

## TOWN OF KENNEBUNKPORT, MAINE

### **Board of Selectmen Agenda October 28, 2021 @ 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/89523620741>  
or go to **ZOOM** and enter the **webinar ID**: 895 2362 0741

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

International numbers available: <https://us06web.zoom.us/j/89523620741>

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1. Call to Order.
2. Approve the October 14, 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. Approve request for extension of liquor license for Kennebunkport Inn, LLC.
5. Appoint George Dow to the Cape Porpoise Pier Advisory Committee.
6. Authorize Quitclaim deed for Map 25, Block 5, Lot 8.
7. Authorize the purchase of turnout gear for the Fire Department.
8. Award bid for new Police vehicle.
9. Review new provisions to MainePERS.
10. Authorize amendment to ICMA Retirement Health Savings Plan Contract
11. Authorize the use of contingency funds for mailbox installation at Firefighter's Park.
12. Review Land Use citation/stipulated judgement for 43 Mills Road.
13. Approve the FY 2023 budget schedule.
14. Discuss November and December Board of Selectmen meeting schedule.
15. Other business.
16. Approve the October 28, 2021, Treasurer's Warrant.
17. Adjournment.

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# AGENDA ITEM DIVIDER

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Town of Kennebunkport  
Board of Selectmen Meeting VIA Zoom  
October 14, 2021  
6:00 PM

## MINUTES

**Selectmen attending via Zoom:** Allen Daggett, Edward Hutchins, Patrick Briggs.

**Others attending via Zoom:** David Powell, Tracey O'Roak, Christopher Simeoni, Craig Sanford, Kate Bauer-Burke and Jon Dykstra.

**1. Call to Order**

Selectman Hutchins called the meeting to order at 6:01 PM. He took roll call of Selectmen present: Allen Daggett, Patrick Briggs and Edward Hutchins. Michael Weston and Sheila Matthews-Bull were absent.

**2. Approve the September 23, 2021, meeting minutes.**

**Motion** by Selectman Daggett, seconded by Selectman Briggs to approve the September 23, 2021, selectmen meeting minutes. **Roll Call Vote:** Briggs, Hutchins, Daggett. **Voted:** 3-0. **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.)

There were no public comments.

**4. Approve Certification of Authority for Transactions with H.M. Payson & Co.**

Laurie Smith, Town Manager, advised paperwork must be updated with H.M. Payson to allow Denise Brown, Treasurer, authority to interact with our accounts.

**Motion** by Selectman Daggett, seconded by Selectman Briggs, to approve Certification of Authority for Transactions with H.M. Payson & Co. **Roll Call Vote:** Briggs, Daggett, and Hutchins. **Voted:** 3-0. **Motion passed.**

**5. Appoint Award bid for Sewer by-pass connections.**

Christopher Simeoni, Deputy Public Works Director, reviewed the bids received and reminded the Board that the FY22 budget included \$48,000 in funding for the purchase of this pump.

**Motion** by Selectman Daggett, seconded by Selectman Briggs, to award bid for Sewer by-pass connections to Xylem for \$43,569.64. **Roll Call Vote:** Briggs, Daggett, and Hutchins. **Voted:** 3-0. **Motion passed.**

**6. Commitment of Sewer fees for new connections.**

Christopher Simeoni, Deputy Public Works Director, reminded the Board that the ordinance was changed to require billing upon occupancy for newly constructed homes versus application time. He advised that there are five new connections to be committed at this time totaling \$1,288.10.

**Motion** by Selectman Daggett, seconded by Selectman Briggs to commit sewer fees for five new connections totaling \$1,288.10. **Roll Call Vote:** Briggs, Daggett, and Hutchins. **Voted:** 3-0. **Motion passed.**

**7. Review GRB Fire Permit Procedures.**

This item was tabled to a future date to allow the Beach Advisory Committee time to review the data collected from the summer.

**8. Consider Beach Advisory Committee Resolution regarding water quality.**

Jon Dykstra and Kate Bauer-Burke of the Beach Advisory Committee gave a presentation of the resolution attached and what they are seeking from the Board.

This will issue will be discussed further in the future.

**9. Other Business.**

Laurie Smith, Town Manager, reported that there was a flu clinic this week with the Public Health Office and Walgreens. They administered 194 shots.

Ms. Smith advised that staff continues to work with Kennebunk and the Prelude Committee for a safe and fun event this year. They have adopted the Prelude Promise which is similar to the Kennebunkport Promise to have safe COVID measures in place. They are looking for a different way to handle the tree lighting to encourage crowds to spread out.

Allen Daggett advised that the mailboxes at Firefighter Park need an overhang to offer protection from the rain and ice. Ms. Smith said she would talk with Public Works to get something built before winter comes.

Ed Hutchins announced that absentee ballots are available at the town office for the November election. He also gave a reminder that there is a ballot drop off box in front of town hall where ballots can be dropped off at any time.

**10. Approve the October 14, 2021, Treasurer's Warrant.**

**Motion** by Selectman Daggett, seconded by Selectman Briggs to approve the October 14, 2021, Treasurer's Warrant. **Roll Call Vote:** Briggs, Hutchins, and Daggett. **Voted:** 3-0. **Motion passed.**

**11. Executive Session (per MRSA 1, §405-6H) for discussion with the Code Enforcement Officer on a pending enforcement matter that may lead to litigation.**

**Motion** by Selectman Daggett, seconded by Selectman Briggs to move into Executive Session (per MRSA 1, §405-6H) for discussion with the Code Enforcement Officer on a pending enforcement matter that may lead to litigation. **Roll Call Vote:** Briggs, Hutchins, and Daggett. **Voted:** 3-0. **Motion passed.**

**12. Adjournment.**

Meeting adjourned after Executive Session at 7:02 p.m.

Submitted by,  
Tracey O'Roak  
Administrative Assistant

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# AGENDA ITEM DIVIDER

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**INTEROFFICE MEMORANDUM**

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**TO:** LAURIE SMITH, TOWN MANAGER  
TRACEY O'ROAK, ASSISTANT TO THE TOWN MANAGER  
BOARD OF SELECTIONS

**FROM:** JAMIE L MITCHELL, TOWN CLERK

**SUBJECT:** LIQUOR LICENSE EXTENSION – KENNEBUNKPORT INN

**DATE:** OCTOBER 28, 2021

**CC:** LICENSING FILE

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Attached please find a Request for Extension of License Privileges for an On-Premises Establishment relative to the Kennebunkport Inn located at One Dock Square. This request is specific to and being made for the purposes of Prelude, which is to occur beginning December 2, 2021, through December 12, 2021.

Staff recommends approval of this request.

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# AGENDA ITEM DIVIDER

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**MUNICIPAL QUITCLAIM DEED WITHOUT COVENANTS**

KNOW ALL BY THESE PRESENTS THAT the Inhabitants of the Town of Kennebunkport, a body corporate and politic located in York County, State of Maine, for consideration paid, release to Spang, Philip III & Priscilla a certain parcel of land with buildings thereon, if any, located in the Town of Kennebunkport, York County, State of Maine, identified as follows:

Map Lot 25-005-08, on the Town Assessors' maps for Town, which are on file at the municipal office, being the same premises described in Town of Kennebunkport Tax Lien Certificates, recorded in the York County Registry of Deeds on August 9, 1991 in Book 5797 Page 232.

The Inhabitants of the Town of Kennebunkport have caused this instrument to be signed in its corporate name by Sheila Matthews-Bull, Allen A Daggett, Edward W Hutchins, Patrick A. Briggs, Michael Weston its Municipal Officers duly authorized.

Witness our hands and seals this 28th day of October 2021.

Inhabitants of the Town of Kennebunkport

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Witness

\_\_\_\_\_  
Witness

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Witness

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Witness

\_\_\_\_\_  
Witness

**ACKNOWLEDGEMENT**

State of Maine  
York, County, ss.

October 28, 2021

Then personally appeared before me the above-named Sheila Matthews-Bull, Allen A Daggett, Edward W Hutchins, Patrick A. Briggs, Michael Weston, the Municipal Officers of the Town of Kennebunkport and acknowledged the foregoing to be their free act and deed in their said capacity and the free act and deed of the Inhabitants of said Municipality.

Before me,

\_\_\_\_\_

**RE Account 1539 Detail**  
**as of 10/25/2021**

Name: MILLS ROAD DEVELOPMENT, LLC  
Location: 0 ROUTE 9  
Acreage: 79.13 Map/Lot: 025-005-008  
Book Page: B18586P621

Land: 386,500  
Building: 0  
Exempt: 0  

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Total: 386,500

2022-1 Period Due:

Ref1: BP  
Mailing: PO BOX 261  
Address: KENNEBUNK ME 04043

Year/Rec #	Date	Reference	P C	Principal	Interest	Costs	Total
2022-1 R	07/26/21	Original		3,710.40	0.00	0.00	3,710.40
198751	3/23/2021	PREPAY-A	A Y	0.01	0.00	0.00	0.01
208067	8/9/2021		A P	1,855.19	0.00	0.00	1,855.19
212319	10/19/2021		A P	1,855.20	0.00	0.00	1,855.20
		Total		0.00	0.00	0.00	0.00
2021-1 R	07/29/20	Original		3,652.43	0.00	0.00	3,652.43
		Billed To: SPANG, PRISCILLA A					
198751	3/23/2021	CHGINT	1 I	0.00	-46.28	0.00	-46.28
198751	3/23/2021		A P	3,652.43	46.28	0.00	3,698.71
		Total		0.00	0.00	0.00	0.00
2020-1 R	07/31/19	Original		3,652.43	0.00	0.00	3,652.43
		Billed To: SPANG, PRISCILLA A					
171366	9/12/2019		A P	3,652.43	0.00	0.00	3,652.43
		Total		0.00	0.00	0.00	0.00
2019-1 R	08/06/18	Original		3,385.74	0.00	0.00	3,385.74
		Billed To: SPANG, PRISCILLA A					
149656	9/7/2018		A P	1,692.87	0.00	0.00	1,692.87
155517	2/28/2019		A P	1,692.87	0.00	0.00	1,692.87
		Total		0.00	0.00	0.00	0.00
2018-1 R	08/10/17	Original		3,374.15	0.00	0.00	3,374.15
		Billed To: SPANG, PRISCILLA A					
132066	9/11/2017		A P	1,687.08	0.00	0.00	1,687.08
139410	3/12/2018		A P	1,687.07	0.00	0.00	1,687.07
		Total		0.00	0.00	0.00	0.00
2017-1 R	07/28/16	Original		3,200.22	0.00	0.00	3,200.22
		Billed To: SPANG PRISCILLA A					
113933	8/22/2016		A P	3,200.22	0.00	0.00	3,200.22
		Total		0.00	0.00	0.00	0.00
2016-1 R	07/24/15	Original		2,976.05	0.00	0.00	2,976.05
		Billed To: SPANG PRISCILLA					
98875	9/10/2015		A P	1,488.03	0.00	0.00	1,488.03
105359	3/9/2016		A P	1,488.02	0.00	0.00	1,488.02
		Total		0.00	0.00	0.00	0.00
2015-1 R	07/30/14	Original		2,949.00	0.00	0.00	2,949.00
		Billed To: SPANG PRISCILLA					

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Ref1: BP  
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Year/Rec #	Date	Reference	P C	Principal	Interest	Costs	Total
83084	9/15/2014		A P	1,474.50	0.00	0.00	1,474.50
88652	3/10/2015		A P	1,474.50	0.00	0.00	1,474.50
		Total		0.00	0.00	0.00	0.00
2014-1 R	08/07/13	Original		2,910.35	0.00	0.00	2,910.35
		Billed To: SPANG PRISCILLA					
66417	9/10/2013		A P	1,455.18	0.00	0.00	1,455.18
72798	3/10/2014		A P	1,455.17	0.00	0.00	1,455.17
		Total		0.00	0.00	0.00	0.00
2013-1 R	07/27/12	Original		2,666.85	0.00	0.00	2,666.85
		Billed To: SPANG PRISCILLA					
50707	9/10/2012		A P	1,333.43	0.00	0.00	1,333.43
56706	3/11/2013		A P	1,333.42	0.00	0.00	1,333.42
		Total		0.00	0.00	0.00	0.00
2012-1 R	08/05/11	Original		2,450.41	0.00	0.00	2,450.41
		Billed To: SPANG PRISCILLA					
36706	9/12/2011		A P	1,225.21	0.00	0.00	1,225.21
41129	3/12/2012		A P	1,225.20	0.00	0.00	1,225.20
		Total		0.00	0.00	0.00	0.00
2011-1 R	07/22/10	Original		2,957.61	0.00	0.00	2,957.61
		Billed To: SPANG PRISCILLA					
20775	9/10/2010		A P	1,478.81	0.00	0.00	1,478.81
26171	3/7/2011		A P	1,478.80	0.00	0.00	1,478.80
		Total		0.00	0.00	0.00	0.00
2010-1 R	09/01/09	Original		2,957.61	0.00	0.00	2,957.61
		Billed To: SPANG PRISCILLA					
4726	10/9/2009		A P	1,478.81	0.00	0.00	1,478.81
10780	3/10/2010		A P	1,478.80	0.00	0.00	1,478.80
		Total		0.00	0.00	0.00	0.00
2009-1 R	08/04/08	Original		2,007.44	0.00	0.00	2,007.44
		Billed To: SPANG PRISCILLA					
4309	9/10/2008		A P	1,003.72	0.00	0.00	1,003.72
		CK 011818					
10685	3/10/2009		A P	1,003.72	0.00	0.00	1,003.72
		CK 352806					
		Total		0.00	0.00	0.00	0.00

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<b>Year/Rec #</b>	<b>Date</b>	<b>Reference</b>	<b>P C</b>	<b>Principal</b>	<b>Interest</b>	<b>Costs</b>	<b>Total</b>
Account Totals as of 10/25/2021				0.00	0.00	0.00	0.00

Note: Payments will be reflected as positive values and charges to the account will be represented as negative values.

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# AGENDA ITEM DIVIDER

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## KENNEBUNKPORT FIRE DEPARTMENT

To: Laurie Smith, Town Manager  
Board of Selectmen

From: John Everett, Fire Chief

Re: Annual Turnout Gear Purchase

Date: October 19, 2021

Each year the Fire Department purchases turnout gear thru a rotating replacement schedule. Enclosed is a quote for the purchase of seven sets of turnout gear. The quote is at a per set price. I am asking to take money from the Fire Department's Capital Reserve Fund. We have been carrying a surplus in this account and did not add to it in FY21 or FY22. The amount in the reserve account will cover this expenditure.

The cost for each set (coat and pants) is \$2,732.26. An additional expense will be the per letter cost and the labor for the name panel that attaches to the back of the coat. I estimate this to be \$300.00 with a shipping cost of approximately \$100.00. The total cost should be \$19,525.82, depending on shipping costs.

This is not the time of year that we normally purchase turnout gear, but the manufacturer is implementing an 8% price increase on November 1<sup>st</sup> instead of the usual January 1<sup>st</sup>. This would mean a \$220.00 per set price increase which would add \$1,540.00 to the total cost. This order, with your approval, will be placed before the increase.

Currently, the balance in the Personal Protective Equipment Capital account #3904-5067 is \$21,225.00.

As in years past, purchases through this manufacturer are territory driven. Bergeron Associates is the Globe Manufacturing dealer for our area.



October 7, 2021

*Dick Stedman*  
*Fire Administrator*  
**Kennebunkport Fire Department**  
**32 North Street, PO Box 505**  
**Kennebunkport, ME 04046**

Re: Bergeron Protective Clothing LLC

This letter is to confirm that Bergeron is the only authorized distributor for Globe Manufacturing Co for the state of Maine.

GLOBE MANUFACTURING COMPANY is a 134-year old business engaged in the manufacture of turnout clothing for the fire and rescue industry. We take great pride in the design and construction of our garments and strive to continue to make the best products available in today's marketplace. We do business as Globe Firefighter Suits, and Globe Foot Wear, servicing a variety of needs. In addition, we offer care & cleaning services and training.

Bergeron and Globe are strong partners. By working together, we provide the high quality service that all of our customers expect and deserve.

We appreciate your interest in Globe Manufacturing Company products.

Sincerely,  
GLOBE MANUFACTURING COMPANY, LLC

Mark Dolim  
Customer Support Services Manager

MD



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

# QUOTATION

No. : 209615

**Doc. Date :** 08/30/2021  
**Payment Terms :** NET30  
**Valid Until:** 11/01/2021  
**Customer PO:**  
**Salesperson :** Dale Doughty  
**Page :** Page 1 of 2

**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

**Globe G-Xtreme Jacket + GPS Pant 2021**

Quantity	Style	Description	Your Cost
1	1C7RQ	Globe G-Xtreme 3.0 Jacket, Pioneer, FreeFAS Color: Gold Trim Color: Red Orange Glide Ice 2L Thermal Liner Stedair Gold Moisture Barrier *Contains PFAS 3" Triple Trim, NYC R/O 3" Scotchlite Letters, K P F D, Row A Velcro Snaps for Hanging Patch Std Vislon Zipper In/Velcro Out Closure Std Expansion Pockets 2x8x8 w/ Fleece Hand Warmer Std Kevlar Backed Exp. Pockets Mic Strap, Top Left Collar Helmet Snap/Mic Strap/Combo, Right Chest Mic Strap, Above Radio Pocket Nomex Hand and Wrist Guards Black Suede Cuffs Std Collar Loop Std Square Pocket on Thermal Liner Neck Snaps on Collar and Liner Std Drag Rescue Device Radio Pocket 2x3x6, Left Chest Std 3" Trim Over Radio Pocket PJ Filler Collar Tab Std Stored Energy Band Upper	1,424.13
1	POFHIPO	Hanging Letter Patch For last names	17.89
1	19721	Letter, 3" Scotchlite Color: RO Location: Hung Letter Patch Add \$3/letter for last names on hanging letter patch	

\*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.



From: BERGERON PROTECTIVE CLOTHING LLC  
 To: Kennebunkport Fire Dept.

Document No. : 209615  
 Doc. Date : 08/30/2021

Quantity	Style	Description	Your Cost
<b>Subtotal:</b>			<b>0.00</b>
			<b>\$1,442.02</b>
1	FC7RQ	Globe GPS Pant, Pioneer, FreeFAS Color: Gold Trim Color: Red Orange Glide Ice 2L Thermal Liner Stedair Gold Moisture Barrier *Contains PFAS 3" Triple Trim Around Cuff Std Hook and Loop (Velcro) Fly Closure Wide Belt Loops Escape Belt Black Suede Cuffs Black Suede Knees Silizone Knees on Shell Black Padded Suspenders Lifeline Rope Pocket, Left Pocket Std Expansion pocket 2x10x10, Right Pocket Std Kevlar Backed Expansion Pockets	1,260.28
1	LIFBARP	Lifeline Rope Pocket Left pocket	29.96
<b>Subtotal:</b>			<b>0.00</b>
			<b>\$1,290.24</b>

**Subtotal** 2,732.26  
**Total** 2,732.26

\*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:** Laurie Smith, Town Manager  
**Fr:** Craig Sanford, Chief of Police  
**Re:** Cruiser Purchase  
**Dt:** October 14, 2021

The police department has completed the bid process for the purchase of a new 2022 Ford Police Interceptor. We sent out requests to five dealerships in Maine and New Hampshire and received only one bid.

The bid request asked for a price that included a trade-in of a 2019 Ford Explorer with over 130,000 miles. We asked for the price of a regular gas Police Interceptor as well as the Police Hybrid Interceptor.

We had originally intended to trade-in a Dodge Charger but had to change that and trade-in a Ford Explorer because of the high miles and repair issues. I am recommending we go with the bid from Key Ford of York for a Hybrid Ford Police Interceptor with a purchase price of \$ 32,738.00 which includes a trade-in of \$ 7,750.00.

Cost of Ford Police Hybrid Interceptor	\$ 40,488.00
Trade-in Value	<u>\$ - 7,750.00</u>
TOTAL	\$ 32,738.00

The price for a regular gas-powered cruiser was quoted at \$ 37,409.00. A little more than \$ 3,000.00 less than the Hybrid Cruiser.

Change over and equipment cost will be approximately \$ 6,000.00.



PROUD MEMBER OF THE  Auto Group

**KEY FORD OF YORK**

PHONE 1-207-363-2483  
FAX 1-207-363-3547

422 US Route One  
P.O. Box 37  
York, Maine 03909-0037  
[www.keyford.net](http://www.keyford.net)

OCTOBER 01, 2021  
KENNEBUNKPORT POLICE DEPARTMENT  
CHIEF CRAIG A. SANFORD  
101 MAIN STREET  
KENNEBUNKPORT MAINE 4046

TO WHO IT MAY CONCERN.

2022 FORD POLICE INTERCEPTOR UTILITY

PRICE OF POLICE INTERCEPTOR \$37409.00

PRICE OF POLICE HYBRID INTERCEPTOR \$40488.00

2019 POLICE INTERCCEPTOR TRADE-IN \$7750.00

KIND REGARDS,



ROBERT BERRY JR  
SALES & LEASING CONSULTANT

ORDER TIME 22 24 WEEKS

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# AGENDA ITEM DIVIDER

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## TOWN OF KENNEBUNKPORT, MAINE

– INCORPORATED 1653 –

**Date:** October 20, 2021  
**To:** Laurie Smith  
**From:** Yanina Nickless, Deputy Treasurer/HR Coordinator  
**RE:** Approve new MainePERS provisions

The town of Kennebunkport offers an optional membership with a one-time irrevocable election in a Maine Public Employee's Retirement System's Defined Benefit Plan to any new, eligible employee. This means, that in the first 30 days of employment, an employee must choose to either join or decline MePERS membership and cannot change the decision at any point after that.

If an employee joins, the Town and the employee will have to contribute a certain percentage of the pre-tax wages towards MainePERS throughout their service years with the Town. The percentage is determined by the MainePERS on July 1 every year. If an employee declines, they cannot join later even if they leave the Town and come back.

In October of 2021, the MainePERS Board of Trustees adopted the provisions of 5 M.R.S. § 18252-C (PL 2021, Chapter 286) which created an exception to the one-time irrevocable election requirement. The new statute says that employees who have been employed with the Town for over 5 years as of November 1, 2021, and declined membership at the date of their employment, will have another chance to join the plan by November 1, 2021, if adopted by the Town.

In addition, employees who have been employed with the Town for precisely 5 years or less and any new employee thereafter will be able to join MainePERS during an annual open enrollment period from September 1 through November 1, starting in 2022.

All employees affected by these provisions will not have preferential tax treatment for federal income tax purposes, so membership contributions will be with the AFTER-TAX dollars. More so, the tax compliance for eligibility and enrollment falls to the Participating Local District (PLD).



## TOWN OF KENNEBUNKPORT, MAINE

– INCORPORATED 1653 –

Currently, there are 6 employees who have been employed with the Town for over 5 years and could be affected by the new provisions if adopted. After talking to those employees, gathering information from other employees and towns, and communicating the new provisions to the Department Directors, the Town does not recommend the approval of the new provisions based on the lack of interest and the administrative requirements for the pre-tax and post-tax contribution management.

August 18, 2021

To: PLD Consolidated Plan Employers with Social Security Section 218 Agreements

Subject: Important, Time-Sensitive Legislative Changes to the Participating Local District (PLD) Consolidated Plan – PLD Employers Must Take Prompt Action for the Provision to Apply to Employees

Dear PLD Employer:

This letter contains important information for your Chief Administrative Officer and members of your governing body. You will have to act quickly if you would like to give your employees who have declined MainePERS membership another opportunity to join the MainePERS PLD Consolidated Plan.

MainePERS sent an eBlast communication to PLD employers on August 11 that explains two laws that were enacted during the recent legislative session that make changes to the one-time election requirement. Under this requirement, which comes from federal law, an election by an employee with optional membership to join or not join MainePERS is irreversible for as long as the employee is with the same employer. One of the newly enacted statutes, specifically PL 2021, c. 286, applies to you and creates an exception to the one-time election requirement that does not conflict with federal law. It does this by making employee contributions after-tax for employees joining the plan under the law. **That means that if this law is adopted into your plan, you will have to withhold and report employee contributions as pre-tax or after-tax depending upon how the employee entered the plan.**

The new law will become part of your plan only if adopted through rulemaking by the MainePERS Board of Trustees and by you through formal action of your governing body and an amendment of your participation agreement with MainePERS. The Board of Trustees is expected to consider adopting the new law on September 9, 2021.

The provisions of the new law permit any PLD employee who has declined membership in the Plan to have another opportunity to join the Plan prospectively effective November 1, 2021. PLD employers will need to take action before November 1, 2021 for the provision to apply to their employees who have been employed in an eligible position for 5 or more years. It also allows PLD employees to have an annual open enrollment opportunity during their first five years of employment beginning in 2022. Employee contributions for those who join the Plan under this provision are paid with after-tax dollars.

As stated above, the provisions of this new law must be formally adopted by the MainePERS Board of Trustees through its rulemaking process prior to being fully implemented. Additional information on this process was provided to employers in the August 11 eBlast communication and is available on our website at [www.maineopers.org](http://www.maineopers.org). We are providing you with this information now so you have time to decide whether to adopt the provision for your employees and for your governing body to take any necessary action to adopt the provision before the November 1, 2021 deadline. Suggested language to be used in the certified action is enclosed for your convenience should you decide to adopt this provision



for your employees.

Please contact Deanna Doyle at [Deanna.Doyle@mainepers.org](mailto:Deanna.Doyle@mainepers.org) or by phone at 1-800-451-9800 if you have questions about this new provision or how to adopt it for your employees.

Sincerely,



Deanna Doyle, PLD Plan Administrator and Business Unit Leader  
Service Programs Division

**Sample wording for EMPLOYER NAME's governing  
body to adopt the provisions of 5 M.R.S. § 18252-C (PL 2021, Chapter  
286)**

To see if the EMPLOYER NAME will vote to adopt the provisions of 5 M.R.S. § 18252-C (PL 2021, Chapter 286) as allowed by MainePERS Rule Chapter 803.

The EMPLOYER NAME agrees:

- 1) To adopt the provisions of 5 M.R.S. §18252-C as enacted by PL 2021, Chapter 286 as allowed by MainePERS Rule Chapter 803 for its non-participating employees with optional membership who previously declined to participate in MainePERS (“eligible employees”) and to comply with the following requirements:
  - a. To offer by November 1, 2021 the opportunity to join MainePERS prospectively to all its eligible employees who have been employed for 5 years or more, to advise these employees that this will be their only opportunity to join, and to provide MainePERS with documentation of each eligible employee’s election; and
  - b. Beginning in 2022, to annually offer eligible employees who have been employed for less than 5 years, and in 2022 eligible employees who had reached 5 years of employment between November 1, 2021 and November 1, 2022, the opportunity to join MainePERS on a prospective basis during an open enrollment period from September 1<sup>st</sup> through November 1<sup>st</sup> and to provide MainePERS with documentation of each election made by eligible employees under this provision: and
  - c. To withhold employee contributions for employees who join under this provision after all taxes have been withheld, and to remit them to MainePERS as after-tax contributions.
  
- 2) To authorize (*Name and Title of Authorized Signor*) to sign the Amended Agreement between the Employer and the Maine Public Employees Retirement System.

Article approved as written.

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# AGENDA ITEM DIVIDER

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## TOWN OF KENNEBUNKPORT, MAINE

– INCORPORATED 1653 –

**Date:** October 22, 2021  
**To:** Laurie Smith  
**From:** Yanina Nickless, Deputy Treasurer/HR Coordinator  
**RE:** Approve new Vantage Care Retirement Health Savings (RHS) Plan Amendment Packet

The town of Kennebunkport offers a Health Care Savings Plan to all eligible employees at a date defined by the Town (typically, after November 1). The Town debits a certain amount of accrued sick hours and contributes 85% of the value of those hours into employees' Health Savings accounts.

Staff is recommending the Selectmen approve a new Retirement Health Saving plan document in order to comply with our policy and current Union contract. The mandatory employee contributions will be as following:

- Each year, in November, employees' sick time accruals will be reviewed for hours exceeding 480 hours.
  - Union employees will be compensated for 85% of the value of sick time above 480 hours up to a maximum of 56 hours (7 days).
  - Non-union employees will be compensated for 85% the value of sick time above 480 hours up to a maximum of 56 hours (7 days).

This one-time contribution per year will bring both groups down to their maximum of four hundred eighty (480) hours of accrued sick time.



## VantageCare Retirement Health Savings (RHS) PLAN AMENDMENT PACKET

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To amend your existing RHS Plan, please complete the entire Adoption Agreement, including items that are not being amended. When you send your amendment to ICMA-RC, please summarize the changes in your cover letter.

Please note that ICMA-RC does not require the use of a resolution to amend the plan. Should you require legislative action, you may use the Suggested Resolution for Amendment on the following page. If you do not require legislative action, you may complete the Suggested Affirmative Statement for Amendment which follows.

Once the amendment is completed, retain a copy for your records and send the original with the cover letter and either the resolution or the affirmative statement to ICMA-RC as follows:

**Via Mail**

ICMA-RC  
Attn – New Business Services  
Suite 600  
777 North Capitol Street, NE  
Washington, DC 20002-4240

**Via Facsimile**

202-962-4601  
Attn – New Business Services

You will receive notification that your amendment has been received and accepted.



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**EMPLOYER VANTAGECARE  
RETIREMENT HEALTH SAVINGS (RHS)  
ADOPTION AGREEMENT**

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**VANTAGECARE RETIREMENT HEALTH SAVINGS (RHS)  
ADOPTION AGREEMENT**

Plan Number: 8 01313

Select as applicable:  Standalone RHS  Integrated RHS  Amendment to Existing Plan  New Plan

I. **Employer Name:** Town of Kennebunkport State: Maine

II. **The Employer hereby attests that it is a unit of a state or local government or an agency or instrumentality of one or more units of a state or local government.**

III. **Plan Dates:**

A. **Plan Effective Date** \_\_\_\_\_

B. **Plan Year:** Enter the annual accounting period for the RHS program. July 1 to June 30

IV. **The Employer intends to utilize the Trust to fund only welfare benefits pursuant to the following welfare benefit plan(s) established by the Employer:** \_\_\_\_\_

V. **Eligible Groups, Participation and Participant Eligibility Requirements**

A. **Eligible Groups**

The following group or groups of Employees are eligible to participate in the Employer's welfare benefits plan identified in Section IV. (check all applicable boxes):

- All Employees
- All Full-Time Employees
- Non-Union Employees
- Public Safety Employees – Police
- Public Safety Employees – Firefighters
- General Employees
- Collectively-Bargained Employees (Specify unit(s)) Group 2 = Union empl
- Other (specify group(s)) Group 1 = Non-union empl.

The Employee group(s) specified must correspond to a group(s) of the same designation that is defined in the statutes, ordinances, rules, regulations, personnel manuals or other documents or provisions in effect in the state or locality of the Employer.

B. **Participation**

**Mandatory Participation:** All Employees in the covered group(s) are required to participate in the Plan and shall receive contributions pursuant to Section VI.

If the Employer's underlying welfare benefit plan is in whole or part a non-collectively bargained plan that allows reimbursement for medical expenses other than insurance premiums, the nondiscrimination requirements of Internal Revenue Code (IRC) Section 105(h) will apply. These rules may impose taxation on the benefits received by highly compensated individuals if the Plan discriminates in favor of highly compensated individuals in terms of eligibility or benefits. The Employer should discuss these rules with appropriate counsel.

**C. Participant Eligibility Requirements**

1. Minimum service: The minimum period of service required for participation is N/A (write N/A if no minimum service is required).
2. Minimum age: The minimum age required for eligibility to participate is N/A (write N/A if no minimum age is required).

**VI. Contribution Sources and Amounts**

**A. Definition of Earnings**

The definition of Earnings will apply to all RHS Contribution Features that reference "Earnings", including Direct Employer Contributions (Section VI.B.1.) and Mandatory Employee Compensation Contributions (Section VI.B.2.).

Definition of earnings: \_\_\_\_\_  
\_\_\_\_\_

**B. Direct Employer Contributions and Mandatory Contributions**

1. Direct Employer Contributions

The Employer shall contribute on behalf of each Participant

- \_\_\_\_\_ % of Earnings\*
- \$ \_\_\_\_\_ each Plan Year
- A discretionary amount to be determined each Plan Year
- Other (describe): \_\_\_\_\_

2. Mandatory Employee Compensation Contributions

The Employer will make mandatory contributions of Employee compensation as follows:

- Reduction in Salary - \_\_\_\_\_ % of Earnings or \$ \_\_\_\_\_ will be contributed for the Plan Year.
- Decreased Merit or Pay Plan Adjustment - All or a portion of the Employees' annual merit or pay plan adjustment will be contributed as follows:

An Employee shall not have the right to discontinue or vary the rate of Mandatory Contributions of Employee Compensation.

3. Mandatory Employee Leave Contributions

The Employer will make mandatory contributions of accrued leave as follows (provide formula for determining Mandatory Employee Leave contributions):

- Accrued Sick Leave Gr. 1 = 85% of hours over 480 h to a max of 56 h (7 days / yr.)  
Gr. 2 = 85% of hours over 480 h to a max of 56 h (7 days / yr.)
- Accrued Vacation Leave \_\_\_\_\_

- Other (specify type of leave) Accrued \_\_\_\_\_ Leave  
A one-time contribution to bring both  
groups down to their maximum of 480 h

An Employee shall not have the right to discontinue or vary the rate of mandatory leave contributions.

*\* Non-collectively bargained plans that reimburse medical expenses other than insurance premiums should consult their benefits counsel regarding welfare plan nondiscrimination rules if the employer elects to make contributions based on a percentage of earnings.*



**C. Limits on Total Contributions** (check one box)

The total contribution by the Employer on behalf of each Participant (including Direct Employer and Mandatory Employee Contributions) for each Plan Year shall not exceed the following limit(s) below. Limits on individual contribution types are defined within the appropriate section above.

- There is no Plan-defined limit on the percentage or dollar amount of earnings that may be contributed.
- \_\_\_\_ % of earnings  
 Definition of earnings:     Same as Section VI.A.     Other
- \$ \_\_\_\_ for the Plan year.

**VII. Vesting for Direct Employer Contributions**

**A. Vesting Schedule** (check one box)

- The account is 100% vested at all times.
- The following vesting schedule shall apply to Direct Employer Contributions as outlined in Section VI.B.1.:

Years of Service Completed	Vesting Percentage
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %
_____	_____ %

**B. The account will become 100% vested upon the death, disability, retirement\*, or attainment of benefit eligibility (as outlined in Section IX) by a Participant.**

\*Definition of retirement includes a separation from service component and is further defined by (check one):

- The primary retirement plan of the Employer
- Separation from service
- Other \_\_\_\_\_

**C. Any period of service by a Participant prior to a rehire of the Participant by the Employer shall not count toward the vesting schedule outlined in A above.**

**VIII. Forfeiture Provisions**

If a Participant separates from service prior to full vesting, non-vested funds in the Participant's account shall be forfeited in accordance with the box checked under this section.

Upon the death of a participant, surviving spouse, and all surviving eligible dependents (as outlined in Section XI), funds remaining in the Participant's account shall be revert to the Trust in accordance with the box checked under this section.

If a Participant permanently opts out and waives future reimbursements, as allowed under IRS Notice 2013-54, all funds in the Participant's account at the time of waiver shall be forfeited in accordance with the box checked under this section.\*

- Remain in the Trust to be reallocated among all Plan Participants with a balance as Direct Employer Contributions for the next and succeeding contribution cycle(s).\*\*
- Remain in the Trust to be reallocated on an equal dollar basis among all Plan Participants with a balance.\*\*
- Remain in the Trust to be reallocated among all Plan Participants based upon Participant account balances.\*\*
- Revert to the Employer via check.

**IX. Eligibility Requirements to Receive Medical Benefit Payments from the VantageCare Retirement Health Savings Program**

**A. A Participant is eligible to receive benefits:**

- At retirement only (also complete Section B.)  
Definition of retirement:
  - Same as Section VII.B.
  - Other \_\_\_\_\_
- At separation from service with the following restrictions
  - No restrictions
  - Other \_\_\_\_\_

**B. Termination prior to general benefit eligibility:** In case where the general benefit eligibility as outlined in Section IX.A includes a retirement component, a Participant who separates from service of the Employer prior to retirement will be eligible to receive benefits:

- Immediately upon separation from service
- Other \_\_\_\_\_

**C. A Participant that becomes totally and permanently disabled**

- as defined by the Social Security Administration
- as defined by the Employer's primary retirement plan
- other \_\_\_\_\_

will become immediately eligible to receive medical benefit payments from his/her account under the Employer's welfare benefits plan.

**D. Upon the death of the Participant, benefits shall become payable as outlined in Section XI.**

*\* If the Employer's RHS Program does not limit eligibility to participants who have separated from service, the employer will be required to provide further direction to ICMA-RC regarding the treatment of possible contributions that are required to be made following the participant's waiver.*

*\*\* If the forfeited balance is small whereby the reallocation amount to each Plan Participant with a balance is minimal, the assets will revert to employer's forfeiture account for further direction from the employer. If there are participants without a balance who should receive forfeiture assets, please provide alternative instructions to ICMA-RC on the forfeiture reallocation notice.*

## X. Permissible Medical Benefit Payments

Benefits eligible for reimbursement consist of:

- All Medical Expenses eligible under IRC Section 213 other than (i) direct long-term care expenses, and (ii) expenses for medicines or drugs which are not prescribed drugs (other than insulin).
- The following Medical Expenses eligible under IRC Section 213 other than (i) direct long-term care expenses, and (ii) expenses for medicines or drugs which are not prescribed drugs (other than insulin). Select only the expenses you wish to cover under the Employer's welfare benefits plan:
  - Medical Insurance Premiums
  - Medical Out-of-Pocket Expenses\*
  - Medicare Part B Insurance Premiums
  - Medicare Part D Insurance Premiums
  - Medicare Supplemental Insurance Premiums
  - Prescription Drug Insurance Premiums
  - COBRA Insurance Premiums
  - Dental Insurance Premiums
  - Dental Out-of-Pocket Expenses\*
  - Vision Insurance Premiums
  - Vision Out-of-Pocket Expenses\*
  - Qualified Long-Term Care Insurance Premiums
  - Non-Prescription medications allowed under IRS guidance\*
  - Other qualifying medical expenses (describe)\*

\* *Non-collectively bargained plans that reimburse medical expenses other than insurance premiums should consult their benefits counsel regarding welfare plan nondiscrimination rules if the employer elects to make contributions based on a percentage of earnings.*

## XI. Benefits After the Death of the Participant

In the event of a Participant's death, the following shall apply:

### A. Surviving Spouse and/or Surviving Dependents

Upon the death of a participant, the surviving spouse and/or surviving eligible dependents (as defined in Section XII.D.) of the deceased Participant are immediately eligible to maintain the Participant's RHS account and utilizing the remaining balance to fund eligible medical benefits specified in Section X above.

Upon notification of a Participant's death, the Participant's account balance will be transferred into VT II Cash Management Fund\*\* (or another fund selected by the Employer). The account balance may be reallocated by the surviving spouse or dependents.

\*\* *Before investing in the Fund you should carefully consider your investment goals, tolerance for risk, investment time horizon, and personal circumstances. There is no guarantee that the Fund will meet its investment objective and you can lose money. For additional information regarding the Fund, including a description of the principal risks, please consult the VantageTrust II Funds Disclosure Memorandum and fund fact sheets, which is available when you log in at [www.icmarc.org](http://www.icmarc.org) or upon request by calling 800-669-7400.*

*If the plan's default fund is not the VT II Cash Management Fund, please read the disclosure materials or prospectus applicable to the default fund.*

If a Participant's account balance has not been fully utilized upon the death of the eligible spouse, the account balance may continue to be utilized to pay benefits of eligible dependents. Upon the death of all eligible dependents, the account will revert in accordance with the Employer's election under Section VIII of the *VantageCare RHS Adoption Agreement*.

**B. No Surviving Spouse or Surviving Dependents**

If there are no living spouse or dependents at the time of death of the Participant, the account will revert in accordance with the Employer's election under Section VIII of the *VantageCare RFS Adoption Agreement*.

**XII. The Plan will operate according to the following provisions:**

**A. Employer Responsibilities**

- 1. The Employer will submit all VantageCare Retirement Health Savings Plan contribution data via electronic submission.
  - 2. The Employer will submit all VantageCare Retirement Health Savings Plan Participant status updates or personal information updates via electronic submission. This includes but is not limited to termination notification, benefit eligibility, and vesting notification.
- B.** Participant account administration and asset-based fees will be paid through the redemption of Participant account shares, unless agreed upon otherwise in the Administrative Services Agreement.
- C.** Assignment of benefits is not permitted. Benefits will be paid only to the Participant, his/her Survivors, the Employer, or an insurance provider (as allowed by the claims administrator). Payments to a third-party payee (e.g., medical service provider) are not permitted with the exception of reimbursement to the Employer or insurance provider (as allowed by the claims administrator).
- D.** An eligible dependent is (a) the Participant's lawful spouse, (b) the Participant's child under the age of 27, as defined by IRC Section 152(f)(1) and Internal Revenue Service Notice 2010-38, or (c) any other individual who is a person described in IRC Section 152(a), as clarified by Internal Revenue Service Notice 2004-79.
- E.** The Employer will be responsible for withholding, reporting and remitting any applicable taxes for payments which are deemed to be discriminatory under IRC Section 105(h), as outlined in the *VantageCare Retirement Health Savings Employer Manual*.

**XIII. Employer Acknowledgements**

- A.** The Employer hereby acknowledges it understands that failure to properly fill out this *VantageCare Retirement Health Savings Adoption Agreement* may result in the loss of tax exemption of the Trust and/or loss of tax-deferred status for Employer contributions.
- B.**  Check this box if you are including supporting documents that include plan provisions.

**EMPLOYER SIGNATURE**

By: \_\_\_\_\_

Date: \_\_\_\_\_

Title: Town Manager

Attest: \_\_\_\_\_

Date: \_\_\_\_\_

Title: Town Clerk



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**SUGGESTED RESOLUTION FOR AMENDMENT**

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AND

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**SUGGESTED AFFIRMATIVE STATEMENT FOR AMENDMENT**

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**SUGGESTED RESOLUTION FOR AMENDMENT OF THE  
VANTAGECARE RETIREMENT HEALTH SAVINGS (RHS) PROGRAM**

Plan Number: 801313

Name of Employer: Town of Kennebunkport State: Maine

Resolution of the above-named Employer (the "Employer"):

WHEREAS, the Employer has employees rendering valuable services; and

WHEREAS, the amendment of its existing retiree health savings plan for such employees serves the interests of the Employer and Employees.

NOW, THEREFORE BE IT RESOLVED, that the Employer hereby amends the Plan in the form of the ICMA Retirement Corporation's VantageCare Retirement Health Savings program.

I, \_\_\_\_\_, Clerk of the Town of Kennebunkport, do hereby certify that the foregoing resolution, proposed by The Board of Selectmen, was duly passed and adopted in the \_\_\_\_\_ of the \_\_\_\_\_ of \_\_\_\_\_, at a regular meeting thereof assembled this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by the following vote:

AYES:

NAYS:

ABSENT:

(Seal) Clerk's Signature: \_\_\_\_\_

Clerk's Title: Town Clerk

Date: \_\_\_\_\_

**SUGGESTED AFFIRMATIVE STATEMENT FOR AMENDMENT OF THE  
VANTAGECARE RETIREMENT HEALTH SAVINGS (RHS) PROGRAM**

Plan Number: 801313

Name of Employer: Town of Kennebunkport State: Maine

Affirmative Statement of the above-named Employer (the "Employer"):

WHEREAS, the Employer has employees rendering valuable services; and

WHEREAS, the amendment of its existing retiree health savings plan serves the interests of the Employer and its Employees; and

NOW THEREFORE, as a duly authorized agent of the Employer, I hereby:

AMEND the Employer's Plan in the form of the ICMA Retirement Corporation's VantageCare Retirement Health Savings program.

DATE: \_\_\_\_\_

Town Manager

\_\_\_\_\_  
Title of Designated Agent

\_\_\_\_\_  
Signature

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# AGENDA ITEM DIVIDER

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**Memorandum**

To: Board of Selectmen

Fr: Laurie Smith, Town Manager

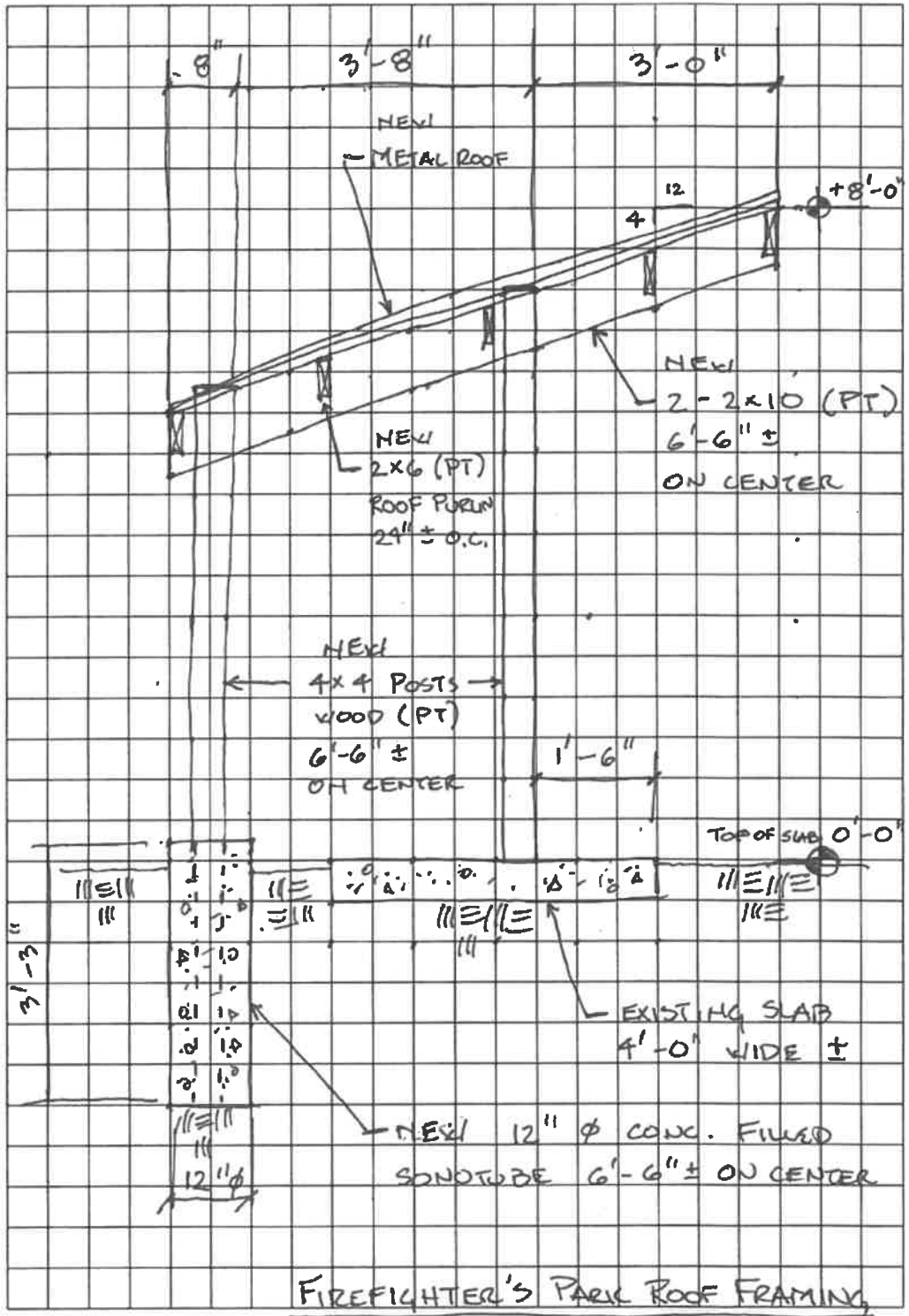
Re: Use of Contingency Funds for construction in Firefighter's Park

Dt: October 25, 2021

At the last Selectmen's Meeting the question of a roof covering for the Cape Porpoise mailboxes in Firefighter's Park was brought forward. Staff have designed a solution and estimated costs at approximately \$5,336. Attached please find the design and details on the cost estimate.

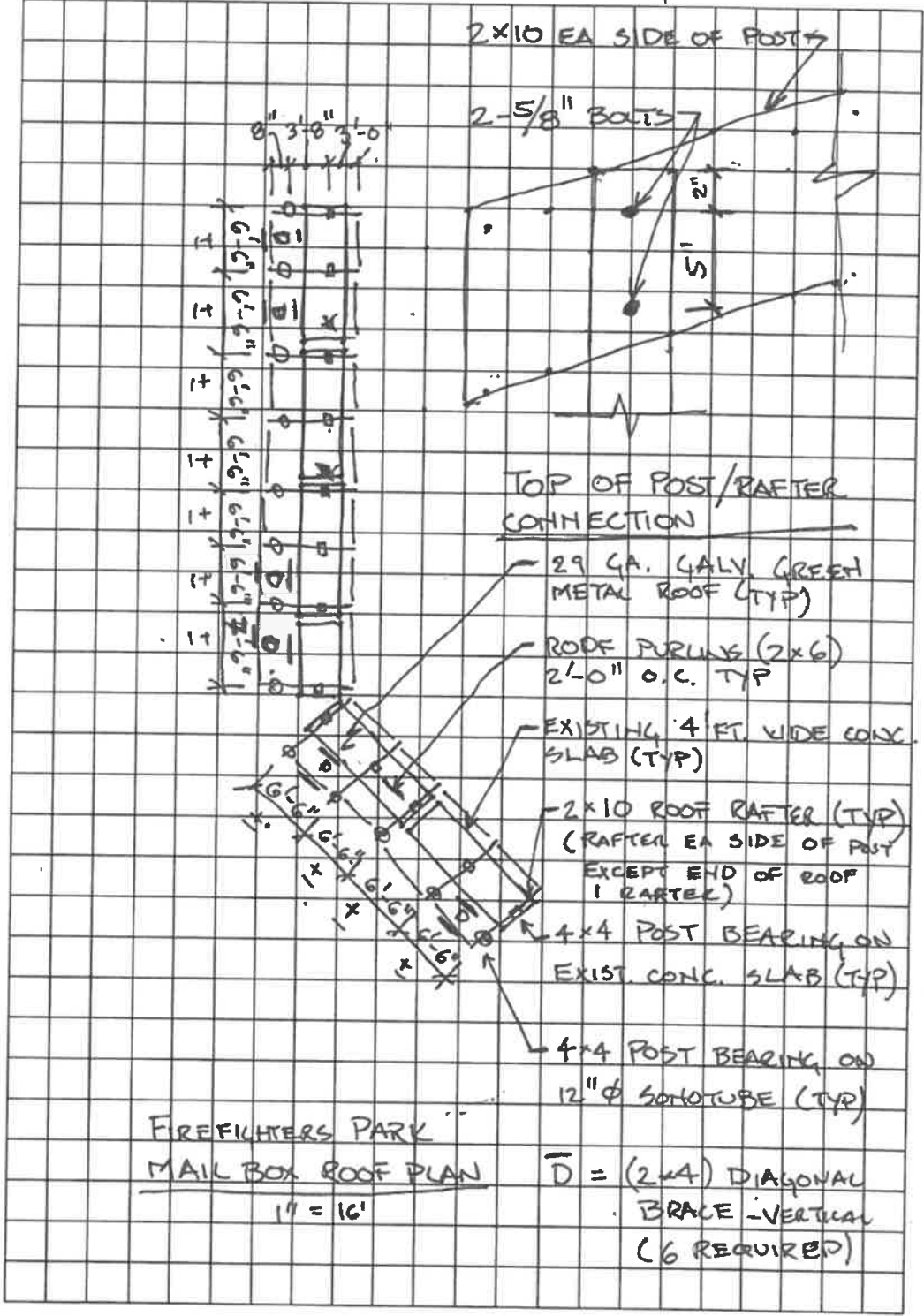
Staff is seeking authorization for the use of Selectmen contingency funds for the purchase of materials and installation of the roof.

Item	Quantity	Unit Price	Cost
Yards - 4000 psi Concrete	2	\$ 121	\$ 242
Concrete Short Load Charge	1	\$ 180	\$ 180
12" diameter x 4 ft. sonotube	13	\$ 14	\$ 182
PT 2 x 10 x 16 ft.	13	\$ 29	\$ 377
PT 2 x 6 x 16 ft.	28	\$ 15	\$ 420
PT 4 x 4 x 16 ft.	13	\$ 22	\$ 286
5/8 x 10" Galv. Carriage bolt (10 Pack)	6	\$ 50	\$ 300
5/8 nut Galv (Box 50)	2	\$ 26	\$ 52
2 x 6 joist hanger Simpson Z Max 18 ga.	120	\$ 1	\$ 120
Simpson Strong Tie #10 x 1.5" SD screws (100 Pack)	6	\$ 14	\$ 84
Simpson 4 x 4 E-Z Post Base	26	\$ 23	\$ 598
Simpson Wedge All 3/8 x 3 Exp. Anchors (Box 50)	2	\$ 46	\$ 92
3 ft x 8 ft coverage 29 ga Galv. Metal Roof Green	50	\$ 35	\$ 1,750
Teks Roof Screws #9 x 1.5" (Box 100)	4	\$ 42	\$ 168
10% Contingency			\$ 485
<b>Total (Materials)</b>			<b>\$ 5,336</b>



1/2" = 1'-0"

1" = 2'-0"



2x10 EA SIDE OF POSTS

2-5/8" BATS

TOP OF POST/RAFTER CONNECTION

29 GA. GALV. GREEN METAL ROOF (TYP)

ROOF PURLINS (2x6) 2'-0" O.C. TYP

EXISTING 4 FT. WIDE CONC. SLAB (TYP)

2x10 ROOF RAFTER (TYP) (RAFTER EA SIDE OF POST EXCEPT END OF ROOF 1 RAFTER)

4x4 POST BEARING ON EXIST. CONC. SLAB (TYP)

4x4 POST BEARING ON 12" Ø SONOTUBE (TYP)

FIREFIGHTERS PARK MAIL BOX ROOF PLAN

1" = 16'

D = (2x4) DIAGONAL BRACE - VERTICAL (6 REQUIRED)

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# AGENDA ITEM DIVIDER

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## TOWN OF KENNEBUNKPORT, MAINE

~ INCORPORATED 1653 ~

October 25<sup>th</sup> 2021

Memo: Re: Setback Violation 43 Mills Rd

From: Werner Gilliam, CFM Director of Planning and Development

To: Laurie Smith, Town Manager

Recently I received information regarding a setback violation for a garage that was constructed in 2010/12 at 43 Mills Rd. The current property owner wishes to resolve the issue via a Nov/Consent agreement process. My research has found that the garage addition was permitted in 2010. A review of the construction documents revealed that the plot plan and building plans did not match each other leading to a discrepancy. The permit was issued and property owner at the time built according to submitted building plans. Following the construction of the garage in 2012 a permit was issued to construct an accessory apartment within the garage addition. The accessory apartment received a certificate of occupancy. Based on a review of these facts I do not have any objection with the proposed consent agreement that has been reviewed and approved by the town attorney provided that all associated legal fees are paid by the property owner related to the resolution of this matter.

*Werner Gilliam*

Director of Planning and Development

Town of Kennebunkport

STATE OF MAINE  
COUNTY OF YORK

DISTRICT COURT  
LOCATION: BIDDEFORD  
CIVIL ACTION  
DOCKET NO. \_\_\_\_\_

**THE INHABITANTS OF THE TOWN OF  
KENNEBUNKPORT,**

A Municipal Corporation Organized Under the  
Laws of the State of Maine,

Plaintiff

v.

**POPO, LLC,**

A Maine Limited Liability Company, of  
Kennebunkport, Maine

Defendant

**LAND USE CITATION AND  
COMPLAINT**

Pursuant to M.R.Civ.P. 80K

NOW COMES the Plaintiff, the Town of Kennebunkport and makes the following  
complaint against the Defendant Popo, LLC, pursuant to Rule 80K of the Maine Rules of Civil  
Procedure:

**1. LOCATION OF VIOLATION:**

43 Mills Road  
Kennebunkport, Maine  
Tax Map 22, Block 7, Lot 4A

**1A. NAME AND ADDRESS OF DEFENDANT:**

Popo, LLC  
c/o Jeffrey S. Zdunczyk, Esq.  
Woodman, Edmands, Danylik, Austin Smith &  
Jacques, P.A.  
234 Main Street  
P.O. Box 468  
Biddeford, ME 04005

**1B. RECORD OWNER:**

Popo, LLC, by virtue of a deed from James R. Milburn and Nancy H. Milburn dated June 30, 2017 and recorded in the York County Registry of Deeds in Book 17507, Page 214.

**2. HISTORY OF VIOLATION:**

On November 16, 2010, the Defendant's predecessors in title, the Milburns, obtained a building permit to construct an addition to the existing house at 43 Mills Road in Kennebunkport, Maine, namely, to build a 28'8" x 35' garage, as well as a porch and deck. A copy of the building permit issued, together with pre-construction plot plans, are attached as Exhibit "A". On June 10, 2011, the Milburns obtained a second building permit to add an accessory apartment to the unfinished space above the garage. A copy of the building permit issued is attached as Exhibit "B". The Town of Kennebunkport issued a Certificate of Use and Occupancy for the garage and for the accessory apartment on July 17, 2012, a copy of which is attached as Exhibit "C".

**3. DESCRIPTION OF VIOLATION/SUMMARY OF LAW VIOLATED:**

Violation of Article 4, Section 240-4.9, Zone Regulations of the Kennebunkport Land Use Ordinance. The Defendant's property contains a single family dwelling and is located within the Cape Porpoise East Zone. Section 240-4.9 of the Ordinance requires a 15-foot side setback. A mortgage inspection plan done by Livingston-Hughes on September 17, 2021, disclosed the side setback from the northeast corner of the garage to be approximately thirteen (13) feet, which is therefore in violation of the setback requirement. A copy of the mortgage inspection plan is attached as Exhibit "D". A copy of the Table of Dimensional Requirements from the Kennebunkport Land Use Ordinance is attached hereto as Exhibit "E".

**4. PENALTIES FOR VIOLATION:**



Penalties are as governed by 30-A M.R.S.A. §4452.

**5. DATE OF COURT APPEARANCE:**

\_\_\_\_\_, \_\_\_\_\_ 2021 at \_\_\_\_\_ a.m./p.m. at the Biddeford  
District Court.

NOTE: IF YOU DO NOT APPEAR IN COURT ON THE DATE SPECIFIED  
ABOVE, A JUDGMENT BY DEFAULT MAY BE RENDERED AGAINST  
YOU.

**6. NAME OF COMPLAINANT/TITLE:**

Werner Gilliam, Director of Planning and Development, Town of Kennebunkport.

**7. SIGNATURE OF COMPLAINANT:**

**Dated:** \_\_\_\_\_, 2021

\_\_\_\_\_  
**Werner Gilliam, Director of Planning and  
Development**

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# AGENDA ITEM DIVIDER

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- **October 4, 2021** –Applications sent to social service agencies.
- **October 28, 2021** – Board of Selectmen to review proposed budget development schedule and *submit priorities and special requests*.
- **November 12, 2021** - Social service agency requests are due.
- **December 1, 2021** –Budget worksheets sent to all departments *and* Trio budget module opens for entries.
- **December 3, 2021** – Forward all social service agency requests to the Budget Board subcommittee.
- **December 3, 2021** - Budget requests sent to all committees and outside agencies.
- **December 22, 2021** – CIP documents due to Town Manager.
- **January 3, 2022** – (Monday) All budget requests must be submitted to Finance by noon.
- **January 10, 2022** – (Monday) Budget Board social service agency recommendations are given to Town Manager.
- **January 13, 2022** (Thursday @ 6:00 PM) – Capital discussion at regular Board of Selectmen meeting.
- **January 18, 2022** (Week of) - Town Manager meets with all departments.
- **January 31, 2022** (Week of) - Town Manager has follow-up meetings with all departments.
- **February 25, 2022** (Friday) - Town manager submits capital and operating budget to the Board of Selectmen and Budget Board. THIS IS NOT A MEETING. It is a deadline for submitting information.†
- **March 3, 2022 (Thursday @ 6:00 PM)** – JOINT MEETING - **Budget Board will meet at 5:30 PM to elect officers**. Town Manager and department directors present overview and department operational budgets to the Board of Selectmen. The Budget Board will attend the meeting to hear all requests.
- **March 10, 2022 (Thursday @ 6:00 PM)** –JOINT MEETING – Presentation of remaining department operational budgets to the Board of Selectmen. The Budget Board will attend the meeting to hear all requests. (Regular Board of Selectman Meeting to follow.)
- **March 17, 2022 (Thursday @ 6:00 PM)** – JOINT MEETING - Presentation of department capital, town committee, outside agency, and social service requests. The Budget Board will attend the meeting to hear all requests.
- **March 24, 2022 (Thursday @ 6:00 PM)** – SELECTMEN meet to review final budgets and take all recommendation votes. (Regular Board of Selectman Meeting to follow.)
- **March 25, 2022** (Friday) – All budget changes due to Budget Board.
- **March 31, 2022 (Thursday @ 6:00 PM)** – BUDGET BOARD meets to review final budgets and take all recommendation votes.
- **April 7, 2022 (Thursday @ 6:00 PM)** – JOINT MEETING – *if necessary* – Last chance to make any adjustments in the budget or their recommendations. (Regular Board of Selectman Meeting to follow.)

- **April 15, 2022** – (Friday) Submit town report version of the budget to Tracey.
- **April 14, 2022 (Thursday @ 6:00 PM)** – Board of Selectmen meeting to sign the warrant (Last possible day to sign will be April 28<sup>th</sup>).
- **May 23, 2022** (Week of) – Distribution of town reports.
- **June 14, 2022** (Tuesday) - Annual town meeting – election of officers.
- **June 18, 2022** (Saturday) - Annual town meeting – Consolidated School.

***Thank you for your hard work and dedication toward another successful budget cycle!***