

TOWN OF KENNEBUNKPORT, MAINE

—INCORPORATED 1653—

**Board of Selectmen Agenda
September 26, 2019
6:00 PM
Village Fire Station—32 North Street**

1. Call to Order.
2. Approve the September 12, 2019, 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. Consider request to make Grandview Avenue a one-way street, running from Ocean Avenue to South Main St.
5. Update on Ocean Avenue Seawall project.
6. Request to support recycling legislation and authorize petition.
7. Establishment of a Parks and Recreation Committee.
8. Consider agent fee increase for motor vehicle registrations, effective October 1, 2019.
9. Other Business.
10. Approve the September 26, 2019, Treasurer's Warrant.
11. Adjournment.

**Board of Selectmen Meeting
September 12, 2019
5:00 PM
Village Fire Station—32 North Street**

Minutes of the Selectmen's Meeting of September 12, 2019

Selectmen Attending: Patrick A. Briggs, Allen Daggett, Edward Hutchins, Sheila Matthews-Bull

Others: Werner Gilliam, Stefan Kuenzel, Arlene McMurray, Tracey O'Roak, Stephen Powell, Chris Simeoni, Harrison Small, Laurie Smith

1. Call to Order.

Chair Daggett called the meeting to order at 5:13 PM.

**2. Executive Session at 5:30 PM to discuss MRSA 1, Section 405 6E -
Consultations between a body or agency and its attorney concerning the
legal rights and duties of the body.**

Motion by Selectman Matthews-Bull, seconded by Selectman Briggs, to go into executive session per MRSA 1, Section 405 6E. **Vote:** 4-0.

The Board went into executive session at 5:13 PM.

Motion by Selectman Hutchins, seconded by Selectman Briggs to come out of executive session. **Vote:** 4-0.

The Board came out of executive session at 5:40 PM.

Chair Daggett announced that the Board received a legal letter from Woodman Edmans Danylik, Austin, Smith and Jacques, P.A., Attorneys-At-Law, concerning 48 Langsford Road (rear lot) construction of walkway on deeded right of way. He said the plan is to discuss this with the Town attorney in executive session.

Selectman Hutchins said his family owns an adjacent parcel to this property, so he is recusing himself from voting as a member of the Board of Selectmen but is able to discuss this as a private citizen with the Planning Board.

Motion by Selectman Matthews-Bull, seconded by Selectman Briggs to go into executive session per MRSA 1, Section 405 6E - Consultations between a body or agency and its attorney concerning the legal rights and duties of the body. **Vote:** 3-0-1/Selectman Hutchins recused himself due to conflict of interest.

The Board went into executive session at 5:45PM and came back out at 6:30 PM.

No action was taken.

3. Approve the August 22, 2019, selectmen meeting minutes.

Motion by Selectman Matthews-Bull, seconded by Selectman Hutchins to approve the August 22, 2019, selectmen meeting minutes. **Vote:** 4-0.

4. Public Forum (This is an opportunity for anyone who wants to address the Board of Selectmen with any issue that is not on the agenda.)

There were no comments.

5. Sign the November 5, 2019, Special Town Meeting Warrant.

Town Clerk Tracey O'Roak announced that they must hold a Special Town Meeting to replace Stuart Barwise, who resigned as Selectman. There are two candidates running, D. Michael Weston and Charlie Sullivan.

6. Follow up discussion on pick up and delivery of kayaks on Jefferey's Way.

Chair Daggett said this has been reviewed by the town attorney and the Land Use Ordinance prohibits conducting business on public streets.

Stefan Kuenzel said the Parking Ordinance grants exceptions.

Chair Daggett said the Board can only grant permission for three days. Selectman Hutchins added that ordinance changes must be voted on at town meeting.

7. Consider request to make Grandview Avenue a one-way street, running from Ocean Avenue to South Main St.

The interested party were not able to attend this meeting so the Board will take this up at the next meeting.

8. Update from Assessing on the Market Sales Analysis.

Director of Planning and Development Werner Gilliam said several Requests for Proposals (RFP's) were sent out. The deadline for RFP's is September 20. The review process will begin with interviews scheduled on October 1. They anticipate the project starting in December and continuing through spring. The goal is to have revised values to property owners sometime in May.

9. Consider a street opening permit for Habitat for Humanity, 36 Mills Rd for sewer.

Motion by Selectman Hutchins, seconded by Selectman Briggs, to approve the street opening permit for Habitat for Humanity, 36 Mills Rd for sewer. **Vote:** 4-0.

10. Consider street opening permit for Dino Spugnardi, 26 Windemere Place, for new water service.

There is no way to get water service, but Deputy Director of Public Works Chris Simeoni explained a new alternative. The initial permit request was to dig into the Town right of way, but it was for service that ran parallel to the road. The new request will cross the newly paved Ocean Avenue for service. The homeowner was told that the Board of Selectmen would require a full grind and repaving for 50' of the road.

Motion by Selectman Matthews-Bull, seconded by Selectman Briggs, to approve the street opening permit for Dino Spugnardi, 26 Windemere Place, for new water service. **Vote:** 3-1/Selectman Hutchins opposed due to the moratorium on digging up the road.

11. Award the FY20 salt bids.

Mr. Simeoni explained the salt bids. He recommends awarding the salt bid to Morton Salt at a cost of \$56.16 delivered per ton.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to award the purchase of sodium chloride from Morton Salt at a cost of \$56.16 delivered per ton. **Vote:** 4-0.

12. Update on FEMA flood map appeal.

Mr. Gilliam reported that the Town of Kennebunkport along with other communities involved in the joint project appealed the FEMA flood map. He explained that FEMA denied the appeal due to "a critical error in the engineering analysis provided with the submittal." He added that FEMA did not follow its usual process. They usually have a consultation with the community. He said the next step is to request a scientific resolution panel.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to proceed with a scientific resolution panel. **Vote:** 4-0.

13. Accept a \$250 donation from Cynthia Daley to the nurses general account.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to accept a \$250 donation from Cynthia Daley to the nurses general account. **Vote:** 4-0.

14. Other Business.

Town Manager Laurie Smith said an individual came into her office who was late in

paying taxes and asked about having a grace period. She said she confirmed with MMA that the Board of Selectmen could change the due date. The Board did not wish to change the due date for taxes.

Ms. Smith said the Growth Planning Committee survey showed that important concerns with residents are the environment, energy efficiency, and planning for the rise in sea levels. She and Mr. Gilliam have been meeting with five other towns: Kittery, York, Wells, Kennebunk, and Ogunquit to discuss energy efficiency, carbon footprint impacts, and climate resiliency. They may be able to leverage a \$150,000 grant. The Southern Maine Planning Committee Development Commission (SMPCDC) will write a letter that the Board can consider in October for funding this in January and to put it in the Town's budget process. The Board is supportive.

Selectman Briggs invited the Board to attend KEMS's 40th anniversary on September 15 from 11 AM to 2:00 PM. He said there will be food provided from Ned's Bakes and BBQs.

Ms. Smith announced the Chalk the 'Port event for September 13 and 14. She said there are lots of activities such as a 5 K run, pancake breakfast, a band at night, beer tent, etc. The proceeds benefit the Parks and Recreation Department Scholarship Fund.

15. Approve the September 12, 2019, Treasurer's Warrant.

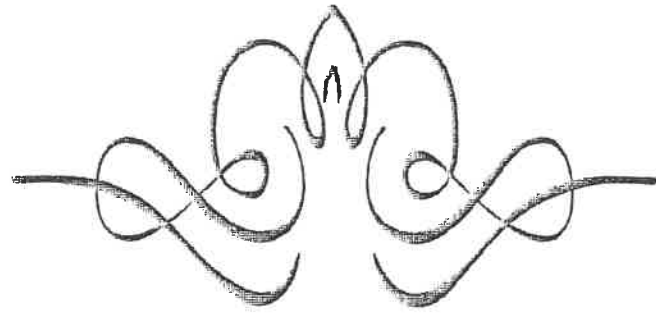
Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to approve the September 12, 2019, Treasurer's Warrant. **Vote:** 4-0.

16. Adjournment.

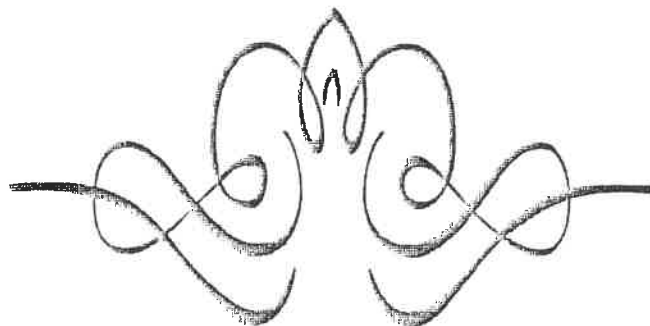
Motion by Selectman Hutchins, seconded by Selectman Briggs, to adjourn. **Vote:** 4-0.

The meeting adjourned at 7:03 PM.

Submitted by Arlene McMurray
Administrative Assistant



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WOODMAN EDMANDS DANYLIK AUSTIN
SMITH & JACQUES, P.A.

ATTORNEYS-AT-LAW

ROBERT B. WOODMAN
THOMAS DANYLIK
RALPH W. AUSTIN
JAMES B. SMITH
KEITH R. JACQUES
MICHAEL J. O'TOOLE
HARRY B. CENTER II
SANDRA L. GUAY
AMY McNALLY

234 MAIN STREET
P.O. BOX 468
BIDDEFORD, ME 04005-0468
TELEPHONE: 207-284-4581
FAX: 207-284-2078
E-MAIL: RWA@woodedlaw.com

PETER L. EDMANDS
(Retired)

August 23, 2019

Laurie A. Smith, Town Manager
Town of Kennebunkport
P.O. Box 566
Kennebunkport, Maine 04046

RE: Grandview Avenue

Dear Laurie:

I represent Andrew Barowsky, who owns two properties on Grandview Avenue: 4 Grandview (Four Grandview, LLC) and 47 South Main Street (Phillips Trust). Both properties are shown on the enclosed tax map.

Grandview Avenue, as you may know, is a one-block street running from Ocean Avenue to South Main Street. Andy and all of the other residents on Grandview Avenue have asked me to contact you and other Town officials, to see if Grandview Avenue could be made a one-way street, running from Ocean Avenue to South Main Street. Because the Kennebunk River Club is located on both sides of Grandview, there is concern about safety to children with two-way traffic on that street. In addition, the turn from South Main onto Grandview is a difficult, very tight turn to make, both from the left and from the right, creating further safety issues. Buses and trucks attempting to make these turns have in the past caused property damage.

As you know, East Avenue (one road from Grandview Avenue) is a one-way street in the opposite direction. Making Grandview one-way running from Ocean Avenue to South Main would fit with that traffic pattern.

**WOODMAN EDMANDS DANYLIK AUSTIN
SMITH & JACQUES, P.A.**

Laurie A. Smith, Town Manager

August 23, 2019

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In addition to Andy Barowsky (4 Grandview and 47 South Main), other property owners which join in this request are the Kennebunk River Club (6 Grandview and 116 Ocean Avenue); Eleven Grandview, LLC/Stapleton (11 Grandview); Mark Lamarre (50 South Main); and Linda Klein (2 Grandview). These properties are also noted on the tax map. As you can see, 100% of the property owners on Grandview Avenue are in favor of this change.

I am copying Mike Claus (Director of Public Works) as well as Chief Sanford of the Police Department. I would appreciate your consideration of this request. Please let me know if you have any questions in this regard. Thank you very much.

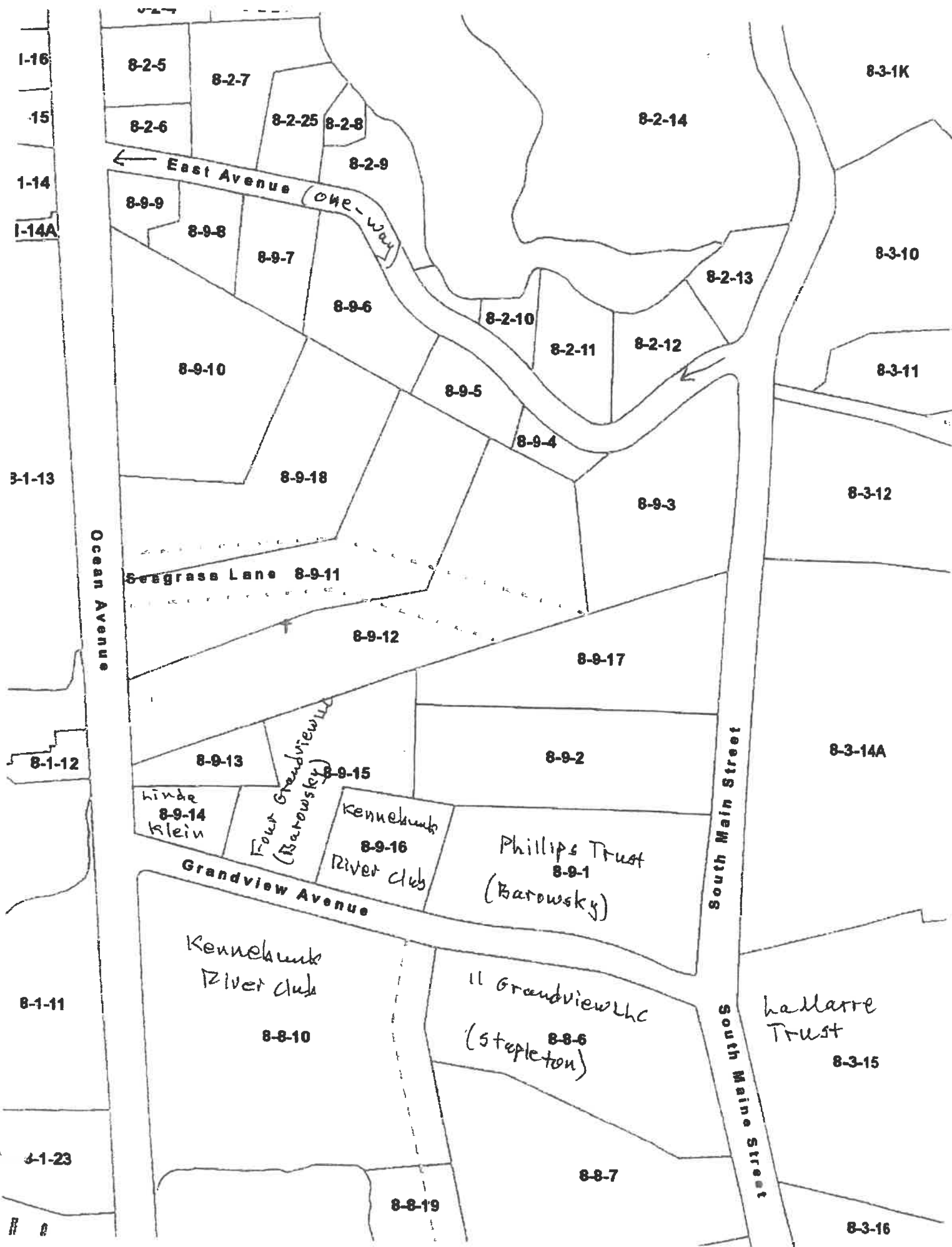
Sincerely,



RALPH W. AUSTIN

RWA/cac

cc: Michael W. Claus
Chief Craig A. Sanford
Andrew Barowsky





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TOWN OF KENNEBUNKPORT, MAINE

~ INCORPORATED 1653 ~

MAINE'S FINEST RESORT

Memorandum

To: Laurie Smith, Town Manager
From: Michael Claus, Public Works Director
Date: September 19, 2019
Re: Ocean Avenue Seawall Update

Mike W. Claus

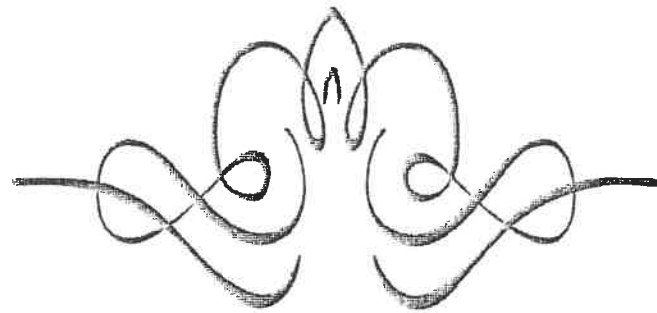
We have been working with Shaw Brothers on changes to the retaining wall configuration due to substitution of a steel bridge rail system for a solid concrete guardrail. We have not approved retaining wall shop drawings until we have a cost on the contract modification for this change. The delay in approving the shop drawings has delayed the construction work on this project until the spring of 2020. Shaw Brothers plans to do the construction work on this project starting as weather allows in February or March and completing the project before Memorial Day in 2020. Shaw Brother has agreed to a no cost change in construction schedule. I will recommend to the Board of Selectmen that Shaw Brothers be given a waiver of posted road requirements on Ocean Avenue between Dock Square and Colony Avenue during their construction period.

As part of the shop drawing review process Woodard and Curran noted that Shaw Brothers wall design exceeded the allowable soil bearing pressures in the contract documents. Shaw Brothers revised and resubmitted their drawings to include removal and replacement of poor soils beneath the proposed walls based on the review and recommendations of Haley and Aldrich, the Geotechnical Engineer who had done the 2009 soil investigation. Due to the marine clay present in areas of the construction project, Woodard and Curran asked that we budget for 4 site visits for the geotechnical engineer during construction to verify that no additional poor subgrade needed to be removed.

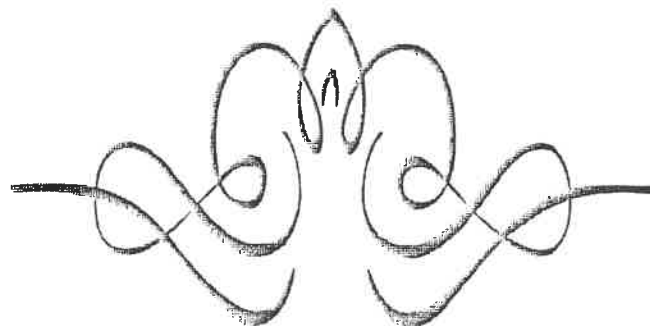
Projects costs associated with the change in railings and poor subgrade conditions are as follows:

Woodard and Curran – Additional railing coordination work:	\$6,000
Haley and Aldrich – Review wall design and subsurface soil issues:	\$5,000
Shaw Brothers – Cost of subgrade work below Elev. 0'-0" per contract:	\$21,150
Woodard and Curran – Additional railing design work:	\$10,000
Haley and Aldrich – Geotechnical work during construction:	\$10,000
Shaw Brothers – Cost of new bridge rail:	\$113,498
Shaw Brothers – Credit for no handrail and lower concrete wall height:	(\$46,868)

These costs put the project \$16,280 over our \$1,000,000 bond amount for the project. The cost for transitions and handrails in front of the River Club and Rinaldi residence would be an additional cost to the project and is not included above. Shaw Brothers is investigating whether there is a cost savings for installing the bridge rail themselves instead of utilizing a subcontractor but has not finalized their costs on that option at this time.



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TOWN OF KENNEBUNKPORT, MAINE

~ INCORPORATED 1653 ~

MAINE'S FINEST RESORT

Memorandum

To: Board of Selectmen
From: Solid Waste Committee
Date: September 20, 2019
Re: Adoption of a resolution in support of developing an "Extended Producer Responsibility for Packaging" law

In March of this year, Legislative Document No. 1431 directed Maine's Department of Environmental Protection (DEP) to develop proposed legislation to establish a "product stewardship program" that requires producers of packaging materials to assist Maine municipalities in managing and financing packaging waste disposal and recycling programs. To strengthen recycling markets, the legislation is also required to incentivize package producers to design and create packaging materials that are recyclable, and/or, consist of recycled content. The directive gives DEP until December 16, 2019, to propose legislation to the Joint Standing Committee on Environment and Natural Resources (Joint Standing Committee). In support of these efforts, the Natural Resource Council of Maine (NRCM) is asking municipalities across the state to adopt the attached petition. Petitions from the individual Municipalities will then be compiled and submitted to the Joint Standing Committee as they consider DEP's proposed legislation in winter and spring of 2020.

By a unanimous vote, the Solid Waste Committee, responding to its charter to investigate and recommend actions associated with recycling and solid waste disposal for the Town of Kennebunkport, is requesting that the Board of Selectman adopt the attached resolution and provide an official copy to the Maine DEP and NRCM for submission to the Joint Standing Committee.

It's important to note that the Maine Municipal Association has come out in support of legislation developed in response to LD 1431 as a means of alleviating the burdens placed on municipalities (and property taxpayers) to manage solid waste.

From a policy perspective, the proponents of such legislation believe that product stewardship programs appropriately shift disposal costs onto manufacturers and, if implemented, could provide the incentives necessary to reduce the amount of product packaging or encourage the use of more easily recycled materials.

The Solid Waste Committee understands that nothing comes for free; and that a portion of the additional cost to the manufacturers and distributors will undoubtedly be moved onto the consumer. However, we believe that competitive pressures will minimize the increased costs and provide a positive incentive for industry to be more environmentally responsible. This legislation may also provide funding for our recycling education efforts to make residents aware of what materials are recyclable and help lower our town wide solid waste costs.



TOWN OF KENNEBUNKPORT, MAINE

~ INCORPORATED 1653 ~

MAINE'S FINEST RESORT

Whereas, Maine's communities are struggling to maintain, expand, and in some cases are eliminating, recycling programs due to rising costs and difficult-to-manage materials; and

Whereas, product packaging, which includes plastic, metal, glass, and cardboard, constitutes approximately 30-40% of the materials managed by weight in Maine's municipal waste management programs; and

Whereas, Maine taxpayers currently unfairly bear 100% of the cost and pay an estimated \$16 million to \$17 million each year to finance the management of this material through fragmented and increasingly expensive disposal or recycling options; and

Whereas, producers of product packaging have little incentive to minimize wasteful packaging or increase access to recycling; and there is no organized coordination between the producers of packaging and municipalities that are responsible for disposing of or recycling the packaging materials; and

Whereas, producers of product packaging have taken some or all responsibility for the management of post-consumer packaging in other parts of the world, including all European Union member states and five provinces in Canada, and, as a result, have greatly increased recycling rates, expanded infrastructure investment, created jobs, and reduced taxpayer costs;

Now, Therefore Be It Resolved,

We, the Town of Kennebunkport, Maine, support an Extended Producer Responsibility (EPR) for Packaging law as endorsed by the Legislature in 2019 through the passage of the Resolve, To Support Municipal Recycling Programs (LD 1431). We believe that this policy will work to make recycling in Maine:

More effective: Producers of packaging materials would have a direct economic incentive to produce less-wasteful packaging that can easily and profitably be managed by municipal recycling programs. Having shared responsibility between those who create the waste and those who manage the waste would foster recycling system improvements and enable greater participation in recycling across Maine;

More sustainable: An EPR law for packaging is an insurance policy for Maine municipalities when global recycling markets are unfavorable. The current approach to recycling is not resilient to fluctuations in the global recycling market. When commodity

Adoption of a resolution in support of developing an “Extended Producer Responsibility for Packaging” law

prices fall unexpectedly, towns and cities may be forced stop or restrict their programs; and

More equitable: Maine’s cities, towns, and taxpayers are currently footing the bill for a problem they didn’t create. With recycling reform, taxpayers will no longer pay for the cost of recycling since the net costs of recycling would be reimbursed—and the packaging manufacturers that produce less wasteful, more recyclable packaging would pay less than those who do not. This is a much more equitable way to distribute costs.

Resolved:

Selectmen: _____

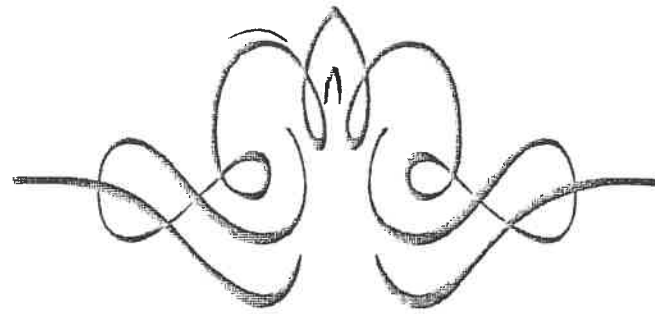
Selectmen: _____

Selectmen: _____

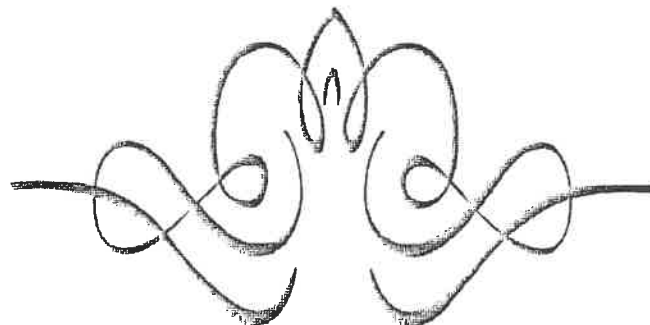
Selectmen: _____

Selectmen: _____

Date Resolved: _____



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MEMO

To: Board of Selectmen

Fr: Carol Cook, Director of Parks and Recreation

Re: Mission and Duties of Kennebunkport Recreation Committee

Dt: September 23, 2019

The mission of the Kennebunkport Recreation Department is to create diverse recreational opportunities to increase the social, cultural, mental, and physical well-being of its residents and visitors.

Further Clarification of Mission:

Therefore, the mission of the Kennebunkport Rec Committee is threefold:

1. The Rec Committee is responsible for assisting the Rec staff in formulating ideas for as well as implementing Rec programs, community events, and classes based on the perceived needs of the community.
2. The Committee will act as an advocate and a liaison for the Rec department within the community and help with recruiting volunteers for Rec programs and events.
3. The Committee shall be charged with the assessment and enhancement of Kennebunkport's public recreation facilities in response to the community's needs and priorities. It will work with the Department of Parks and Recreation to help develop a long-range plan of facilities.

ADMINISTRATIVE CODE

4.13 RECREATION COMMITTEE

4.13.1 Composition

The Recreation Committee shall consist of five or more members.

4.13.2 Appointment

The Board of Selectmen shall appoint the members of the Recreation Committee.

4.13.3 Terms

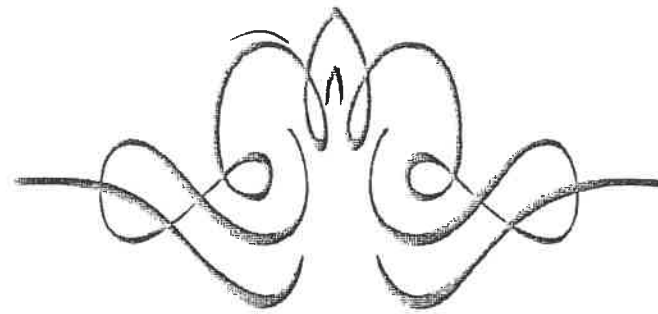
All members of the committee will serve two-year terms.

4.13.4 Organization

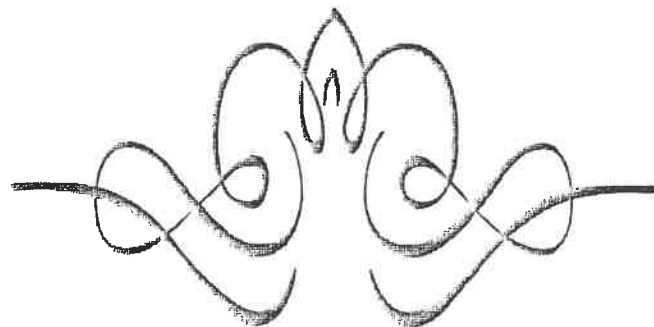
The members of the Recreation Committee shall elect annually from its membership a chairman, vice-chairman, secretary and treasurer.

4.13.5 Duties

The Recreation Committee shall be charged with the assessment and enhancement of Kennebunkport's public recreation facilities in response to the community's needs and priorities. It will work with the Department of Parks and Recreation to help develop a long range plan of facilities.



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KENNEBUNKPORT TOWN CLERK

To: Laurie Smith, Town Manager
Board of Selectmen

From: Tracey O'Roak

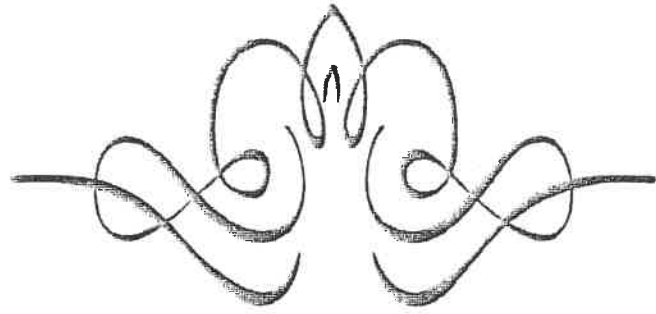
Date: September 19, 2019

Re: Increase of Municipal Agent Fees for Vehicle Registrations

State Law has increased the fees that municipal agents may charge from \$3 to \$5 for each vehicle *renewal* and from \$4 to \$6 for each *new* registration issued.

As another challenging budget year approaches, the additional revenue will help offset the tax rate. There hasn't been an agent fee increase in many years while the cost of processing registrations has continued to grow with the increase of supply expenses (printers, toner, etc.). Vehicle registrations are the most labor-intensive transactions that our office processes. Each renewal takes an average of five minutes while a new vehicle can take up to 20-25 minutes.

For these reasons, I recommend that the Board of Selectmen vote to approve the increase of fees as of October 1, 2019 to stay consistent with State law.



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