
		\$7,580.00

### Funds from FY22

FY22 PPE	\$1,543.40	\$1,543.40
FY22 Uniforms	\$ 200.00	\$ 200.00
		Total
		\$1,743.40
		Carry over Total
		\$7,580.00
		FY 22 Total
		\$1,743.40
		<b>Grand Total</b>
		<b>\$9,323.40</b>

Based on the pricing I was seeing on the internet; I asked our local vendor to quote 28 coats. The pricing from Bergeron Protective Clothing allows for the purchase of 30 coats with the same budget figure.

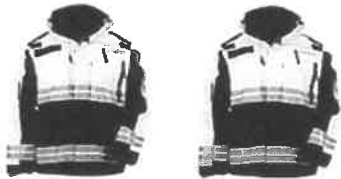
Try the **MyUniform Builder** for the **Easiest and Most Accurate Uniform Customization!**



SEARCH



HOME / APPAREL / OUTERWEAR / JACKETS / 5.11 TACTICAL RESPONDER HIGH-VISIBILITY PARKA



5.11 TACTICAL

## 5.11 TACTICAL RESPONDER HIGH-VISIBILITY PARKA

ITEM #: 48073-724-XL

**\$325.00**

☆☆☆☆☆ (0)



- Home (https://firepenny.com/) ▶ Shop All (https://firepenny.com/shop-all/) ▶ Apparel (https://firepenny.com/apparel/)
- ▶ Hi Vis (https://firepenny.com/hi-vis/)
- ▶ 5.11 Responder High-Visibility Parka (https://firepenny.com/5\_11\_Responder\_High\_Visibility\_Parka\_p/ZZ-KW-5-48073477L.htm)



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**5.11 TACTICAL (HTTPS://FIREPENNY.COM)**

**5.11 Responder High-Visibility**

**\$299.95**

**SKU:** ZZ-KW-5-48073477L

**Shipping:** Calculated at Checkout

(https://firepenny.com/PAC\_Toolok\_HD\_Bracket\_p/PAC-1003-HD.htm)



Someone recently  
Bracket  
(https://firepenny.com/PAC-1003-HD.htm)  
17 minutes ago, from

**SHOW SIDEBAR** +

**Choose Color:** Required  
Choose Options



1024 Suncook Valley Hwy., Unit 5-D  
 Epsom NH, 03234  
 TEL: 603.736.8500  
 www.BergeronProtectiveClothing.com

# QUOTATION

No. : 210226

**Doc. Date :** 12/27/2021  
**Payment Terms :** NET30  
**Valid Until:** 03/31/2022  
**Customer PO:**  
**Salesperson :** Dale Doughty  
**Page :** Page 1 of 1

**Bill To**

Kennebunkport Fire Dept.  
 Dick Stedman  
 PO Box 505  
 32 North Street  
 Kennebunkport ME 04046

**Ship To :**

Dick Stedman  
 32 North St  
 Kennebunkport ME 04046-0404

**5.11 Responder Parkas - Range Red**

Quantity	Style	Description	Your Cost
28	5-48073-477-G	5.11 Men's Responder Hi Viz Parka, Range Red	7,762.16
1	5-48073-4773X	5.11 Men's Responder Hi Viz Parka, 3XL	
		Option: Add \$45 for Sizes 3XL and 4XL (If needed)	
1	SETUP	Set Up Charge - Screen Printing	45.00
28	SSCREEN	Silk Screening Per Print	231.00
28	NAMETAPE	Name Tape for Embroidery	280.00
28	EMB-R5	Embroidery - Name (only) on Supplied Name Tape	224.00

**Subtotal** 8,542.16  
**Total** 8,542.16

\*Notice: Products marked as 'Contains PFAS Chemicals' are considered notification; pursuant to NH Law 154:8-c Firefighting PPE. Financing options available on turnout gear purchases. Prices quoted do not include shipping and handling. Shipping is FOB factory. This quote is based on current prices, subject to change by Manufacturer without notice. TERMS NET 30 Days. Add 3% fee when paying via credit card. Exchanges may incur additional handling charges. Late fee 2% per mo. \$25 returned check fee MC/ Visa /Discover accepted.

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# AGENDA ITEM DIVIDER

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## Memorandum

To: Board of Selectmen

Fr: Laurie Smith, Town Manager  
Denise Brown, Finance Director

Re: FY 23 – FY 27 Capital Improvement Plan

Dt: January 7, 2022

### What is a Capital Plan?

- A Capital Improvement Plan is a financial planning and management tool that lists proposed capital projects and capital purchases and is one of the most important responsibilities of local government officials.
- This 5-year plan identifies, coordinates, and prioritizes the need for improvements and purchases and coordinates the funding and time frames for completion.
- It also provides continuity to the repair, replacement, construction and/or expansion of Kennebunkport facilities and puts a focus on preserving our infrastructure while ensuring the efficient use of public funds.

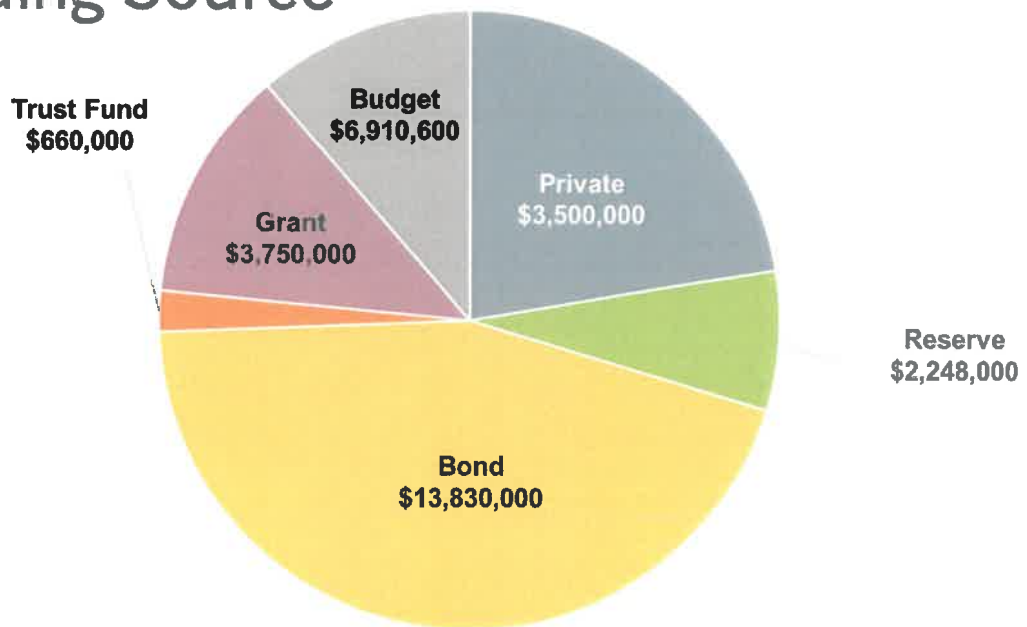
In conjunction with the review and update of departmental objectives and preparation of the departmental annual budgets, each department is required to identify and submit capital project requests to the Town Manager. Department Directors are urged to carefully assess their capital needs regarding vehicles and equipment, buildings and facilities, and infrastructure to encourage long-range planning instead of short-term, stopgap, or “emergency” repairs or rehabilitation work.

- ❖ Staff have compiled, to the best of their knowledge, a complete list of capital needs.
- ❖ While exact costs are hard to provide for future purchases, best estimates were used to prepare this plan. Construction costs have increased exorbitantly and continue to remain high.
- ❖ There are a variety of funding sources that include:
  - ✓ Operating Budget
  - ✓ Reserve Funds
  - ✓ Bonding
  - ✓ Trust Funds
  - ✓ Grants
  - ✓ Private Sources

The five-year CIP is just shy of \$31 million and includes equipment, buildings, and infrastructure. On the surface this funding level appears daunting if it were to be covered solely by Kennebunkport taxpayers. The goal of planning for capital expenses is to take advantage of opportunities from grants, reserve funds, and private partners to keep the Town current with capital needs.

Capital assets are defined, by the Town of Kennebunkport, as assets with a cost of \$10,000 or more and a useful life in excess of one year.

# 5-Year CIP by Funding Source



## Administration:

Records preservation is an ongoing item which prolongs the usable life of our archival records. Is it worth the investment? What does the future hold? We see changes daily in new and improved technology, cloud-based storage options and electronic access to everything. However, we can be sure that accessing the tangible records from the incorporation of the Town in the 1800s, to the establishment of the KKW Water District in the early 1900s, and the Selectman's first vote to allow the sale of liquor to our beloved restaurants in the 1970s, will forever remain the most reliable tool for accurate historical information.

The largest cost in administration is the construction of a new town hall. The need for a new Town Hall began over 20 years ago with the design for a combined Fire Station and Town Hall on North Street. Unfortunately, that did not move forward, and the Town Hall at Elm Street was renovated. It is estimated that the current needs are approximately 8,000 sq ft or 60% greater than the current building. The new facility would encompass a public meeting space, office space for all staff, storage for equipment and records, and adequate room to serve the public. The meeting room space becomes particularly important when the Village Fire Station is renovated to provide for staffing space.

The first step in the process would be the final design and engineering for the new facility. The projected timeline shows the potential construction completion would be 2025.

## Town Hall



## Village Fire Station



### Fire Department:

Equipment purchases in the next five years include a rigid inflatable boat to replace a 20-year-old boat that leaks air constantly and is one of two boats we operate. Fortunately, the engine will be able to be re-used on the new boat. Additional equipment needs include a brush truck to replace a 1980 vehicle, a new engine to replace a 26-year-old vehicle, and a ladder truck. As the department looks to the future of fire service in Kennebunkport, we are examining the best use of staffing and equipment for efficient and effective calls for service. As part of that analysis, we will be recommending the reduction in the number of vehicles – this will bring us from two ladder trucks to one, and from three brush trucks to two. Our goal is to minimize the expense to the taxpayers by purchasing a ladder and engine in the same year to realize bulk purchasing discounts. We will also reuse the existing tank and pump for the brush truck replacement. The Town has reserved funding each year in the apparatus sinking fund, which together with the Kittredge Trust fund account should not cause a burden on the taxpayers.

Personal Protective Equipment (PPE) is an annual purchase of 7-8 sets of turnout gear, which includes a coat and pants. This replacement program replaces our interior qualified firefighters gear every 10 years. Any gear that is still worthy is then recycled to our non-interior firefighters. Helmets, boots, gloves, etc. come out of the PPE line in the operating budget.

In accordance with National Fire Protection Association (NFPA) standards, the Self-Contained Breathing Apparatus (SCBA) need to be replaced every 25 years. The Town has been setting aside funds in a reserve account for this purchase.

The largest item in the Fire Department capital plan is the renovation to the Port Village station. The Town has successfully met the fire service needs of our community for many years by the use of volunteers or on-call firefighters. As we have discussed with the Board previously, the days of hiring per diem firefighters is around the corner. Training demands, commuting patterns for residents, and the need for available staff during the daytime hours will require the Town to eventually hire per diem staff. In order to accommodate these staff and the necessary equipment to continue fire call times we need to renovate our main station to accommodate overnight staff, offices, and room for additional equipment. The construction costs are currently estimated at \$1.5 million in order to add approximately 2,000 sq ft and renovate another 1,000 sq ft.



**Parks and Recreation:**

The zero turn mowers are used to maintain parks and fields. The newest one was scheduled to be replaced in 2020 and is currently over 11 years old. Staff uses the newest mower for our main recreation area (Parsons field) and the old one for the disc course.

As we look towards the future of our parks and recreation areas, staff is recommending a Parks Master Plan for Parsons Field, Firefighter's Park and Village Parcel. The master plan will engage the public in determining not only the recreational needs of each facility, but what equipment and uses make the most sense in each of these neighborhood parks. Once the master plan is developed, we would complete the implementation in phases using public, private, and grant funding opportunities.

Currently Firefighters Park is seeing much more activity due to the installation of the mailboxes. Due to the amount of vehicular traffic, staff are recommending paving the entrance and parking area of the park. The cost is estimated at \$30,000.

Our current 14-passenger recreation bus is scheduled for replacement in 2025. Staff continue to examine programming needs and will examine the best options for the eventual replacement of the bus.

**Piers:**

The largest item in the pier capital plan is the reconstruction of the Cape Porpoise Pier. Staff are awaiting final word from the Economic Development Administration (EDA) that the Town will be receiving a \$2 million grant to rebuild the pier. The EDA funding combined with Maine DOT small harbor improvement program (SHIP) funds will allow the project to move forward in the fall of 2022.

The Chowder House building is owned by the Town and leased to a vendor. Due to recent concerns of water intrusion at three of the doors, a more in-depth assessment was completed to identify other concerns. Staff have identified the need to replace the dining area entrance door, two exterior public restroom doors, exterior flashing, some framing and sheathing and interior paneling, the gutter system, and the exterior staircase to the storage area above the restaurant.

The Harbormaster boat currently runs off a 12-gallon above deck tank which allows for 3 hours of run time. Originally the boat had twin below deck tanks and the intent of this request is to restore the boat to its original spec and performance which will allow longer run time to monitor issues in the Harbor and surrounding areas without needing to refuel as frequently.

The current spare hoist is an eight foot per minute hoist which is extremely slow and does not work for the fishermen using the pier. A proper speed replacement would allow full functionality of our facility even when a primary hoist goes down. There are periodic replacements of hoists over the next 5 years as they are items that wear in the harsh environment.

Staff recommend the acquisition of a small outboard skiff to replace the eight foot plastic rowboat used by the Harbormaster to work around the pier and to access the Harbormaster boat on its mooring. This will provide a safer and more practical means of transport for pier work and mooring access.

**Police:**

The police department long-term capital plan includes the usual replacement of police vehicles. We will continue the process of looking at hybrid and or electric vehicles and incorporate them into our operation.

Building maintenance items include the replacement of the HVAC system and glycol fire suppression system. The cooling system was initially designed for a much smaller building back in 1998. The current

system is continually overworked, which causes frequent breakdowns and costly repairs. The old glycol fire suppression system needs to be updated due to new government regulation. The old antifreeze must be drained, disposed of, and replaced.

The department is also planning for the replacement of all officer sidearms and holsters as the current inventory will be greater than twelve years old. Industry standard is to replace an officer's firearm every 10 years.

The law enforcement records management software (Central Square) is over 20 years old and will need to be updated or replaced by the end of this 5-year plan.

### **Public Works:**

The Town maintains over 48 miles of roads and 6.4 miles of sidewalks. The Town's capital plan includes paving, reconstruction, and maintenance to preserve the infrastructure foundation in our community. FY23 will include 2.3 miles of road rehabilitation including Old Cape Road, Stone Road, Belgrade Avenue, half of Beachwood Avenue, and half of Oak Ridge Road. The Sidewalk work will be focused on Pearl Street and Ocean Avenue (from Seagrass to Green St) in FY23.

The equipment replacement plan was pushed out during 2020 due to COVID. As a result, the 2004 tandem axle truck was just replaced this year. The 2011 five-ton truck is beginning to show concerns with corrosion similar to the recent 2004 tandem axle truck that would no longer pass State inspection standards. The frame rails are starting to show the early sign of separation. Due to the current 18-month lead time on trucks, if ordered in July of 2022, we would not see this truck until the 2023/2024 winter. Therefore, the current 2011 will still have to remain in service for at least two more winters. By that time, we expect to see serious corrosion concerns that will not allow the truck to pass State Inspection.

The Town had to dispose of the 2003 GMC Sierra due to frame rot as well. (Same time as the 2004 tandem axle.) As a result, we have not replaced this truck and are currently down a vehicle. We would like to replace the 2009 F-350 2WD DRW truck with a new F-350 4WD DRW one-ton dump truck and keep the 2009 F-350 in the rotation as a replacement for the 2003 GMC Sierra.

### **Special Projects:**

This group of projects are usually classified as "special projects" as they don't fall within normal departmental operations. The five-year plan captures issues relative to climate change, the development of the Village Parcel, and changes in service delivery.

In 2013 the Town identified the need to rebuild a portion of Pier Road known as the causeway due to flooding concerns. At the time the estimated construction costs were about \$800,000. Over the years we have continued to see flooding impact the public's ability to access the Cape Porpoise Pier and private properties. The planned investment at Cape Porpoise Pier will require access via Pier Road and it seems prudent to begin the necessary work. FY23 will require funding to finalize engineering as well as permitting for road reconstruction. Staff have put a placeholder figure in the FY24 budget for construction, but updated costs through the engineering process will be necessary. The construction project may be eligible for new climate change funds through the American Rescue Plan, but that is uncertain at this time.

Originally the Comprehensive Plan project was scheduled to be completed by June 2021. An extension to the current comprehensive planning contract may be necessary to complete the project. Data updates and additional committee meetings may be necessary due to the delays forced by COVID-19.

As part of the examination of Climate Change, Town staff are recommending a planning process particularly focused on the impacts of sea level rise on Town infrastructure and private property along the Kennebunk River, in Cape Porpoise, and at Goose Rocks Beach.

The current waste removal contract with Casella expires in August 2024. Due to continued labor shortages, regulations on hours worked by truck drivers, and technology changes in the industry, staff recognize that the new contract will likely be an automated system. This will require the purchase of uniform bins to be distributed to the public to conform with an automated waste pick up system.

The lighting committee is currently examining various fixtures to replace our current streetlights. The challenge is the price difference between a “platter fixture” and a “cobra head” light. Currently the price difference between the two is about \$1,000 which could equate to an additional \$175,000 in fixtures. The committee plans to judge public acceptance of the newer lights in a few strategic locations.

The Village Parcel project is the largest investment the Town has made in many years. The Selectmen appointed a committee and undertook a public process which resulted in the Village Parcel Vision in 2020. The plan identified the following priorities:

- Provide for future town essential services, including municipal facilities to enhance the Kennebunkport experience.
- Include design principles of traditional neighborhoods found in Kennebunkport’s village area.
- Parcel should flow as an extension of Kennebunkport’s adjacent villages.
- Maintain Kennebunkport’s small-town character.
- Encourage safe vehicular traffic and pedestrian connectivity.
- Provide for future multigenerational needs.
- Establish mixed uses that complement the needs of the community and each other.
- Encourage passive recreational opportunities.

In order to accomplish these goals, the parcel needs the appropriate zoning, and the Town may wish to consider a form-based approach to zoning for this particular area. The Town also needs to plan for the construction of infrastructure to garner partnerships to support the other goals. Staff is recommending that the Town plan to invest in necessary infrastructure for the Town Hall and seek private investment and grant opportunities to continue infrastructure into the parcel.

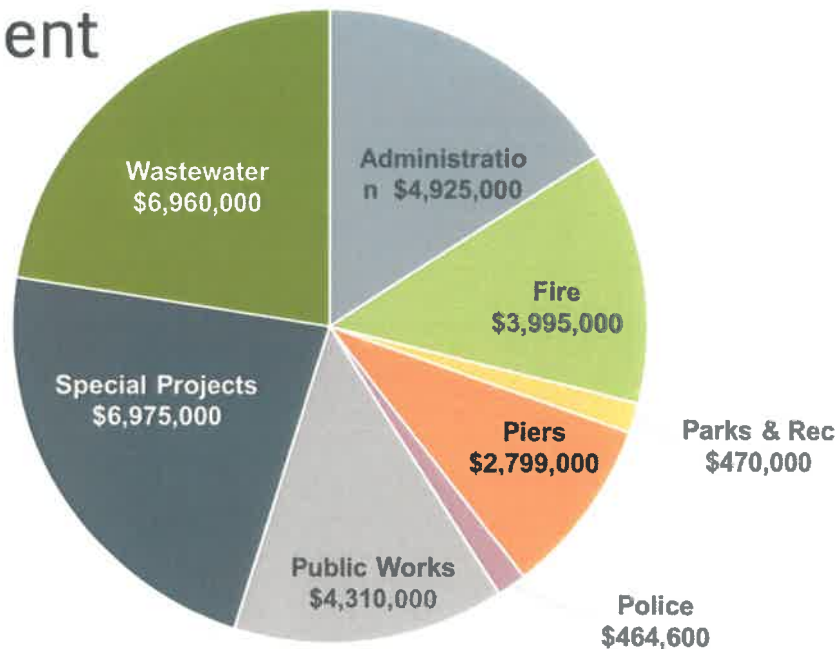


**Wastewater:**

The wastewater system includes not only a treatment plant, but also over 20 miles of sewer lines and 17 pump stations. The Town needs to continue to invest in this infrastructure as much of it has reached its useful life. In the five-year CIP staff are recommending the design and reconstruction of three pump stations to include Ocean Avenue, Turbat's Creek and South Main Street stations.

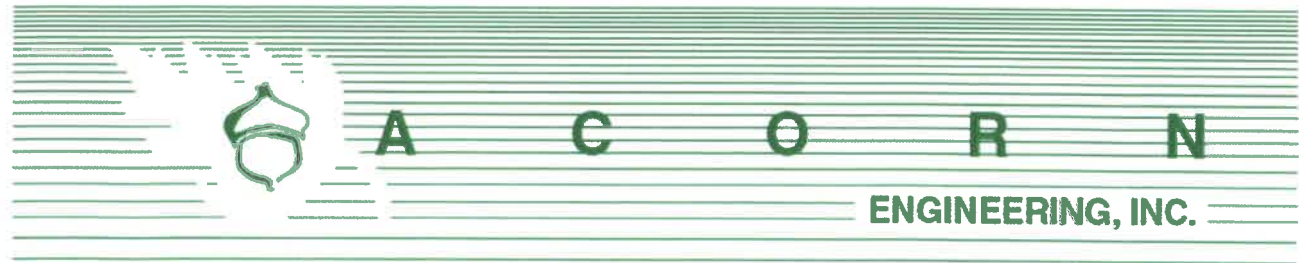
The replacement of two mixers at the plant are on the list as they are in excess of 20 years old. At this age, they are well beyond their life expectancy. The current mixers/motors are designed to be submerged and operate in a harsh environment. Because of this, they require increased maintenance due to water infiltration. Two years ago, we lost one due to water infiltration and had to have it rebuilt at a cost of approximately \$7,600. The proposed replacement mixer design elevates the motor and gearbox above the water line and requires a simple annual gearbox oil change which can be completed without their entire removal, unlike the current submersible design.

## 5-Year CIP by Department



In summary, this plan is ultimately meant to serve as a long-term planning and management tool that provides a list of proposed capital improvement projects and purchases for a 5-year period. This will not only serve as a guide to plan for these types of expenditures, but it will also give our citizens the ability to see how the Town is spending tax-payers dollars as it pertains to the maintenance, upkeep, and improvement of Town owned property, equipment, facilities and infrastructure.

We are seeking feedback from the Selectmen on the staff recommendations, especially for the upcoming fiscal year.



Town of Kennebunkport  
Attn: Eric Labelle  
P.O. Box 566  
6 Elm Street  
Kennebunkport, ME 04046

August 25, 2021  
*Revised January 5, 2022*

Subject: Town's Village Parcel  
Updated Opinion of Probable Cost

Eric,

Acorn Engineering, Inc. (Acorn) is pleased to submit the attached Opinion of Probable Cost (OPC) for the Town of Kennebunkport's Village Parcel to construct the road and all associated utilities from North Street to Parcel D as described in the provided Vision Study. In coordination with Grondin Corporation, the OPC is based upon the previously approved plans that were provided and factors in work to date that has already been completed associated with future road construction project. The updated OPC includes removal of the previously proposed pump station and forcemain connection and includes additional infrastructure that will be required to make the gravity sewer connection into the existing sanitary manhole located within North Street, as well as a 3% adjustment for inflation. As discussed, we have also included a cost for future construction administration services and the OPC includes a contingency for unforeseen changes to the plans or price increases from 2021 to when the project goes out to bid after final design. Along with the previously provided cost proposal to develop construction plans, specification documents and bid administration, we understand these total costs will be utilized for a Town referendum vote.

Acorn Engineering, Inc. appreciates the opportunity to work with the Town of Kennebunkport in preparation of this Opinion of Cost and look forward to the potential next phase of developing the construction plans and seeing this project through final construction. Please let us know if you have any questions or comments.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Peter Heil'.

Peter F. Heil, P.E.  
Project Manager  
Acorn Engineering, Inc.

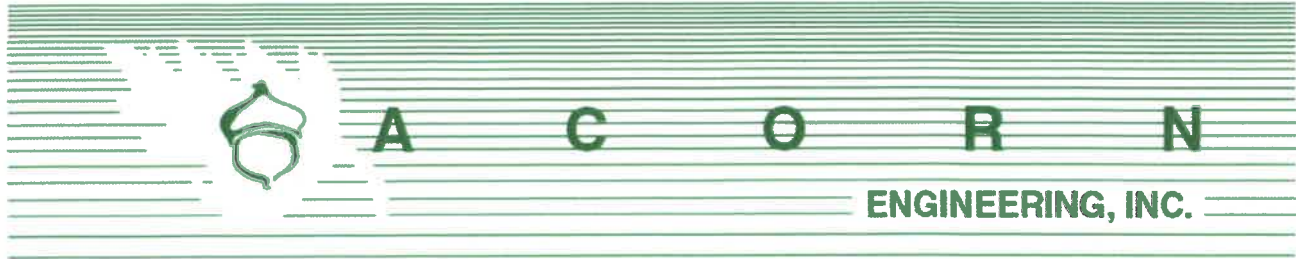
A handwritten signature in blue ink, appearing to read 'William H. Savage'.

William H. Savage, P.E.  
Principal  
Acorn Engineering, Inc.



**VILLAGE PARCEL**  
Sta. 99+50 - 122+00  
1/5/2022

<b>Item #</b>	<b>Item Description</b>	<b>Bid Value</b>
01000	<b>GENERAL CONDITIONS</b>	\$284,000.00
02100	<b>SITE PREPARATION</b>	\$2,000.00
02205	<b>EARTHWORK</b>	\$418,000.00
02210	<b>ELECTRICAL</b>	\$115,000.00
02270	<b>EROSION CONTROL</b>	\$211,000.00
02514	<b>PAVEMENT</b>	\$486,000.00
02525	<b>CURB</b>	\$203,000.00
02600	<b>WATERLINE</b>	\$167,000.00
02700	<b>SANITARY SEWER</b>	\$259,000.00
02720	<b>STORM DRAINAGE</b>	\$36,000.00
02800	<b>SITE IMPROVEMENTS</b>	\$291,000.00
02900	<b>LANDSCAPING</b>	\$16,000.00
	<b>CONSTRUCTION ADMINISTRATION</b>	\$30,000.00
	<b>SUBTOTAL</b>	<b>\$2,518,000.00</b>
	<b>CONTINGENCY (15%)</b>	\$377,700.00
	<b>TOTAL</b>	<b>\$2,895,700.00</b>



Town of Kennebunkport  
Attn: Eric Labelle  
P.O. Box 566  
6 Elm Street  
Kennebunkport, ME 04046

August 25, 2021

Subject: Town's Village Parcel  
Opinion of Probable Cost

Eric,

Acorn Engineering, Inc. (Acorn) is pleased to submit the attached Opinion of Probable Cost (OPC) for the Town of Kennebunkport's Village Parcel to construct the road and all associated utilities within the Right of Way from North Street to Parcel D as described in the provided Vision Study. In coordination with Grondin Corporation, the OPC is based upon the previously approved plans that were provided and factors in work to date that has already been completed associated with future road construction project. As discussed, we have also included a cost for future construction administration services and the OPC includes a contingency for unforeseen changes to the plans or price increases from 2021 to anticipated Spring 2022 bid requests after final design. Along with the previously provided cost proposal to develop construction plans, specification documents and bid administration, we understand these estimate costs will be utilized for a Town referendum vote.

Acorn Engineering, Inc. appreciates the opportunity to work with the Town of Kennebunkport in preparation of this Opinion of Cost and look forward to the potential next phase of developing the construction plans and seeing this project through final construction. Please let us know if you have any questions or comments.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Peter Heil', is located below the 'Sincerely,' text.

Peter F. Heil, P.E.  
Project Manager  
Acorn Engineering, Inc.

A handwritten signature in blue ink, appearing to read 'William H. Savage', is located to the right of the 'Sincerely,' text.

William H. Savage, P.E.  
Principal  
Acorn Engineering, Inc.



**VILLAGE PARCEL**  
Sta. 99+50 - 122+00  
8/25/2021

<b>Item #</b>	<b>Item Description</b>	<b>Bid Value</b>
01000	<b>GENERAL CONDITIONS</b>	\$324,000.00
02100	<b>SITE PREPARATION</b>	\$2,000.00
02205	<b>EARTHWORK</b>	\$406,000.00
02210	<b>ELECTRICAL</b>	\$112,000.00
02270	<b>EROSION CONTROL</b>	\$205,000.00
02514	<b>PAVEMENT</b>	\$471,000.00
02525	<b>CURB</b>	\$198,000.00
02600	<b>WATERLINE</b>	\$162,000.00
02700	<b>SANITARY SEWER</b>	\$779,000.00
02720	<b>STORM DRAINAGE</b>	\$35,000.00
02800	<b>SITE IMPROVEMENTS</b>	\$283,000.00
02900	<b>LANDSCAPING</b>	\$15,000.00
	<b>CONSTRUCTION ADMINISTRATION</b>	\$30,000.00
	<b>SUBTOTAL</b>	<b>\$3,022,000.00</b>
	<b>CONTINGENCY (15%)</b>	<b>\$453,300.00</b>
	<b>TOTAL</b>	<b>\$3,475,300.00</b>



# Capital Improvement Program

Administration	Type	Funding	FY23	FY24	FY25	FY26	FY27	Future
Records Preservation	Admin	Budget	\$ 5,000					
Town Hall Design	Admin	Budget	\$ 400,000					
Records Preservation	Admin	Budget		\$ 5,000				
Town Hall Construction	Bldg/Facilities	Bond		\$ 4,500,000				
Records Preservation	Admin	Budget			\$ 5,000			
Records Preservation	Admin	Budget				\$ 5,000		
Records Preservation	Admin	Budget					\$ 5,000	
Records 2017 Codes Vehicle	Equipment	Budget						\$ 30,000
Records Preservation	Admin	Budget						\$ 200,000
<b>Totals</b>			<b>\$ 405,000</b>	<b>\$ 4,505,000</b>	<b>\$ 5,000</b>	<b>\$ 5,000</b>	<b>\$ 5,000</b>	<b>\$ 230,000</b>
<b>Fire</b>	<b>Type</b>	<b>Funding</b>	<b>FY23</b>	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>	<b>FY27</b>	<b>Future</b>
Rigid Inflatable Boat/engine/trailer - GRB - new 2003	Equipment	Reserve	\$ 18,000					
Firefighter PPE	Equipment	Budget	\$ 20,000					
Replace Brush 35 1980 GMC	Equipment	Reserve	\$ 65,000					
Replace Engine 12 - 1997 PV REPLACE IN 2024	Equipment	Trust		\$ 635,000				
Firefighter PPE	Equipment	Budget		\$ 22,000				
Replace Ladder 34 - GRB new 1999 - Replace 2024	Equipment	Reserve		\$ 1,150,000				
Village Fire Station Design	Admin	Budget		\$ 150,000				
Firefighter PPE	Equipment	Budget			\$ 22,000			
Village Fire Station	Bldg/Facilities	Bond		\$ 1,500,000				
Firefighter PPE	Equipment	Budget			\$ 22,000			
Replace Car 1 - 2015 Ford F-150 (2026)	Equipment	Budget			\$ 22,000			
Firefighter PPE	Equipment	Budget				\$ 24,000		
SCBA Air Packs (45) (2027)	Equipment	Budget				\$ 300,000		
Rigid Inflatable Boat/engine/trailer - CP - New 2008 (2028)	Equipment	Reserve						\$ 30,000
Replace Squad 11 2006 REPLACE IN 2031	Equipment	Reserve						\$ 400,000
Replace Tank 1 -GRB new 2008 Replace 2038	Equipment	Reserve						\$ 500,000
Engine 23 WW REPLACE IN 2039	Equipment	Reserve						\$ 900,000
Generator - WD	Equipment	Reserve						\$ 10,000
Generator - Village	Equipment	Budget						\$ 35,000
Hydraulic rescue tool	Equipment	Budget						\$ 80,000
Engine 33 GRB - new 2017 (2042)	Equipment	Reserve						\$ 900,000
<b>Totals</b>			<b>\$ 103,000</b>	<b>\$ 1,957,000</b>	<b>\$ 1,522,000</b>	<b>\$ 89,000</b>	<b>\$ 324,000</b>	<b>\$ 2,855,000</b>
<b>Parks &amp; Recreation</b>	<b>Type</b>	<b>Funding</b>	<b>FY23</b>	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>	<b>FY27</b>	<b>Future</b>
Zero Turn Mower replacement	Equipment	Reserve	\$ 15,000					
Parks Master Plan	Admin	Budget	\$ 75,000					
Firefighters Park Paving	Infrastructure	Budget	\$ 30,000					
Park Amenities Phase 1	Infrastructure	Budget/Grant		\$ 75,000				
Park Amenities Phase 2	Infrastructure	Budget/Grant			\$ 75,000			
Replace 2015 Bus	Equipment	Budget				\$ 75,000		
Park Amenities Phase 3	Infrastructure	Budget/Grant					\$ 75,000	
Village Parcel Trails	Infrastructure	Budget					\$ 50,000	

# Capital Improvement Program

	Infrastructure	Budget/Grant							
<b>Totals</b>	<b>Type</b>	<b>Funding</b>	<b>FY23</b>	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>	<b>FY27</b>	<b>Future</b>	<b>Future</b>
Public Boat Access			\$ 120,000	\$ 75,000	\$ 150,000	\$ 75,000	\$ 50,000	\$ 500,000	\$ 500,000
<b>Piers</b>									
Harbormaster Boat (Fuel Tank Replacement)	Equipment	Budget	\$ 4,500						
Spare hoist replacement	Equipment	Budget	\$ 5,500						
Cape Porpoise Pier Replacement and Bait Shed	Bldg/Facilities	Reserve/Grant	\$ 2,735,000						
Harbormaster Dinghy Replacement	Equipment	Budget	\$ 3,000						
Chowder House Repairs	Bldg/Facilities	Budget	\$ 40,000						
#1 Hoist Replacement	Equipment	Budget	\$ 5,500						
#2 Hoist Replacement	Equipment	Budget				\$ 5,500			
Harbormaster Boat	Equipment	Reserve						\$ 30,000	\$ 30,000
<b>Totals</b>			<b>\$ 2,788,000</b>	<b>\$ 5,500</b>	<b>\$ -</b>	<b>\$ 5,500</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 30,000</b>
<b>Police</b>									
Replace Cruiser Computers	Equipment	Budget	\$ 6,800						
Replace 2017 Cruisers (2)	Equipment	Budget	\$ 86,000						
Sprinkler Upgrade	Bldg/Facilities	Budget	\$ 12,000						
HVAC Replacement	Bldg/Facilities	Budget	\$ 25,000						
Replace Cruiser Computers	Equipment	Budget	\$ 6,800						
Replace 2018 Cruiser	Equipment	Budget	\$ 47,000						
Weapon Replacement	Equipment	Trust			\$ 25,000				
Replace 2019 Cruiser	Equipment	Budget			\$ 47,000				
Replace 2020 and 2021 Cruisers (2)	Equipment	Budget				\$ 87,000			
Central Square Records Management Software Replacement	Equipment	Budget					\$ 75,000		
Replace 2XXX Cruiser	Equipment	Budget					\$ 47,000		
Replace 2XXX Cruiser (2)	Equipment	Budget						\$ 87,000	\$ 87,000
<b>Totals</b>			<b>\$ 129,800</b>	<b>\$ 53,800</b>	<b>\$ 72,000</b>	<b>\$ 87,000</b>	<b>\$ 122,000</b>	<b>\$ 87,000</b>	<b>\$ 87,000</b>
<b>Public Works</b>									
Repair and reconstruct roads	Infrastructure	Budget	\$ 472,000						
Repair and reconstruct sidewalks	Infrastructure	Budget	\$ 80,000						
Replace 2011 International	Equipment	Budget	\$ 236,000						
Replace 2009 F-350 2X4 Dual Rear	Equipment	Budget	\$ 70,000						
Repair and reconstruct roads	Infrastructure	Budget		\$ 533,000					
Repair and reconstruct sidewalks	Infrastructure	Budget		\$ 90,000					
Replace 2012 International	Equipment	Budget		\$ 240,000					
Replace 2006 F-350 4X4	Equipment	Budget		\$ 60,000					
Repair and reconstruct roads	Infrastructure	Budget			\$ 781,000				
Repair and reconstruct sidewalks	Infrastructure	Budget			\$ 95,000				
Replace 2007 Trackless	Equipment	Budget			\$ 235,000				
Repair and reconstruct roads	Infrastructure	Budget				\$ 440,000			
Repair and reconstruct sidewalks	Infrastructure	Budget				\$ 100,000			
Replace 2013 JD Loader	Equipment	Budget				\$ 190,000			
Repair and reconstruct roads	Infrastructure	Budget					\$ 338,000		

# Capital Improvement Program

Repair and construct sidewalks	Infrastructure	Budget								\$ 105,000	
Replace 2015 International	Equipment	Budget								\$ 245,000	
Replace 2016 International	Equipment	Budget									\$ 250,000
Replace 2016 Ford F350 4X4 Dual Rear	Equipment	Budget									\$ 75,000
Replace 2016 Tycmo 435	Equipment	Budget									\$ 160,000
Replace 2017 Graco Line Striper	Equipment	Budget									\$ 12,000
Replace 2018 Case 580 T4F Backhoe	Equipment	Budget									\$ 170,000
Replace 2018 Trackless MT7	Equipment	Budget									\$ 245,000
Replace 2020 Ford F350 4X4	Equipment	Budget									\$ 65,000
Replace 2018 Fuel Pumps	Equipment	Budget									\$ 15,000
Replace 2020 FuelMaster Fuel Controller	Equipment	Budget									\$ 15,000
Replace 2021 Western Star	Equipment	Budget									\$ 250,000
Replace 2021 Mower	Equipment	Budget									\$ 20,000
<b>Totals</b>			\$ 858,000	\$ 923,000	\$ 1,111,000	\$ 730,000	\$ 688,000				\$ 1,277,000
			<b>FY23</b>	<b>FY 24</b>	<b>FY 25</b>	<b>FY 26</b>	<b>FY27</b>				<b>Future</b>
			<b>Funding</b>								
<b>Special Projects</b>	<b>Type</b>	<b>Funding</b>									
Pier Road & Sidewalks Planning & Engineering	Admin	Budget	\$ 200,000								
Village Parcel Zoning Policy	Admin	Budget	\$ 75,000								
Comp Plan Development	Admin	Budget	\$ 20,000								
Sea Level Rise Planning	Admin	Budget	\$ 50,000								
Pier Road Reconstruction & Sidewalks	Infrastructure	Grant/Bond		\$ 2,280,000							
Acquisition of Automated Waste Collection Bins	Equipment	Budget		\$ 250,000							
Purchase of LED Streetlight Fixtures	Infrastructure	Budget		\$ 100,000							
Village Parcel Infrastructure-Town Hall	Infrastructure	Bond		\$ 500,000							
Village Parcel Infrastructure Phase 1	Infrastructure	Private				\$ 3,500,000					
Village Parcel Infrastructure Phase 2	Infrastructure	Private									
<b>Totals</b>			\$ 345,000	\$ 3,130,000	\$ -	\$ 3,500,000	\$ -				\$ 3,500,000
			<b>Funding</b>	<b>FY 24</b>	<b>FY 25</b>	<b>FY 26</b>	<b>FY27</b>				<b>Future</b>
<b>Wastewater</b>	<b>Type</b>	<b>Funding</b>									
Replace Ocean Ave. Pump Station #6-Engineering	Admin	Bond	\$ 50,000								
Replace Turbat's Creek Pump Station-Engineering	Admin	Bond	\$ 50,000								
Replace South Main St. Pump Station #5-Engineering	Admin	Bond	\$ 50,000								
Replace Mixers in Aeration Tanks	Infrastructure	Budget	\$ 50,000								
Replace Ocean Ave. Pump Station #6	Infrastructure	Bond		\$ 800,000							
Replace Turbat's Creek Pump Station	Infrastructure	Bond		\$ 800,000							
Replace South Main St. Pump Station #5	Infrastructure	Bond		\$ 400,000							
Replace Mills Lane Pump Station #2-Engineering	Admin	Bond		\$ 50,000							
Replace Mills Rd. Pump Station #11-Engineering	Admin	Bond		\$ 50,000							
Replace Mills Lane Pump Station #2	Infrastructure	Bond		\$ 800,000							
Replace Mills Rd. Pump Station #11	Infrastructure	Bond		\$ 800,000							
Replace 2013 Service Truck	Equipment	Budget			\$ 800,000						
Replace Kings Highway Pump Station #14-Engineering	Admin	Bond			\$ 800,000						
Replace Kings Lane Pump Station #13-Engineering	Admin	Bond			\$ 100,000						
Replace Kings Highway Pump Station #14	Infrastructure	Bond			\$ 50,000						
Replace Kings Lane Pump Station #13	Infrastructure	Bond			\$ 50,000						
						\$ 820,000					
						\$ 820,000					

# Capital Improvement Program

Replace 2006 Jetter	Equipment	Budget				\$ 120,000
Replace Kings Highway Pump Station #12-Engineering	Admin	Bond				\$ 100,000
Replace Kings Highway Pump Station #12	Infrastructure	Bond				\$ 1,000,000
Replace Ocean Ave Gravity Main (Nonantum to Bridge)	Infrastructure	Bond				\$ 300,000
Replace Submersible Mixer	Equipment	Budget				\$ 71,000
Replace Axial Flow Pumps (2)	Equipment	Budget				\$ 85,000
Huber fine screen #101 2011	Equipment	Budget				\$ 125,000
Huber fine screen #102 2011	Equipment	Budget				\$ 125,000
Grinder Pump Replacement	Equipment	Budget				\$ 100,000
Replace Prescott Drive Pump Station #15	Infrastructure	Bond				\$ 300,000
Replace Washington Court Pump Station #16	Infrastructure	Bond				\$ 300,000
Replace Wakefield Pasture Pump Station #17	Infrastructure	Bond				\$ 300,000
Replace 6.5 miles 1972 Sewer Lines	Infrastructure	Bond				\$ 2,100,000
<b>Totals</b>			\$ 200,000	\$ 2,100,000	\$ 1,800,000	\$ 1,860,000
<b>GRAND TOTAL</b>			\$ 4,948,800	\$ 12,749,300	\$ 4,660,000	\$ 6,351,500
						\$ 2,189,000
						\$ 12,285,000
<b>Department</b>	<b>5 Years</b>	<b>FY 23</b>	<b>FY 24</b>	<b>FY 25</b>	<b>FY 26</b>	<b>FY 27</b>
Administration	\$ 4,925,000	\$ 405,000	\$ 4,505,000	\$ 5,000	\$ 5,000	\$ 5,000
Fire	\$ 3,995,000	\$ 103,000	\$ 1,957,000	\$ 1,522,000	\$ 89,000	\$ 324,000
Parks & Rec	\$ 470,000	\$ 120,000	\$ 75,000	\$ 150,000	\$ 75,000	\$ 50,000
Piers	\$ 2,799,000	\$ 2,788,000	\$ 5,500	\$ -	\$ 5,500	\$ -
Police	\$ 464,600	\$ 129,800	\$ 53,800	\$ 72,000	\$ 87,000	\$ 122,000
Public Works	\$ 4,310,000	\$ 858,000	\$ 923,000	\$ 1,111,000	\$ 730,000	\$ 688,000
Special Projects	\$ 6,975,000	\$ 345,000	\$ 3,130,000	\$ -	\$ 3,500,000	\$ -
Wastewater	\$ 6,960,000	\$ 200,000	\$ 2,100,000	\$ 1,800,000	\$ 1,860,000	\$ 1,000,000
<b>Totals</b>	<b>\$ 30,898,600</b>	<b>\$ 4,948,800</b>	<b>\$ 12,749,300</b>	<b>\$ 4,660,000</b>	<b>\$ 6,351,500</b>	<b>\$ 2,189,000</b>
<b>Type</b>	<b>5 Years</b>	<b>FY 23</b>	<b>FY 24</b>	<b>FY 25</b>	<b>FY 26</b>	<b>FY 27</b>
Equipment	\$ 4,632,600	\$ 529,800	\$ 2,416,300	\$ 504,000	\$ 491,500	\$ 691,000
Administration	\$ 1,445,000	\$ 975,000	\$ 255,000	\$ 105,000	\$ 105,000	\$ 5,000
Buildings & Facilities	\$ 8,812,000	\$ 2,812,000	\$ 4,500,000	\$ 1,500,000	\$ -	\$ -
Infrastructure	\$ 16,009,000	\$ 632,000	\$ 5,578,000	\$ 2,551,000	\$ 5,755,000	\$ 1,493,000
<b>Totals</b>	<b>\$ 30,898,600</b>	<b>\$ 4,948,800</b>	<b>\$ 12,749,300</b>	<b>\$ 4,660,000</b>	<b>\$ 6,351,500</b>	<b>\$ 2,189,000</b>
<b>Funding</b>	<b>5 Years</b>	<b>FY 23</b>	<b>FY 24</b>	<b>FY 25</b>	<b>FY 26</b>	<b>FY 27</b>
Budget	\$ 6,910,600	\$ 1,965,800	\$ 1,559,300	\$ 1,410,000	\$ 1,086,500	\$ 889,000
Reserve	\$ 2,248,000	\$ 798,000	\$ 1,150,000	\$ -	\$ -	\$ 300,000
Bond	\$ 13,830,000	\$ 150,000	\$ 7,740,000	\$ 3,200,000	\$ 1,740,000	\$ 1,000,000
Trust Fund	\$ 660,000	\$ -	\$ 635,000	\$ 25,000	\$ -	\$ -
Grant	\$ 3,750,000	\$ 2,035,000	\$ 1,665,000	\$ 25,000	\$ 25,000	\$ -
Private	\$ 3,500,000	\$ -	\$ -	\$ -	\$ 3,500,000	\$ -
<b>Totals</b>	<b>\$ 30,898,600</b>	<b>\$ 4,948,800</b>	<b>\$ 12,749,300</b>	<b>\$ 4,660,000</b>	<b>\$ 6,351,500</b>	<b>\$ 2,189,000</b>

**TOWN OF KENNEBUNKPORT, MAINE**

*— INCORPORATED 1653 —*



# Capital Improvement Plan

January 13, 2022

Prepared & Presented by:

Laurie Smith, Town Manager | Department Directors



# What is a Capital Improvement Plan?

- A Capital Improvement Plan is a financial planning and management tool that lists proposed capital projects and capital purchases and is one of the most important responsibilities of local government officials.
- This 5-year plan identifies, coordinates, and prioritizes the need for improvements and purchases and coordinates the funding and time frames for completion.
- It also provides continuity to the repair, replacement, construction and/or expansion of Kennebunkport facilities and puts a focus on preserving our infrastructure while ensuring the efficient use of public funds.



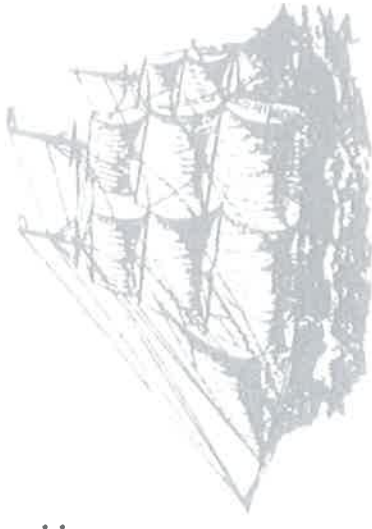
## Capital Improvement Plan Process

In conjunction with the review and update of departmental objectives and preparation of the departmental annual budgets, each department is required to identify and submit capital project requests to the Town Manager.

Department Directors are urged to carefully assess their capital needs regarding vehicles and equipment, buildings and facilities, and infrastructure to encourage long-range planning instead of short-term, stopgap, or “emergency” repairs or rehabilitation work.

# Capital Improvement Plan Process

- ❖ Staff have compiled, to the best of their knowledge, a complete list of capital needs.
- ❖ While exact costs are hard to provide for future purchases, best estimates were used to prepare this plan. Construction costs have increased exorbitantly and continue to remain high.
- ❖ There are a variety of funding sources that include:
  - ✓ Operating Budget
  - ✓ Reserve Funds
  - ✓ Bonding
  - ✓ Trust Funds
  - ✓ Grants
  - ✓ Private Sources



Capital assets are defined, by the Town of Kennebunkport, as assets with a cost of \$10,000 or more and a useful life in excess of one year.



Administration	FY23	FY24	FY25	FY26	FY27	Future
Records Preservation	\$ 5,000					
Town Hall Design	\$ 400,000					
Records Preservation		\$ 5,000				
Town Hall Construction		\$ 4,500,000				
Records Preservation			\$ 5,000			
Records Preservation				\$ 5,000		
Records Preservation					\$ 5,000	
Replace 2017 Codes Vehicle						\$ 30,000
Records Preservation						\$ 200,000
<b>Totals</b>	<b>\$ 405,000</b>	<b>\$ 4,505,000</b>	<b>\$ 5,000</b>	<b>\$ 5,000</b>	<b>\$ 5,000</b>	<b>\$ 230,000</b>



- ✓ Records preservation is an ongoing item which prolongs the usable life of our archival records.

# Administration



## TOWN HALL DESIGN

The development of a new Town Hall began over 20 years ago with the design for a combined Fire Station and Town Hall on North Street.

The first step in the process would be the final design and engineering. This would allow for completion in 2025.

## TOWN HALL CONSTRUCTION



Based on the program and space study completed by David Graham in 2020 the Town Hall would encompass approximately 8,000 sq ft.

Due to cost increases in construction, we are estimating a cost of \$4.5 million; however, final design will give us a clearer picture

## Town Hall

FY 23

Budget Design  
& Engineering

FY 24

• Summer 2024  
Design Complete  
Begin Construction fall  
23/Spring 24

FY 25

Move to Town  
Hall  
Spring/summer  
2025

FY 26

Complete  
Construction  
spring 2026

## Village Fire Station

FY 24

Budget Design  
& Engineering

FY 25

• Begin  
Construction  
Summer  
2025

## Design and Construction Timeline



Fire	FY23	FY 24	FY 25	FY 26	FY27	Future
Rigid Inflatable Boat/engine/trailer - GRB - new 2003	\$ 18,000					
Firefighter PPE	\$ 20,000					
Replace Brush 35 1980 GMC	\$ 65,000					
Replace Engine 12 - 1997 PV REPLACE IN 2024	\$ 635,000					
Firefighter PPE	\$ 22,000					
Replace Ladder 34 - GRB new 1999 - Replace 2024	\$ 1,150,000					
Village Fire Station Design	\$ 150,000					
Firefighter PPE	\$ 22,000					
Village Fire Station	\$ 1,500,000					
Firefighter PPE	\$ 22,000					
Replace Car 1 - 2015 Ford F-150 (2026)	\$ 67,000					
Firefighter PPE	\$ 24,000					
SCBA Air Packs (45) (2027)	\$ 300,000					
Rigid Inflatable Boat/engine/trailer - CP - New 2008 (2028)						\$ 30,000
Replace Squad 11 2006 REPLACE IN 2031						\$ 400,000
Replace Tank 1 -GRB new 2008 Replace 2038						\$ 500,000
Engine 23 WW REPLACE IN 2039						\$ 900,000
Generator - WD						\$ 10,000
Generator - Village						\$ 35,000
Hydraulic rescue tool						\$ 80,000
Engine 33 GRB - new 2017 (2042)						\$ 900,000
<b>Totals \$</b>	<b>103,000</b>	<b>\$ 1,957,000</b>	<b>\$ 1,522,000</b>	<b>\$ 89,000</b>	<b>\$ 324,000</b>	<b>\$ 2,855,000</b>



# Fire

### ✓ Rigid Inflatable Boat

This purchase replaces a 20-year-old boat that leaks air constantly and is one of 2 boats we operate. Fortunately, the engine will be able to be re-used on the new boat.

### ✓ Personal Protective Equipment (PPE)

This is an annual purchase of 7-8 sets of turnout gear that replaces our interior qualified firefighters gear every 10 years. Any gear that is still worthy is then recycled to our non-interior firefighters.

### ✓ Brush, Engine & Ladder Trucks

The brush truck replaces a 1980 vehicle, the new engine replaces a 26-year-old vehicle, and the current ladder truck is a 1999 vehicle. We are reducing the number of vehicles – moving from two ladder trucks to one, and three brush trucks to two. By jointly purchasing a ladder and engine in the same year we will receive bulk purchasing discounts.

### ✓ Village Fire Station

Training demands, commuting patterns for residents, and the need for available staff during the daytime hours will require the Town to hire per diem staff. Renovations include adding 2,000 sq ft and renovating another 1,000 sq ft.

### ✓ Self-Contained Breathing Apparatus (SCBA)

In accordance with National Fire Protection Association (NFPA) standards, the SCBA need to be replaced every 25 years. The Town has been setting aside funds in a reserve account for this purchase.



## Fire

Parks & Recreation	FY23	FY 24	FY 25	FY 26	FY27	Future
Zero Turn Mower replacement	\$ 15,000					
Parks Master Plan	\$ 75,000					
Firefighters Park Paving	\$ 30,000					
Park Amenities Phase 1		\$ 75,000				
Park Amenities Phase 2			\$ 75,000			
Replace 2015 Bus			\$ 75,000			
Park Amenities Phase 3			\$ 75,000			
Village Parcel Trails				\$ 75,000		
Public Boat Access					\$ 50,000	
<b>Totals</b>	<b>\$ 120,000</b>	<b>\$ 75,000</b>	<b>\$ 150,000</b>	<b>\$ 75,000</b>	<b>\$ 50,000</b>	<b>\$ 500,000</b>

\$50K Budget  
\$25K Grant  
Phases 1, 2 & 3

✓ **Mower**

This was scheduled to be replaced in 2020. One mower is over 11 years old and the second one is even older.

✓ **Parks Master Plan for Parsons Field, Firefighter's Park and Village Parcel**

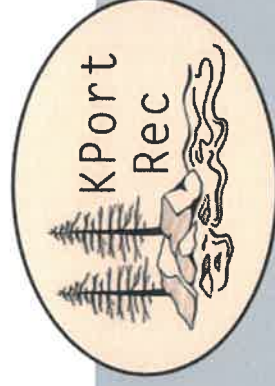
This will be a public engagement process to gather feedback on the future of parks and recreation in the neighborhoods of Kennebunkport.

✓ **Firefighters Park Paving of Driveway and Parking Lot**

Due to the increased usage of the park for mail delivery the public access area will be paved to decrease maintenance needs.

✓ **Replacement of Bus**

Regular replacement of our 14-passenger recreation vehicle.



# Parks & Recreation

Piers	FY23	FY 24	FY 25	FY 26	FY27	Future
Harbormaster Boat (Fuel Tank Replacement)	\$ 4,500					
Spare hoist replacement	\$ 5,500					
Cape Porpoise Pier Replacement and Bait Shed	\$ 2,735,000					
Harbormaster Dinghy Replacement	\$ 3,000					
Chowder House Repairs	\$ 40,000					
#1 Hoist Replacement		\$ 5,500				
#2 Hoist Replacement					\$ 5,500	
Harbormaster Boat						\$ 30,000
<b>Totals</b>	<b>\$ 2,788,000</b>	<b>\$ 5,500</b>	<b>\$ -</b>	<b>\$ 5,500</b>	<b>\$ -</b>	<b>\$ 30,000</b>

\$700K is Town Funds  
 \$1.9M EDA Grant  
 \$500K in SHIP Grant (FY22 & FY23)

✓ **Harbormaster Boat Fuel Tank Replacement**

The Harbormaster boat currently runs off a 12 gallon above deck tank which allows for 3 hours of run time. Two below deck tanks will allow longer run time to monitor issues in the Harbor without needing to refuel as frequently.

✓ **Hoist Replacements**

The current spare hoist is an 8' per minute hoist which is extremely slow. A proper speed replacement would allow full functionality even when a primary hoist goes down. Periodic replacement of hoists is necessary due to wear from the harsh environment.

✓ **Harbormaster Dinghy Replacement**

Purchase of a small outboard skiff to replace the 8' plastic rowboat used to work around the pier and to access the Harbormaster boat on its mooring. This will provide a safer and more practical means of transport for pier work and mooring access.



# Piers

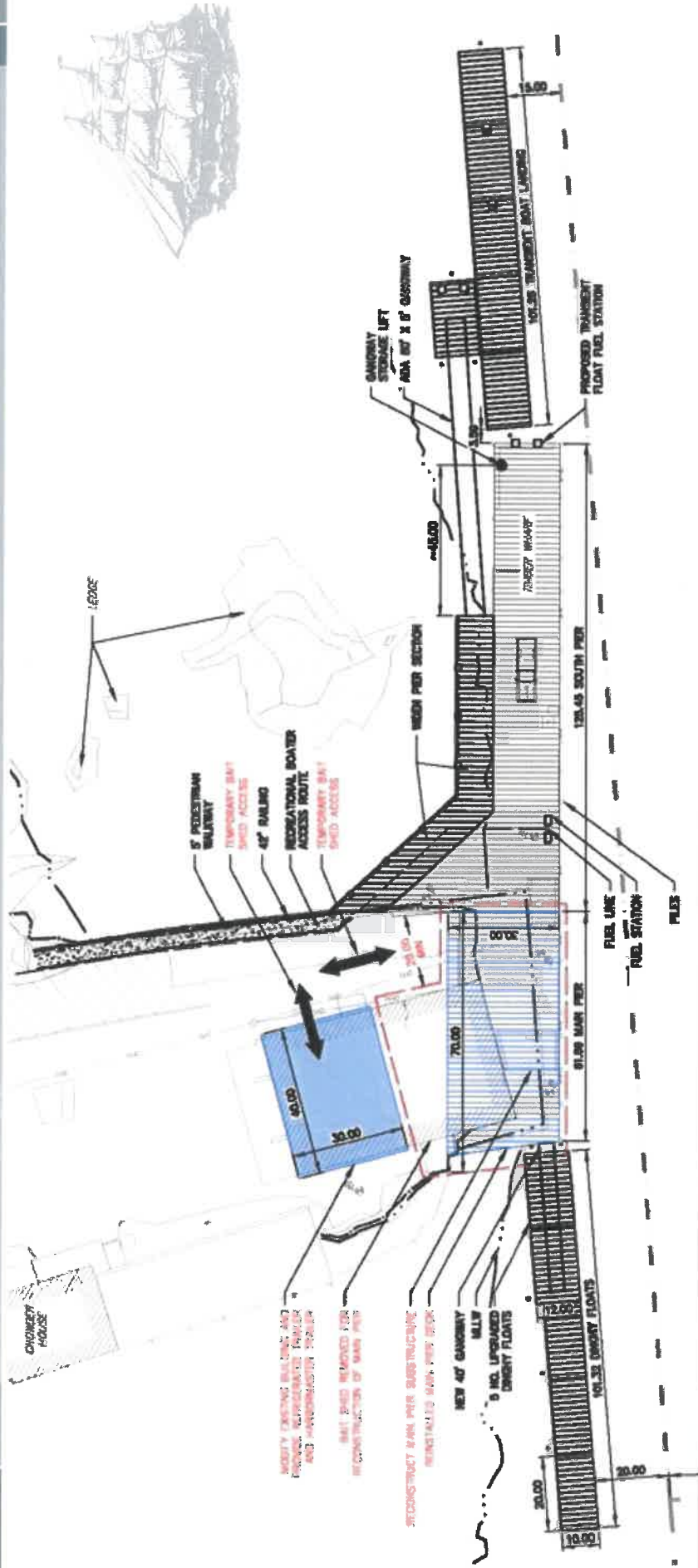
This capital request stems from a multi-year effort to obtain proper design and construction of a new pier facility that will replace the aging pier and infrastructure.

The request includes grant monies from federal and state resources.



## Cape Porpoise Pier Replacement and Bait Shed





# Cape Porpoise Pier Replacement and Bait Shed

# CHOWDER HOUSE REPAIRS

Due to recent concerns of water intrusion at three of the doors, a more in-depth assessment was completed to identify other concerns. The following list of concerns/needs was identified:

- Replacement of exterior dining area entrance door
- Replacement of exterior bathroom doors (2)
- Replacement of some exterior flashing and siding due to water damage
- Replacement of some framing, sheathing and interior paneling due to water damage
- Replacement of gutter system
- Replacement of exterior staircase to storage area above the restaurant
- Other miscellaneous repairs as encountered



Police	FY23	FY24	FY25	FY26	FY27	Future
Replace Cruiser Computers	\$ 6,800					
Replace 2017 Cruisers (2)	\$ 86,000					
Sprinkler Upgrade	\$ 12,000					
HVAC Replacement	\$ 25,000					
Replace Cruiser Computers	\$ 6,800					
Replace 2018 Cruiser	\$ 47,000					
Weapon Replacement		\$ 25,000				
Replace 2019 Cruiser		\$ 47,000				
Replace 2020 and 2021 Cruisers (2)		\$ 87,000				
Central Square Records Management Software Replacement				\$ 75,000		
Replace 2XXX Cruiser				\$ 47,000		
Replace 2XXX Cruiser (2)				\$ 87,000		\$ 87,000
<b>Totals</b>	<b>\$ 129,800</b>	<b>\$ 53,800</b>	<b>\$ 72,000</b>	<b>\$ 87,000</b>	<b>\$ 122,000</b>	<b>\$ 87,000</b>



Police



### ✓ Cruiser Replacement & Computer

The police department long-term capital plan includes the usual replacement of police vehicles which includes new computers. We will continue the process of looking at hybrid and or electric vehicles and incorporate them into our operation.

### ✓ Sprinkler Upgrade

We need to update an old glycol fire suppression system due to new government regulation.

### ✓ HVAC Replacement

We need to upgrade the Cooling System that was initially designed for a much smaller building back in 1998. The current system is continually overworked, which causes frequent breakdowns and costly repairs.

### ✓ Weapons Replacement

All department sidearms and holsters need replacement, as the current inventory will be greater than twelve years old.

### ✓ Central Square Records Management Software

Our records management software, which is over 20 years old, needs to be updated or replaced.



# Police

Public Works	FY23	FY 24	FY 25	FY 26	FY27	Future
Repair and reconstruct roads	\$ 472,000					
Repair and reconstruct sidewalks	\$ 80,000					
Replace 2011 International	\$ 236,000					
Replace 2009 F-350 2X4 Dual Rear	\$ 70,000					
Repair and reconstruct roads		\$ 533,000				
Repair and reconstruct sidewalks		\$ 90,000				
Replace 2012 International		\$ 240,000				
Replace 2006 F-350 4X4		\$ 60,000				
Repair and reconstruct roads			\$ 781,000			
Repair and reconstruct sidewalks			\$ 95,000			
Replace 2007 Trackless			\$ 235,000			
Repair and reconstruct roads				\$ 440,000		
Repair and reconstruct sidewalks				\$ 100,000		
Replace 2013 JD Loader				\$ 190,000		
Repair and reconstruct roads					\$ 338,000	
Repair and reconstruct sidewalks					\$ 105,000	
Replace 2015 International					\$ 245,000	
Replace 2016 International						\$ 250,000
Replace 2016 Ford F350 4X4 Dual Rear						\$ 75,000
Replace 2016 Tymo 435						\$ 160,000
Replace 2017 Graco Line Striper						\$ 12,000
Replace 2018 Case 580 T4F Backhoe						\$ 170,000
Replace 2018 Trackless MT7						\$ 245,000
Replace 2020 Ford F350 4X4						\$ 65,000
Replace 2018 Fuel Pumps						\$ 15,000
Replace 2020 FuelMaster Fuel Controller						\$ 15,000
Replace 2021 Western Star						\$ 250,000
Replace 2021 Mower						\$ 20,000
<b>Totals</b>	<b>\$ 858,000</b>	<b>\$ 923,000</b>	<b>\$ 1,111,000</b>	<b>\$ 730,000</b>	<b>\$ 688,000</b>	<b>\$ 1,277,000</b>

✓ FY23 Roads

- Old Cape Road
- Stone Road
- Belgrade Avenue
- Beachwood Avenue (half)
- Oak Ridge Road (half)

✓ FY23 Sidewalks

- Pearl Street
- Ocean Avenue (from Seagrass to Green St)

# Public Works



FY24	FY25
Norwood Lane	Acacia Road
Pier Road	Arundel Road (North to GRB)
Sherwood Drive	Bartlett Avenue
Spring Street	Pearl Street
Wakefield Pasture Road	Wildes District Road (half)
Wildes District Road (half)	South Street
	Squier Lane
FY26	FY27
Fairfield Hill Road	Arundel Road (River Road to North Street)
Gravelly Brook Road	Belair Avenue
High Point Drive	School Street
Guinea Road (Biddeford to Whitten Hill Road)	Turbats Creek Road
Saddle Way	
Westmore Circle	
Whitten Hill Road	
Winslow Lane	



# Public Works Roadwork



- ✓ Replace 2011 five-ton truck
- ✓ Replace 2009 F-350 2WD DRW truck with a F-350 4WD DRW one-ton dump truck

Replace FY	ID	Year	Mfr	Type	Projected Cost	Trade or Sale \$	Budget Cost
2023	6	2009	FORD	F-350 2X4 Dual Rear	\$ 70,000	\$ -	\$ 70,000
2023	5	2011	INT	Workstar SA	\$ 236,000	\$ 15,000	\$ 221,000
2024	3	2012	INT	Workstar SA	\$ 240,000	\$ 15,000	\$ 225,000
2024	10	2006	FORD	F350 4X4	\$ 60,000	\$ 2,000	\$ 58,000
2025	21	2007	Trackless	MT5T	\$ 235,000	\$ 2,000	\$ 233,000
2026	20	2013	JD	544K Loader	\$ 190,000	\$ 25,000	\$ 165,000
2027	4	2015	INT	Workstar SA	\$ 245,000	\$ 15,000	\$ 230,000
2028		2018	Trackless	MT7	\$ 245,000	\$ 20,000	\$ 225,000
2028	23	2016	Tymco	435	\$ 160,000	\$ -	\$ 160,000
2028		2021	Walker	Zero Turn	\$ 20,000	\$ 2,000	\$ 18,000
2029		2017	Graco	Line Striper	\$ 12,000	\$ -	\$ 12,000
2029	2	2016	INT	Workstar SA	\$ 250,000	\$ 15,000	\$ 235,000
2030	9	2016	FORD	F350 4X4 Dual Rear	\$ 75,000	\$ 2,500	\$ 72,500
2031	22	2018	Case	580 T4F	\$ 170,000	\$ 20,000	\$ 150,000
2032	1	2020	Ford	F350 4x4	\$ 65,000	\$ 2,000	\$ 63,000
2033	7	2021	Western Star		\$250,000	\$ 20,000	\$ 230,000
2033		2018	Wayne Reliance	Fuel Pumps	\$ 15,000	\$ -	\$ 15,000
2035		2020	Fuelmaster	Fuel Controller	\$ 15,000		\$ 15,000
Reserve	38	2001	TITAN 6000 PLR	Line Striper	\$ -	\$ -	\$ -
Reserve	8	2003	INT	4300 SA	\$ -	\$ -	\$ -

# Public Works Equipment



Special Projects	FY23	FY 24	FY 25	FY 26	FY27	Future
Pier Road & Sidewalks Planning & Engineering	\$ 200,000					
Village Parcel Zoning Policy	\$ 75,000					
Comp Plan Development	\$ 20,000					
Sea Level Rise Planning	\$ 50,000					
Pier Road Reconstruction & Sidewalks		\$ 2,280,000				
Acquisition of Automated Waste Collection Bins		\$ 250,000				
Purchase of LED Streetlight Fixtures		\$ 100,000				
Village Parcel Infrastructure-Town Hall		\$ 500,000				
Village Parcel Infrastructure Phase 1				\$ 3,500,000		\$ 3,500,000
Village Parcel Infrastructure Phase 2						\$ 3,500,000
<b>Totals</b>	<b>\$ 345,000</b>	<b>\$ 3,130,000</b>	<b>\$ -</b>	<b>\$ 3,500,000</b>	<b>\$ -</b>	<b>\$ 3,500,000</b>

50% Grant  
50% Bond



# Special Projects



### ✓ Pier Road & Sidewalks

In 2013 the Town identified the need to rebuild a portion of Pier Road due to continued flooding which impacts the public's ability to access the Cape Porpoise Pier and private properties. The planned investment at Cape Porpoise Pier will require access via Pier Road.

### ✓ Automated Waste Collection Bins

The current waste removal contract expires in August 2024. Due to continued labor shortages, regulations on hours worked by truck drivers, and technology changes in the industry, staff recognize that the new contract will likely be an automated system.

### ✓ LED Streetlight Fixtures

The lighting committee is currently examining various fixtures to replace our current streetlights and plans to judge public acceptance of the newer lights in a few strategic locations.

### ✓ Comp Plan Development

An extension to the current comprehensive planning contract may be necessary to complete the project. Data updates and additional committee meetings may be necessary due to the delays forced by COVID-19.

### ✓ Sea Level Rise Planning

As part of the examination of Climate Change, Town staff are recommending a planning process particularly focused on the impacts of sea level rise on Town infrastructure and private property along the Kennebunk River, in Cape Porpoise, and at Goose Rocks Beach.



## Special Projects

This project is the largest investment the Town has made in many years.

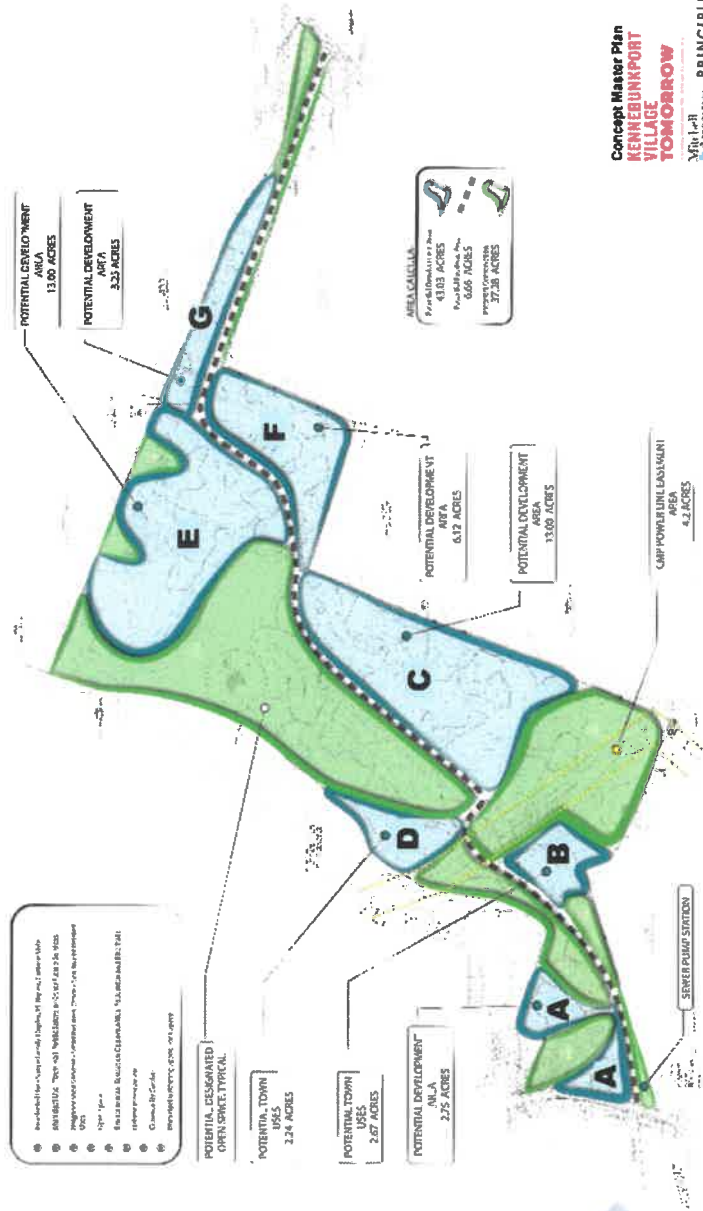
The Selectmen appointed a committee and undertook a public process which resulted in the Village Parcel Vision in 2020.

FY 23

Budget for Consultant

FY 24

Vote on Zoning



### STEERING COMMITTEE COMMENTS

Concept Master Plan  
**KENNEBUNKPORT VILLAGE TOMORROW**  
MPLB Associates  
PRINCIPLE  
CARTER BURRILL PALMER

# Village Parcel

- ✓ Design and Reconstruction of 3 Pump Stations
  - Ocean Ave
  - Turbat's Creek
  - South Main Street

- ✓ Replace 2 Mixers
 

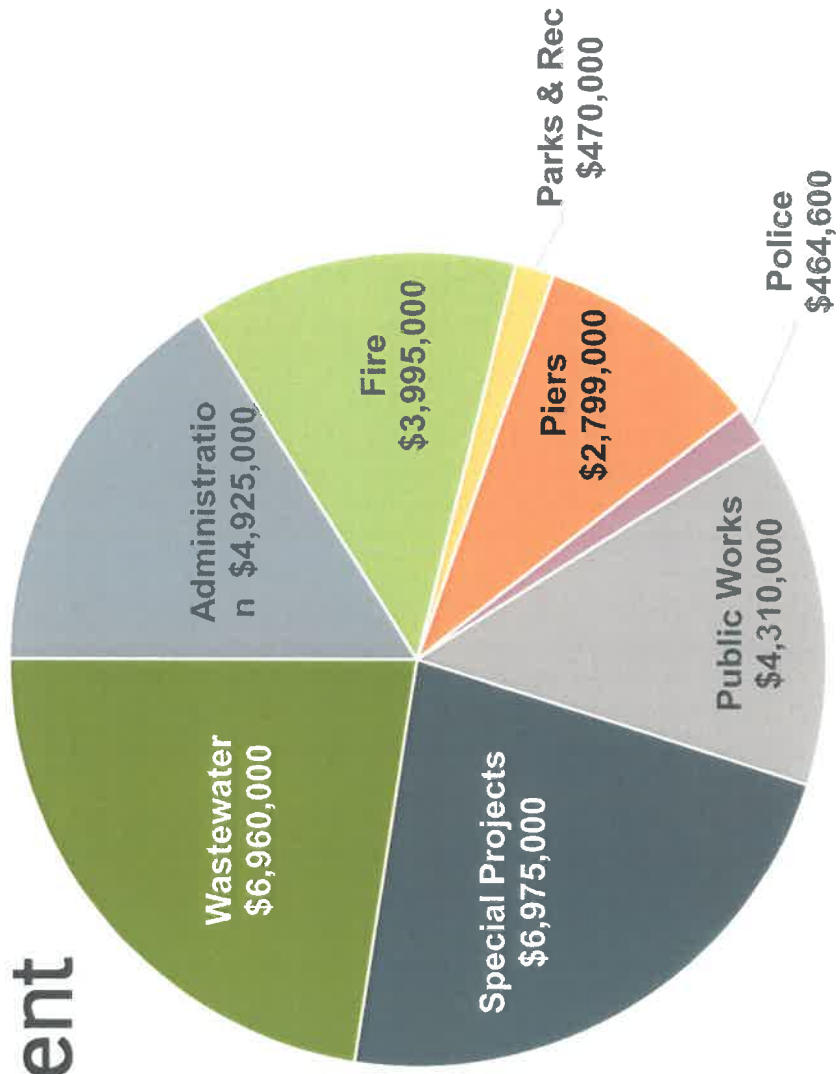
The current age of the two mixers are in excess of 20 years and are well beyond their life expectancy.

Wastewater	FY23	FY 24	FY 25	FY 26	FY27	Future
Replace Ocean Ave. Pump Station #6-Engineering	\$ 50,000					
Replace Turbat's Creek Pump Station-Engineering	\$ 50,000					
Replace South Main St. Pump Station #5-Engineering	\$ 50,000					
Replace Mixers in Aeration Tanks	\$					
Replace Ocean Ave. Pump Station #6	\$ 800,000					
Replace Turbat's Creek Pump Station	\$ 800,000					
Replace South Main St. Pump Station #5	\$ 400,000					
Replace Mills Lane Pump Station #2-Engineering	\$ 50,000					
Replace Mills Rd. Pump Station #11-Engineering	\$ 50,000					
Replace Mills Lane Pump Station #2	\$ 800,000					
Replace Mills Rd. Pump Station #11	\$ 800,000					
Replace 2013 Service Truck	\$ 100,000					
Replace Kings Highway Pump Station #14-Engineering	\$ 50,000					
Replace Kings Lane Pump Station #13-Engineering	\$ 50,000					
Replace Kings Highway Pump Station #14	\$ 820,000					
Replace Kings Lane Pump Station #13	\$ 820,000					
Replace 2006 Jetter	\$ 120,000					
Replace Kings Highway Pump Station #12-Engineering					\$ 1,000,000	
Replace Kings Highway Pump Station #12						\$ 300,000
Replace Ocean Ave Gravity Main (Nonantum to Bridge)						\$ 71,000
Replace Submersible Mixer						\$ 85,000
Replace Axial Flow Pumps (2)						\$ 125,000
Huber fine screen #101 2011						\$ 125,000
Huber fine screen #102 2011						\$ 100,000
Grinder Pump Replacement						\$ 300,000
Replace Prescott Drive Pump Station #15						\$ 300,000
Replace Washington Court Pump Station #16						\$ 300,000
Replace Wakefield Pasture Pump Station #17						\$ 300,000
Replace 6.5 miles 1972 Sewer Lines						\$ 2,100,000
<b>Totals</b>	<b>\$ 200,000</b>	<b>\$ 2,100,000</b>	<b>\$ 1,800,000</b>	<b>\$ 1,860,000</b>	<b>\$ 1,000,000</b>	<b>\$ 3,806,000</b>

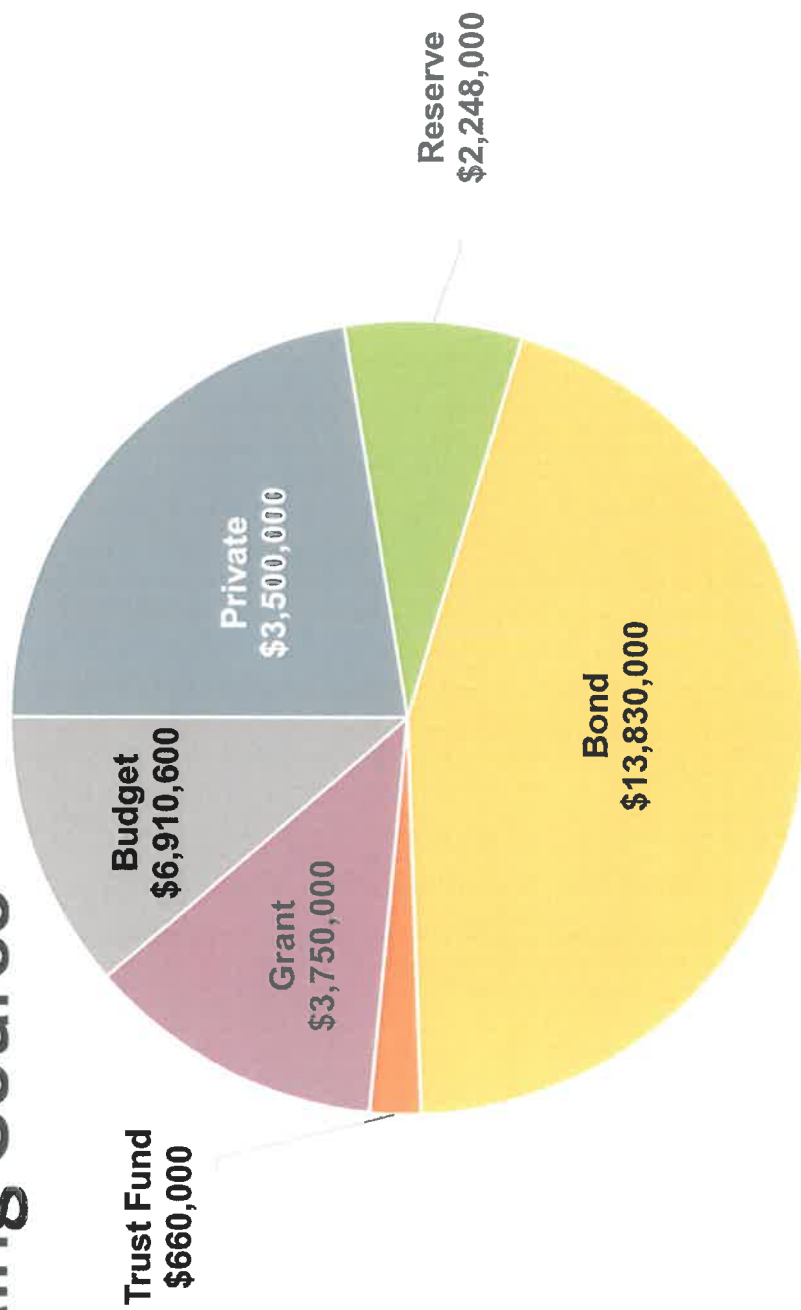


# Wastewater

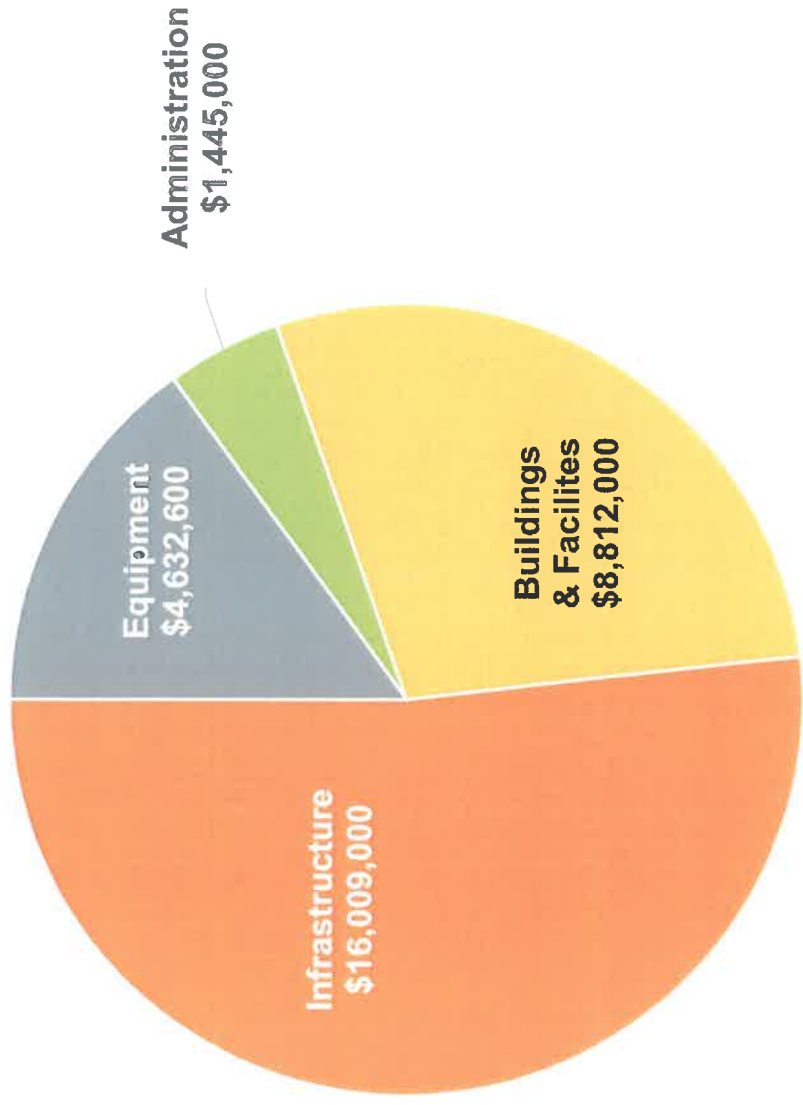
# 5-Year CIP by Department



# 5-Year CIP by Funding Source



# 5-Year CIP by Type



# Summary

In summary, this plan is ultimately meant to serve as a long-term planning and management tool that provides a list of proposed capital improvement projects and purchases for a 5-year period. This will not only serve as a guide to plan for these types of expenditures, it will give our citizens the ability to see how the Town is spending tax-payers dollars as it pertains to the maintenance, upkeep, and improvement of Town owned property, equipment, facilities and infrastructure.



**TOWN OF KENNEBUNKPORT, MAINE**

*– INCORPORATED 1653 –*

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# AGENDA ITEM DIVIDER

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## Maine Regional School Unit 21

The Schools of Arundel, Kennebunk, and Kennebunkport

*"Developing productive global citizens by building knowledge and character."*

Terri I. Cooper, Ed.D., Superintendent of Schools  
 Anita Bernhardt, Assistant Superintendent of Schools  
 Susan L. Martin, M.S. Ed., Director of Special Services

Scott A. Harrison, Director of Human Resources  
 Mark Graziano, Director of Finance  
 Richard Terwilliger-Smith, Director of Operations

### STATEMENT FOR IMMEDIATE RELEASE

**CONTACT: Loreta McDonnell, Vice Chair, RSU 21 Board: [lmcdonnell@rsu21.net](mailto:lmcdonnell@rsu21.net)**

## RSU 21 School Board Files Injunction

January 10, 2022 – Kennebunk, ME – Today, the RSU 21 School Board filed for an injunction in response to the recall efforts initiated by a group of Kennebunk citizens. We do not take this step lightly. Based on legal review of the information set forth by those spearheading the recall and the recall process itself, we are troubled by three issues.

First, statements made in the affidavits used to secure the necessary signatures are provably false, unsupported, and subjective; therefore, those who signed the recall petition were misled about what they were signing.

Second, legal opinion counsels that Kennebunk's Charter cannot legally be applied here because board members are elected by their town of residence, but they serve the entire regional school unit. A *single, local* government cannot apply its own recall provisions to a *regional* school board that represents *three different municipalities*—in this case, Kennebunk, Kennebunkport and Arundel. This injunction will provide clarity on how any future recall initiatives in Maine regional school units would be conducted. The RSU 21 Board stands in support of Mr. LeBlanc, Mr. Stentiford, and their elected rights to their complete terms serving all students of the three towns of Arundel, Kennebunk, and Kennebunkport.

Finally, we fully support voters' rights to recall government officials under appropriate and legally defined terms. The school board was specifically designed by the State Legislature to govern RSU 21 with 12 members acting as a single body, and this plan was approved by the State in 2009, when RSU 21 was formed.

We are committed to protecting the integrity of our regional school unit. This board—and all future boards—need to be able to focus on their responsibility to sustain and further the education of our students. The board and the superintendent are unified in support of the injunction.

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# AGENDA ITEM DIVIDER

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**Russell B. Pierce, Jr.**

December 22, 2021

**VIA EMAIL ONLY**

RSU 21 School Board  
Maine Regional School Unit 21 (Arundel, Kennebunk, Kennebunkport)  
177 Alewife Rd.  
Kennebunk, ME 04043

**RE: Opinion on School Board Director Recall Initiatives: Legality Issues, and Application of 20-A M.R.S. §§ 1451 et seq.**

Dear RSU 21 School Board:

This letter provides my legal advice and opinion on the following issue:

Whether under applicable law, including 20-A M.R.S. §§ 1451, et seq. and § 1474 therein, Directors elected to serve 3-year terms on the School Board of Maine Regional School Unit 21 (“RSU 21”), may be subject to the general “recall” procedures of only one of the participating municipalities (or fewer than all of the participating municipalities), under the corresponding municipal charter.

For the reasons set forth below, my conclusion is “no” – the School Board Directors of RSU 21 are elected directors of a separate body politic, Regional School Unit 21, with election, terms, and vacancies determined by the specific and comprehensive statutory scheme of 20-A M.R.S. §§ 1451, et seq. That specific statutory scheme governs the formation of regional school units, and State approval of them based upon submissions of detailed plans covering, among other issues, election of the initial board, allocation of voting power of several directors, governance, terms, and vacancies. It is well-established law that a specific statutory scheme will have precedence and control over a general one. *See Central Maine Power v. Devereux Marine, Inc.* 2013 ME 37, ¶ 22, 68 A.3d 1262 (it is a “fundamental rule of statutory construction that we favor the application of a specific statutory provision over the application of a more general

provision when there is any inconsistency”); *South Portland Civil Service Commission v. City of South Portland*, 667 A.2d 599 (Me. 1995) (applying principle between general and specific provisions of a city charter).

A central premise of my opinion is that the provisions of Title 20-A governing vacancies in regional school unit boards do not include “recall” as a basis for the creation of a vacancy, in direct contrast to the general statute governing vacancy in municipal office found in Title 30-A. *Compare* 20-A M.R.S. § 1474, *with* 30-A M.R.S. § 2602. It is contrary to the above rule of statutory construction to import the general Title 30-A provision into the specific Title 20-A provision; indeed, the opposite conclusion must be drawn from the absence of “recall” as a basis for creating a vacancy in Title 20-A. It is reasonable to infer the Legislature chose not to include “recall” as the basis for creating a vacancy in a governing board which, invariably, will be composed of directors from several participating municipalities, based upon carefully planned, reviewed and State-approved balances and considerations of representative apportionment. *See* 20-A M.R.S. § 1472 (methods of voting apportionment). It chose not to do so for good reason – to avoid potentially a small group of two dozen or so residents from only one participating municipality, triggering “recall” procedures that disrupt or reverse the policies and benefits of several municipalities having come together to form a shared, cooperative, governing body, in the first place, under a legislative scheme specifically authorizing that shared form of governance.

All of the resource allocations and the benefits derived by several participating municipalities forming a regional school unit, and each municipality’s deliberative process in joining that regional school unit based on a common plan submitted to the State, cannot be lightly undone by reading into Title 20-A a statutory provision that simply does not exist within it.

Before moving to a more detailed explanation of my opinion, it is important for me to express the caveat that while this opinion represents my firm and considered opinion on the issue presented, there is not a clear “right” or “wrong” opinion on this legal issue. First, there is no clear governing precedent – i.e., we have no prior court case decided upon the same set of facts presented here. Second, we must recognize that as such, I am not foretelling with perfect accuracy how the courts may rule on the issue, nor guaranteeing what the final outcome of any judicial proceeding on the issue would be. What I can convey, however, is that this opinion represents my best firm and candid judgment on the issues, employing the methodology of analysis and reasoning commonly used by the courts, drawing upon canons of statutory construction, case law, and other relevant information. I can convey that I would be prepared to advocate for this position in Maine court, recognizing that no answer to the question is altogether perfect or unassailable. I of course cannot guarantee a particular court outcome in an adversarial proceeding; but this opinion does represent my considered judgment on the issue.

#### **A. Factual Premise**

In 2008, with a proposed operational date of July 1, 2009, the reorganizational plan (“Plan”) for establishing Regional School Unit 21 (“RSU 21”) was submitted by the appropriate

representatives of the municipalities of Arundel (which was its own municipal school unit at the time) and the municipalities of Kennebunk and Kennebunkport (MSAD 71 at the time). See Plan at 2.

The Plan included the consensus that weighted voting (under statutory option B, 20-A M.R.S. § 1472(2)) would be established for the RSU School Board. The weighted voting would result in six elected directors from Kennebunk, three directors from Kennebunkport, and three from Arundel. Option B was not mandatory – for example, Option C could also have been chosen, wherein directors are elected at large by all the voters in the regional school unit. 20-A M.R.S. § 1472(3). This is significant in recognizing that where the Plan is silent, as it was here, on the specific question of whether and under what terms directors might be subject to “recall” by one participating municipality, reliance on that omission could have been a significant factor in the State’s approval of the Plan to formulate RSU 21 in the first instance.

In accordance with State authorizing statutes, the Plan was received by the Commissioner of Education, and a State certificate issued, with date of organization of July 1, 2009.

In 2019, director Tim Stentiford joined the RSU 21 School Board. Mr. Stentiford has served as the Chair of the Human Resources Committee, co-leader of the Diversity, Equity and Inclusion Ad Hoc Committee, and is currently the Chair of Communications Committee. He was also unanimously elected by the RSU 21 Board as RSU 21’s delegate to the State assembly for 2021.

In July 2020, Art LeBlanc joined the RSU 21 School Board. He was elected Board Chair at his first meeting, and reelected unanimously in 2021. *See* 20-A M.R.S. § 1471(6) (the RSU board elects its own officers).

In November of 2021, there was a public announcement that a recall effort targeting at least these two members of the RSU 21 School Board had been initiated within the municipality of Kennebunk.

On November 29, 2021, two correspondences, each purportedly signed by 30 individual “Kennebunk voters,” were delivered to the Kennebunk Select Board, purporting to invoke Article VII of the Kennebunk municipal charter, for the recall of these two RSU 21 School Board directors. Some of the reasons set forth for recall appear to be provably false, objectively; other reasons include unsupported subjective characterizations that should not form the basis of any “recall” under the law, and/or statements or events not causally related to the individual service of either director (and therefore not causally related to a valid recall basis). The correspondences recite in conclusory fashion the subjective standard apparently found in the Kennebunk charter, that there exists, among the respective 30 correspondence signatories, “a loss of confidence in [the director’s] ability to perform the duties and responsibilities of the office” – apparently drawn from language in Article VII of the Kennebunk charter.

**B. Issue Presented**

As stated above, the issue is whether, under applicable law (including the provisions of 20-A M.R.S. §§ 1451, et seq. and including § 1474 therein – which specifically address the structure and governance of regional school units such as RSU 21) Directors elected to serve 3-year terms on the School Board of RSU 21 are legally subject to idiosyncratic “recall” procedures of only one of the participating municipalities (or fewer than all of the participating municipalities), under a municipal charter.

**C. Legal Analysis**

In my opinion, Title 20-A does not allow for such recall of RSU School Board directors. School Board directors are elected officials of the *regional school unit*. They are not “elected officials of the municipality” under the town charters, certainly not without express inclusion of them within these general charter provisions. As discussed further below with respect to Arundel, a town charter may, arguably, specifically apply recall procedures of the town to School Board directors who are representative of the municipality within the RSU structure – as Arundel’s town charter appears to do in what appears to be a properly limited fashion. But absent a specific enactment to apply a charter recall procedure *to regional school unit directors*, the law as it stands now would apply the specific statutory scheme of Title 20-A, over any general provisions of Title 30-A involving elected officials, in this specific area involving elections, terms, and vacancies of RSU directors.

There are good policy reasons supporting this statutory construction, in keeping with the advancement of the State legislative interests and policies in authorizing the formation of regional school units, to advance the *State* policy and constitutional requirements of public education. *See* Maine Const. Art. VIII (constitutional provision imposing State legislative duty to require municipalities to make suitable provisions for the support and maintenance of public schools).

**i. The Regional School Unit Comprehensive Legislative Scheme**

Title 20-A, sections 1451 to 1512, is the comprehensive legislative scheme authorizing school organization into “regional school units.”<sup>1</sup> This is the legislative scheme that the three municipalities here (Kennebunk, Kennebunkport, and Arundel) affirmatively joined and invoked, including express references to Title 20-A’s several statutory provisions in the submitted and approved Plan. The structure and governance of RSU’s must always be in keeping with the declared policy of the State supporting the reorganization into these “regional, state-approved units of school administration.” 20-A M.R.S. § 1451 (listing several policies, including in

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<sup>1</sup> Note that this discussion and my opinion here must only apply to a “school board” as constituted as the governing body of a Regional School Unit, which as discussed further herein is its own “body politic.” Under Title 20-A, “‘School board’ means the governing body with statutory powers and duties for a school administrative unit [including regional school unit].” 20-A M.R.S. § 1(20) & (26). In contrast, a “‘[s]chool committee’ means the governing body with statutory powers and duties for a municipal school unit.” 20-A M.R.S. § 1(29).

subsection 1 “equitable educational opportunity for all students”) (bold emphasis added). *See also* 20-A M.R.S. § 1(24-B) (“ ‘Regional school unit’ means the state-approved unit of school administration as established pursuant to chapter 103-A [of Title 20-A].”).

Formation of a regional school unit is governed by sections 1461-1468, which include detailed provisions involving submission of a plan for reorganization into an RSU, and State approval. Once approved, the State Board of Education issues a certificate of organization. 20-A M.R.S. § 1461(7).

When formed, the regional school unit “is a body politic and corporate.” 20-A M.R.S. § 1461(1).

Subchapter 3 (sections 1471-79) are the statutory provisions on governance of the RSU. A regional school unit board is established, with composition, size, voting apportionment, etc. designed in accordance with the submitted plan and the provisions of this subchapter 3. As stated above, the regional school unit board itself “shall elect a chair and vice-chair and other officers as may be necessary.” 20-A M.R.S. § 1471(6). And significantly, a statutory term of office is set: “in municipalities with annual elections, director serve three-year terms. . . . A director serves until a successor is elected and qualified.” 20-A M.R.S. § 1471(2) (bold emphasis added). Note that even the oath of office is specifically defined under the terms of the statute. 20-A M.R.S. § 1471(5). The elected director takes this oath, in relation to the regional school unit board, not the form of oath which might be contained in a specific town charter.

Following special provisions involving the transition and election of an initial board, including significantly the plan submission of opting for one of at least four methods of director voting representation apportionment (the towns here chose Method B, weighted votes), the resulting elections result in a school board for governance of the RSU. Significantly, the election provision of Title 20-A, section 1473, for the purposes of accommodating nominations for initial directors, specifically references Title 30-A to define directors “for the purposes of nominations,” as “a municipal officials.” What this emphasizes is that the school board directors are not, across the canvas on all issues, “municipal officials” under Title 30-A: it takes a specific legislative reference for a specific legislative purpose to include them as 30-A “municipal officials.”

Also significant within section 1473 is that, when this Plan adopts Method B under the statute, “a reduction in the number of directors, the addition of directors and the terms of office of additional directors must be in accordance with this chapter.” 20-A M.R.S. § 1473(2)(B) (bold emphasis added).

Then, most significantly for the purposes of this analysis, “vacancies” in a regional school unit board are statutorily defined as follows:

**1. Definition of vacancy.** A vacancy on a regional school unit board occurs:

A. When the term of office of a regional school unit board director expires;

B. When a regional school unit board director changes residency from the municipality or subdistrict from which elected. Evidence that an individual is registered to vote in a municipality is prima facie evidence of that individual's residency;

C. On the death of a regional school unit board director; or

D. When a regional school unit board director resigns.

In addition to paragraphs A, B, C and D, except in municipalities having a municipal charter, when a director is absent without excuse from 3 consecutive regular board meetings, the regional school unit board may declare that a vacancy exists.

20-A M.R.S. § 1474(1).<sup>2</sup>

**ii. Section 1474 Analysis**

The significance of section 1474, quoted above, is that it does not include “recall” as a basis for the creation of a vacancy on the board. As an omitted term, within an enumerated section, the proper statutory construction is to read the enumeration to mean that a recall is *not* a basis to create a vacancy on an RSU board.

If there is any doubt on this point, one can contrast the *general* statutory scheme governing vacancies on other municipal offices or boards. 30-A M.R.S. § 2602. Section 2602 lists eight circumstances for when a vacancy occurs, with “recall pursuant to section 2505 [of Title 30-A]” as the last condition that could create a vacancy. Further, one should not presume that “recall” was intentionally omitted in Title 20-A because the Legislature assumed “recall” would be silently transported into Title 20-A from this general Title 30-A provision. The Title 30-A provision includes some of the identical conditions for vacancy listed in 20-A – for example, resignation, death, removal of residency from the municipality. If the logic were that vacancy grounds that are listed in Title 30-A are automatically transported into Title 20-A, why relist some of them but not all of them in Title 20-A? There would be no need to re-list anything in Title 20-A if it were the case that 20-A takes on everything from 30-A. Further, certainly if the legislature intended all of the vacancy-provisions of Title 30-A to apply under the vacancy-provisions of Title 20-A, then Title 30-A could have simply been incorporated by reference, which is the most common method of statutory drafting and construction. (Just as, for example, this very statutory scheme, with occasional incorporation of specific provisions of Title 30-A for different purposes – see 20-A M.R.S. § 1473, incorporating by reference Title 30-A, chapter 121).

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<sup>2</sup> This section goes on to govern when notices of vacancy are communicated to participating municipalities, and how those municipal officers of the municipality fill a vacancy. 20-A M.R.S. § 1474(2)-(3).



All canons of statutory construction lead to the conclusion that the omission of “recall” as a basis for creating a vacancy in regional school unit boards in Title 20-A, means that recall is not a basis for creating a vacancy. This conclusion is reasonable, because once the school board of directors is elected, each director is elected to serve on the board of RSU 21, as a separate “body politic and corporate,” not the specific municipality. 20-A M.R.S. § 1461(1).

Further no provision in the Plan submitted by the participating municipalities in this case provided for one municipality’s exercise of “recall” to create a vacancy in the RSU 21 board. Where the Plan in issue here, throughout its provisions, specifically referenced the governing provisions of Title 20-A, it cannot be lightly assumed that the certificate of organization would have issued by the State, had there been idiosyncratic recall provisions impacting the terms of each director, or the overall board composition and voting apportionment. Indeed, the Plan notably concludes, in the discussion of the RSU Board of Directors terms and elections, that “**Thereafter, all terms will be for a three-year duration,**” and emphasizing that “**No one election year will see more than four of the twelve seats open.**” Plan at 38, Note #2 (bold emphasis added). The Plan specifically references 20-A M.R.S. § 1473 as the governing structure for elections in terms of the regional school unit board, even in so far as it recognizes that the election must be conducted in accordance with Title 30-A provisions “as amended by section 1473(2) of Chapter 103-A of Title 20-A.” Plan at 37. This is again an acknowledgment that the specific provisions governing vacancies of directors from Title 20-A control, not other general provisions of Title 30-A.<sup>3</sup>

### iii. Canon of Construction – Specific over the General

This analysis is also in keeping with the overarching principle of statutory construction that specific statutes prevail over general ones when the two are inconsistent. Here, Title 20-A is a specific statute governing the terms and vacancies of regional school unit board directors. Inconsistent provisions from the general “elected officials” statute (i.e., a Title 30-A provision that as elected officials RSU directors are subject to recall) must give way to the specific statute (i.e. the Title 20-A provision that RSU directors are not subject to recall). *Houlton Water Company v. Public Utilities Commission*, 2016 Me 168, ¶ 21, 150 A.3d 1284; *South Portland Civil Service Commission v. City of South Portland*, 667 A. Two 599 (Me. 1995) (applying principle between general and specific provisions of city charter). See *Central Maine Power v. Devereux Marine, Inc.* 2013 ME 37, ¶ 22, 68 A.3d 1262 (it is a “fundamental rule of statutory construction that we favor the application of a specific statutory provision over the application of a more general provision when there is any inconsistency”).

An additional significant aspect of the analysis is that, in any event, standing alone, the “recall” provision incorporated by reference in Title 30-A only allows for recall of an elected official “only if the official is convicted of a crime, the conduct of which occurred during the

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<sup>3</sup> This is not to say that no general provisions of Title 30-A ever apply in Title 20-A’s governance of regional school units – there are many subjects where Title 30-A provisions, or provisions from many other Titles, do apply to school regional units and school board directors as governmental entities and government officials. The point is that where Title 20-A applies to a specific situation – i.e., can charter “recall” cause a vacancy of school board directors? – and a provision of Title 20-A directly answers the question, one may conclude the analysis there.

official's term of office and the victim of which is the municipality." 30-A M.R.S. § 2505(9). Clearly, that is not the case here, so on its face section 2505 would not apply in any event.

Section 2505 does also provides that recall of an elected official "of a municipality" may be otherwise provided by the municipality's ordinances or charter. However, to read this provision in harmony with Title 20-A, in the context of the present issue, at the very least what this provision would mandate is that the charter provision in issue expressly and specifically state that it applies to an RSU director, not just to the "elected officials of the municipality" in general.

I review each of the municipal charter provision below, under this lens.

**iv. Charters/Ordinances**

a. Kennebunk. Here, Kennebunk's charter does not expressly state that its general recall provisions apply to RSU School Board directors. This is necessary in order to capture any arguable authority conferred by 30-A M.R.S. § 2505 to apply local recall provisions to RSU directors. The only elected officials referenced in the charter are the Board of Selectmen – the other officials being appointed. See Kennebunk Charter, Sec.. 3.11. Article VII of the Kennebunk Charter governing the recall of elected officials, does not specifically include RSU Board of Directors officials as "elected officials" subject to recall under Article VII. Again, the RSU school board directors are not presumptively elected officials "of Kennebunk," they are elected directors of the body politic RSU 21 established under Title 20-A. If there is an intention to include them as "a municipal officers" subject to the recall provisions of Title 30-A (thereby, in turn, subjecting them to additional recall provisions of the municipal charter) the municipal charter must at least say so.

b. Kennebunkport. Kennebunkport's Administrative Code exemplifies the importance of this issue a step further, by expressly stating that its removal provisions (section 5-3 of Article I of the Administrative Code) apply to "any elected official of the Town of Kennebunkport" – the provision immediately follows the descriptions of the Town Meeting Moderator (section 5-1) and Selectmen (section 5-2) as the elected officials of the town, to whom section 5-3 would then logically apply. Again, there is no clear distinction that elected directors of RSU 21 – its own body politic – are subject to the removal provisions of section 5-3 of Kennebunkport's Administrative Code. Section 5-3 does not mention RSU school board directors. The RSU 21 directors are elected directors of RSU 21, its own body politic, not "of the Town of Kennebunkport."

c. Arundel. Arundel's municipal charter, providently, may be proof in the pudding of these points regarding charter-based recall: First, Arundel amended its old section 5.0 governing its previous school board, by stating those old provisions only apply as necessary. Significantly, those provisions had included a supplement to the "vacancy" provisions of Title 20-A M.R.S. § 2305, *which had governed vacancies in its school committee before RSU formation*. Arundel Charter, Section 5.5. This is a tacit recognition that Title 20-A governs, including "vacancy" in office provisions, unless supplemented by a specific charter provision. Second, Arundel's specific "Recall of Elected Officials" provisions, section 14.3, states: "any

elected official of the Town, *with the exception of School Board members as noted in [30-A M.R.S. § 2602]*, may be recalled and removed from elective office by the registered voters of the Town as here provided.” Arundel Charter 14.3 at p. 28 (*italics emphasis added*). Reasonably construed, the reference to Title 30-A section 2602 would be in order to incorporate by reference *that* section’s inclusion of recall under section 2505 as a basis for creating a vacancy in office: in other words, under Arundel’s charter, an RSU 21 director representative of Arundel might be subject to recall for conviction of crime while in office pursuant to section 2505, but for no other basis. But further without question, in keeping with the principles outlined here, the “recall of elected officials” charter provisions do not otherwise apply to school board directors, as Arundel’s charter makes clear by its own terms.

**v. Policy Issues**

I would emphasize that traditionally in Maine, public education had been a matter of State rather than local concern. *School Committee of Town of Winslow v. Inhabitants of Town of Winslow*, 404 A. 2d 1988, 991-92 (Me. 1979). While the breadth of this proposition has been undoubtedly narrowed in scope by later specific Legislative grants of home rule authority to municipalities for governance of local school committees or school boards, the policy underlying State interest in public education remains the same:

The preeminence of the State in educational matters, vis-a-vis local government is clear. One authority on the subject has expressed the general principle and its corollary implications in this manner:

The most universal element of conceptual design in the American school system is the maxim that education is a concern of all the people. As it is usually stated, education is a state function.

The conclusion from this is that education, even when delegated to municipal officers, is different from most of the functions of municipal officers in that any state-wide regulation takes precedence over local regulations even though the right to establish the local regulations may appear to arise from a municipal charter approved by the legislature or its agents or established by general home rule regulations in the constitution itself. In other words, general powers of the municipality, even though they may derive directly from the constitution, must bow to state regulation on the field of education, established by authority of the legislature. In such cases where the municipality acts as the local agent in charge of education, the municipality is at one and the same time a chartered corporation and an agency of the state.

H. Mort, *The Law and Public Education* 16-17 (1959).

*Id.* at 991-92 (citation in original).

With the regional school unit statutory scheme of Title 20-A, this State preeminence recurs again, precisely because it is in both the State's and the participating municipalities' best interests to advance a comprehensive statutory scheme of cooperative resource allocation and other efficiencies relating to public education, which may be obtained by advancing regional efficiencies. Thus, interpreting Title 20-A to require that any participating municipality specifically provide in its charter how and whether any general municipal recall provisions will apply, is in keeping with this overarching and preeminent group of policy interests. *See* 20-A M.R.S. § 1451. Simply put, allowing one town's general and undefined "recall" charter provisions to disrupt the terms, composition, vacancies, and terms of service of school board directors – each of whom has sworn an oath of office in relation to the regional school unit (20-A M.R.S. § 1471(5)) – would disrupt these beneficial policies, including to the detriment of the State and of the other participating municipalities.

#### **D. Conclusion**

So in conclusion, while the interplay between Title 30-A and Title 20-A is not without uncertainty, in this case I would advocate for the position that RSU 21 School Board directors are not subject to the general recall initiative under Article VII of the Kennebunk Charter that was announced in Kennebunk in late November, and which was then apparently commenced by service of correspondence on November 29, 2021. I am prepared to discuss any further steps and continue representation of the RSU 21 School Board as necessary, pursuant to this opinion and under the circumstances.

Please feel free to let me know if you wish to discuss any aspect of this opinion, and I would be happy to address any questions or concerns that may arise. Furthermore, if there are any specific additional laws, cases, regulations, or policies relating to the question that you would like me to consider, please do not hesitate to ask, and I will do my best to address any other issues.

Very truly yours,

/s/ Russell B. Pierce, Jr.

Russell B. Pierce, Jr.



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**Russell B. Pierce, Jr.**

December 22, 2021

**VIA EMAIL ONLY**

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**RE: Opinion on School Board Director Recall Initiatives: Legality Issues, and Application of 20-A M.R.S. §§ 1451 et seq.**

Dear Messrs. Pardue and Trefethen and Ms. Smith:

This office has been retained by the RSU 21 School Board to review and render opinion relating to the recent “recall” initiative publicly announced in Kennebunk, and potentially in other parts of participating municipalities of RSU 21.

The legal opinion we have provided to the RSU 21 School Board is attached. We conclude that the RSU 21 School Board Directors are not subject to recall under the general

December 22, 2021

Page 2

recall provisions of the respective local charters or ordinances. The comprehensive statutory provisions of Title 20-A, and in particular 20-A M.R.S. § 1474 governing the creation of “vacancies” on a regional school unit board, should operate to foreclose local recall provisions from interfering with the duly elected Directors’ performance and duties of the RSU 21 School Board in these circumstances.

We would welcome further discussion regarding this opinion.

Thank you for your attention to this matter.

Very truly yours,

/s/ Russell B. Pierce, Jr.

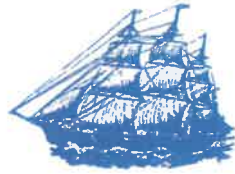
Russell B. Pierce, Jr.

cc: RSU 21 School Board (via email only)

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# AGENDA ITEM DIVIDER

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## TOWN OF KENNEBUNKPORT, MAINE

– INCORPORATED 1653 –

### Short-Term Rental Update

To: Laurie Smith, Town Manager  
From: Eli Rubin, Community Planner  
Date: January 6th, 2022  
CC: Werner Gilliam, April Fortier

#### As of January 10<sup>th</sup>

- 409 applications have been submitted
- 387 applications have been approved
- 10 applications pending review
- \$160k generated in registration fees

#### Public Reminders

- License certificates are emailed upon application approval. If you have not received an email with your license certificate yet, please check your spam or junk folder. License certificates can be resent upon request by calling or emailing the Code and Planning office.
- There are no defined eligibility requirements yet for renting in 2023 and beyond. People who purchase homes or wish to begin renting short-term in the future will have the opportunity to apply for a permit each October for the subsequent year. However, potential future caps may limit the total number of permits issued in a given year.
- Properties purchased in 2022 will only be allowed to rent short-term if the prior owner had obtained a permit. This includes Goose Rocks Beach.
- Code enforcement will contact property owners and property managers to schedule rental unit inspections. The ordinance requires inspections every 5 years, therefore not every unit will be inspected every year.