

**Town of Kennebunkport
Board of Selectmen Meeting
April 6, 2020 – 5:00 PM
VIRTUAL MEETING (via Zoom)**

Minutes of the Selectmen's Meeting of April 6, 2020

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

Others: Tom Adler, Tom Boak, Michael Davis, David James, Jen Lord, Arlene McMurray,
Laurie Smith, Rick Roberge, Police Chief Craig Sanford, and others

1. Call to Order.

Chair Daggett called the Zoom meeting to order at 5:00 PM. He took **roll call** of the Selectmen attending: Briggs, Daggett, Matthews-Bull, Hutchins, and Weston. He explained how people could join the meeting using the Zoom conferencing format and discussed the ground rules.

2. Discussion of Social Distancing Compliance in public spaces.

Police Chief Craig Sanford gave an update on how things are going.

Chief Sanford stated there were some hiccups from Friday afternoon into Saturday. He said there was lots of traffic at Goose Rocks Beach and while most people followed the executive orders, there were quite a few not following. As a result, they limited parking at GSRB. Police monitored that area Sunday and Monday, and it seemed to work very well.

At Cape Porpoise Pier, he said there were a few issues. Lobstermen were trying to sell lobsters and people were crowding around and needed to be reminded about social distancing. A lot of lobstermen were out Monday because it was the first good weather.

At Colony Beach, surfers and other recreational folks parked at Colony Beach and were entering the water and going to Kennebunk and violating their restrictions. So, parking was removed, and things have improved the last few days.

Selectman Weston said he had been over there twice a day and things are looking good at Goose Rocks Beach and Colony Beach.

Chair Daggett thinks it is working well by eliminating the parking and still keeping the beach open.

There was only one incident Monday, April 6. Chief Sanford said he was monitoring the beach and someone reported to him that there were people on the beach at Goose Rocks. He found people from Illinois, on the beach sitting in beach chairs eating their lunch. He informed them of the executive order and that they needed to be quarantined for 14 days. They did not have a house here, and said they often stay at the Tides Inn, but the Tides Inn was closed.

3. Consider adoption of Emergency Paid Sick Leave Policy.

Town Manager Laurie Smith explained the policy. See Exhibit A.

Selectman Hutchins pointed out a typo under Compensation during EPSL. The second sentence should be "An employee taking leave because he or she is caring for someone else under quarantine, because the employee's child's school or daycare is closed, or because the employee is experiencing symptoms specified by the Secretary (4-6 above) will be paid up to two-thirds of their regular base rate of pay, up to \$200 per day (up to \$2,000 total)."

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to adopt the Emergency Paid Sick Leave Policy with the correction. **Roll Call Vote:** Briggs, Daggett, Matthews-Bull, Hutchins, and Weston. **Voted:** 5-0. **Motion passed.**

4. Consider adoption of COVID-19 FMLA expansion.

Ms. Smith explained that the Family and Medical Leave Act (FMLA) expanded in relation to COVID-19. See Exhibit B.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to adopt the COVID-19 FMLA expansion. **Roll Call Vote:** Briggs, Daggett, Matthews-Bull, Hutchins, and Weston. **Voted:** 5-0. **Motion passed.**

5. Other Business.

Selectman Matthews-Bull announced that she received a phone call from Chris Audley. Although he is still in Louisiana, he wanted to thank everyone for keeping the Town safe.

Ms. Smith said the Planning Board is a quasi-judicial board which must hold public hearings. She spoke with Director of Planning and Development Werner Gilliam and there is concern that if they have the public hearings and there is a misstep, it could cause challenges. Since everything is uncertain at the moment, she wanted to make the Board aware that the process to hold a public hearing would take up to three weeks to set up. She is meeting again with Mr. Gilliam and will get more feedback.

Ms. Smith said regarding the budget development process, they could either wait and enter into July with the current budget, or adopt a new budget. The Board agreed to hold off on the budget process and see what happens.

6. Adjournment.

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

The meeting adjourned at 5:25 PM.

Submitted by Arlene McMurray, Administrative Assistant

Exhibit A - April 6, 2020

Town of Kennebunkport Emergency Paid Sick Leave

Consistent with the Families First Coronavirus Response Act ("the Act") and in response to the COVID-19 outbreak, the Town has adopted the following temporary Emergency Paid Sick Leave ("EPSL") Policy pursuant to which eligible employees will be entitled to take up to two weeks (80 hours) of paid sick leave subject to the terms and conditions outlined below. This policy remains in effect between April 2, 2020 and December 31, 2020, unless terminated earlier by the Town as permitted by law.

Eligibility: Except as outlined below, any Town employee may use EPSL for the following reasons:

1. To comply with a federal, state, or local quarantine or isolation order related to COVID-19 that is directed to the employee;
2. To comply with a health care provider's instruction to self-quarantine due to concerns related to COVID-19 that is directed to the employee;
3. In the event the employee has exhibited symptoms of COVID-19 and is seeking a medical diagnosis;
4. To care for an individual subject to quarantine for the reasons stated in (1) or (2) above;
5. To care for a child whose school or daycare has closed; and,
6. In the event the employee is experiencing any other substantially similar conditions specified by the Secretary of Health and Human Services.

An employee's eligibility for EPSL expires when the employee's allotment of ESPL is exhausted, their need for need (as outlined above) terminates, or on December 31, 2020, whichever occurs first.

As permitted by law, emergency responders are not eligible to take ESPL. Emergency responders are employees who perform essential services to protect the public health and safety of citizens. They include, but are not limited to, police, fire, dispatch, emergency medical services, public health, and wastewater employees.

Compensation during EPSL: An employee taking EPSL because he or she is under quarantine or seeking medical treatment for COVID-19 like symptoms (1-3 above) will be paid up to 100% of their regular base rate of pay while on EPSL, up to \$511 per day (up to \$5,110 total). An employee taking leave because he or she is caring for someone else under quarantine, because the employee's child's school or daycare is closed, or because the employee is experiencing symptoms specified by the Secretary (4-6 above) will be paid up to two thirds of their regular base rate of pay, up to \$200 per day (up to \$2,000 total). Unused EPSL will not be paid to an employee in the event of separation for any reason.

Amount of Leave: Full-time employee are entitled to up to 80 hours of emergency paid leave, based on their regularly scheduled work week. Part-time employees are entitled to the typical number of hours that they work, on average, over a two-week period, up to 80 hours. ESPL does not count as hours worked for the purposes of calculating an employees' entitlement to overtime.

Exhibit A - April 6, 2020

Requesting EPSL: Eligible employees should request such leave, in writing, to the Town's Human Resources Coordinator. Requests must include enough information for the Town to determine the requesting employee's eligibility for EPSL. The Town reserves the right to request documentation supporting requests for EPSL. Eligible employees may request to use EPSL before utilizing other forms of paid leave provided by other Town policy or contract.

Return to Work: The Town reserves the right to require an employee returning to work after using EPSL to submit a doctor's note clearing the employee to return to work.

Non-retaliation: The Town will not discharge, discipline, or discriminate against an employee who takes EPSL, files a complaint under the Act, or testifies in a proceeding concerning the Act.

Coordination with Other Laws: The Town will comply with any and all applicable federal and state laws enacted to address the COVID-19 outbreak. This policy is enacted consistent with the Town's obligations under the Act. In the event of any conflict between this policy and the Act and/or any subsequently adopted applicable law, the Town reserves the right to apply the terms of the applicable state or federal legislation.

Exhibit B - April 6, 2020

Town of Kennebunkport

Families First Coronavirus Response Act FMLA Expansion - COVID-19-Related Closures

Consistent with the Families First Coronavirus Response Act ("the Act") and in response to the COVID-19 outbreak, the Town has adopted the following temporary FMLA expansion to supplement to the Town's preexisting FMLA policy. **Except as specifically stated below, FMLA leave taken under this policy shall be provided on the same terms and conditions as any other FMLA-qualifying leave, as outlined by the Town's preexisting FMLA policy.**

This FMLA expansion policy remains in effect between April 2, 2020 and December 31, 2020, unless terminated earlier by the Town as permitted by law.

Summary: The FMLA provides eligible employees with 12 weeks of protected leave from for certain qualifying family and medical reasons. The FMLA expansion provided by the Act creates a new qualifying reason for FMLA in the event of COVID-19-Related Closures (outlined more specifically below), redefines employee eligibility to use FMLA for that qualifying reason (outlined more specifically below), and provides employees taking FMLA for that qualifying reason with a paid leave benefit.

Expanded Qualifying Reason for FMLA: Eligible employees, as defined by this policy, may take FMLA leave when the employee is unable to work (or telework) because the employee has to care for a child under the age of 18 because the child's school or daycare has closed due to a COVID-19-related public health emergency declared by the federal, state, or local government ("COVID-19-Related Closures).

Eligibility: Except as outlined below, employees who have worked for the Town for at least 30 days are eligible to take up to 12 weeks of FMLA related to COVID-19-Related Closures, so long as they have not already exhausted their 12 weeks of FMLA leave as outlined in the Town's preexisting FMLA policy. This policy shall not be interpreted to provide an employee with more than 12 weeks of protected-FMLA leave per 12 month period as outlined by the Town's preexisting FMLA policy. As permitted by law, emergency responders are not eligible to take FMLA related to COVID-19-Related Closures. Emergency responders are employees who perform essential services to protect the public health and safety of citizens. They include, but are not limited to, police, fire, dispatch, emergency medical services, public health, and wastewater employees.

Compensation during FMLA related COVID-19-Related Closures: The first ten (10) days of FMLA related to a COVID-19-Related Closure may be unpaid. In accordance with the Town's preexisting FMLA policy and/or applicable collective bargaining agreement, employees may elect to use accrued paid leave or Emergency Paid Sick Leave (as defined by the Town's Emergency Paid Sick Leave Policy) to receive pay during this period of time. After the first ten (10) days of FMLA related to a COVID-19-Related Closure, the employee will be paid at two thirds of their regular base rate of pay up to \$200 per day (up to \$10,000 total). Employees who wish to use their accrued paid leave to supplement the pay continuation provided under this policy may do so up to 100% of their regular base pay.

Coordination with Other Laws: The Town will comply with any and all applicable federal and state laws enacted to address the COVID-19 outbreak. This policy is enacted consistent with the Town's obligations under the Act. In the event of any conflict between this policy and the Act and/or any subsequently adopted applicable law, the Town reserves the right to apply the terms of the applicable state or federal legislation.