

**Town of Kennebunkport
Board of Selectmen Meeting VIA Zoom
July 9, 2020
6:00 PM**

Minutes of the Selectmen's Meeting of July 9, 2020

Selectmen attending via Zoom: Patrick A. Briggs, Allen A. Daggett, Ed Hutchins, Sheila Mathews-Bull, and D. Michael Weston.

Others attending via Zoom: Mike Claus, Werner Gilliam, David James, Arlene McMurray, Tracey O'Roak, Dave Powell, Michelle Powell, Laurie Smith, Jim Stockman, and others

1. Call to Order.

Chair Daggett called the meeting to order at 6:09 PM. He took **roll call** of Selectmen present: Patrick Briggs, Allen Daggett, Sheila Matthews-Bull, Ed Hutchins, and D. Michael Weston.

2. Approve the June 25, 2020, selectmen meeting minutes.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to approve the June 25, 2020, selectmen meeting minutes. **Roll Call Vote:** Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 4-0-1. Selectman Briggs abstained because he did not attend that meeting. **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.).

Town Clerk Tracey O'Roak reminded everyone that the State primary will be held on July 14 along with the RSU #21 Budget Validation Election, and the location of the polling place has changed from the Village Fire Station to Consolidated School gym, 25 School Street. Annual Town Meeting will be held on July 14, 2020 and July 18, 2020. On July 14, they will:

1. Elect one member to the Board of Selectmen for a 3-year term.
2. Elect one member to the School Board for a 3-year term.

The open town meeting to approve the municipal budget will be held on Saturday, July 18, 2020, at 9 a.m. at Consolidated School.

Ms. O'Roak said only 50 people will be allowed in the gym including workers. She said masks are required. People should enter on the gym side and follow signs. She will have four check-in tables. Absentee ballots are available until Monday. She asked everyone to please be patient.

4. Review codification of ordinances for November 3, 2020, ballot.

Ms. O'Roak explained that they started this process two years ago. The process involves legal review of all ordinances, comparison to state and federal laws for compliance, and arrangement of the ordinances for easy accessibility by the public. The last step is for the voters to adopt and codify the ordinances. She said department directors reviewed them and the next step is legal review.

Discussion followed. Some of the Selectmen comments were:

- **Chapter 61 Harbor and Waterfront. Article II, Waterfront Section B** is not enforceable. It says:

Prohibited acts. It shall be unlawful for any lobster buoys to be set within the area of Cape Porpoise Harbor, defined as follows: a navigation fairway, 75 feet wide, located on the east (Goat Island) side of the harbor entrance, extending from the bell buoy R "2" marking the ocean entrance to the harbor on a compass course NW by N (approximately 330° magnetic) passing hard by red nun number 4 and red day board number 6 marking Folly Island ledge, into red nun number 8, making the outer limit of the anchorage as further defined on Chart No. 13286, attached to this article on file with the Town Clerk.

- Some chapters say licenses and other chapters say permits.
- Should the following chapter be broader and not limited?

Chapter 110 Property Assessed Clean Energy.

In § 110-4, the definition of "renewable energy installation" is amended as follows: RENEWABLE ENERGY INSTALLATION – A fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat thermal systems, biomass systems, including but not limited to masonry stoves and wood pellet systems, landfill gas to energy systems, geothermal systems, wind systems, ~~wood pellet systems~~, and any other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.

Director of Planning and Development Werner Gilliam's opinion was that the language is fairly broad at the end of the text.

Motion by Selectman Hutchins, seconded by Selectman Weston, to move forward with the codification for the November 3, 2020, ballot with the option to make changes in the future. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed.**

5. Approve Board of Selectmen Regulations as part of codification.

Motion by Selectman Weston, seconded by Selectman Matthews-Bull, to approve the Board of Selectmen Regulations as part of codification as written. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed.**

6. Consider adoption of Emergency Management Ordinance.

In Section 6 B, this ordinance gives the Town Manager in consultation with the Board of Selectmen Chair the authority to declare a state of emergency for no longer than five days. After five days, the Board of Selectmen would have to meet to determine if it should be extended. See Exhibit A.

Discussion followed and the Board thought five days is too short of a time for them to determine if it should be extended.

Motion by Selectman Hutchins, seconded by Selectman Weston, to amend the **Emergency Management Ordinance Section 6B** so that no state of emergency may continue for longer than seven days unless renewed or extended by the Board of Selectmen and to place it on the November ballot. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed.**

7. Consider Land Use Ordinance amendment regarding tents.

At the previous meeting, the Board considered amending the time period for Land Use Ordinance regarding tents.

The amendment is as follows:

11.2 Permit Required

L. Temporary placement of an awning or tent(s) exceeding 80 square feet in size Between Memorial Day (Generally May 25 until Labor Day (Generally September 7) tents may be permitted: Temporary placement outside of Memorial Day to Labor Day season shall not extend 30 days per any calendar year per parcel. Tents that exceed 80 square feet and are in place beyond the limits mentioned above ~~for more than 30 days per calendar year~~ are subject to conditions and approvals as a permanent structure.

A lengthy discussion followed. Selectman Matthews-Bull did not understand why there is a limit because no one would put up a tent in January. She said fall season extends from September to Columbus Day.

Ms. Smith said currently they are allowing tents because of the pandemic.

Mr. Gilliam explained why they have a 30-day window. He said years ago it was limited to an event and with feedback from the hotels and restaurants, it was amended to 30 days which worked for them. He said you need to have a limit, otherwise tents would be treated as structure and not a temporary structure.

Motion by Selectman Hutchins, seconded by Selectman Weston, to accept the amendment to the Land Use Ordinance regarding tents as read for the November ballot. **Roll Call Vote to approve:** Briggs, Hutchins, Daggett, and Weston. **Roll Call Vote to oppose:** Matthews-Bull. **Voted:** 4-1-0. **Motion passed.**

8. Update on July 14 election and July 18 Town Meeting.

Town Clerk Tracey O'Roak recapped what she had said in public forum on voting requirements and absentee ballots.

9. Award the bid for Streetlight Maintenance Contractor.

If the Town votes for the purchase of streetlights from CMP, the Town will be responsible for maintenance. Public Works Director Michael Claus solicited bids for a streetlight maintenance contractor and received three responses: Sargent Electric, Camille's Electric, and On Target Utility Service. All three companies meet regulatory requirements to maintain streetlights and provide the required insurance certificates. He and Jim Stockman reviewed the bids and recommend awarding the bid to Camille's Electric pending town approval.

When asked what the net savings would be each year, Jim Stockman, chair of the Lighting Committee, responded that the Town would save approximately \$24,000 a year and, it will take approximately two years to pay back.

Motion by Selectman Weston, seconded by Selectman Hutchins, to award the bid for streetlight maintenance contractor to Camille's Electric pending approval of the voters at Town Meeting. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed**

10. Approve a waste hauling permit for Robert Noble.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to approve the waste hauling permit for Robert Noble. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed**

11. Request from Hurricane's and Alisson's Restaurant to use Dock Square Parking Lot spaces in the month of August.

Motion by Selectman Weston, seconded by Selectman Hutchins, to approve Hurricane's and Allison's Restaurants' request to use the Dock Square Parking Lot spaces in the month of August. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed**

12. Accept donations to the nurses' general account.

- a. A \$20 donation in memory of Pricilla Spang.
- b. A \$25 donation in memory of Nancy Buchannan

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to accept the \$20 donation in memory of Pricilla Spang and the \$25 donation in memory of Nancy Buchannan to be placed in the nurse's general account. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0 **Motion passed**

13. Other Business.

Town Manager Laurie Smith confirmed that the Governor extended the state of emergency for another 30 days. She said they can continue to meet virtually on Zoom until the end of August. The Board agreed.

David James asked about the Town Meeting motions. Ms. Smith said Michelle Powell will read the motions.

14. Approve the July 9, 2020, Treasurer's Warrant.

Motion by Selectman Hutchins, seconded by Selectman Matthews-Bull, to approve the July 9, 2020, Treasurer's Warrant. **Roll Call Vote:** Briggs, Hutchins, Daggett, Matthews-Bull, and Weston. **Voted:** 5-0. **Motion passed.**

15. Adjournment.

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

The meeting adjourned at 7:14 PM.

Submitted by Arlene McMurray
Administrative Assistant

Exhibit A - 7-9-2020

KENNEBUNKPORT EMERGENCY MANAGEMENT ORDINANCE

Section 1: Short title; authority.

This Ordinance shall be known and may be cited and referred to as the "Emergency Management Ordinance of the Town of Kennebunkport" authorized under 37-B M.R.S.A. §§ 781 to 834.

Section 2: Intent and purpose.

It is the intent and purpose of this Ordinance to establish an Emergency Management Agency in compliance and in conformity with the provisions of 37-B M.R.S.A. §§ 781 *et seq.*, to ensure the complete and efficient utilization of all of the Town's facilities and resources to combat disaster as defined herein.

Section 3: Definitions.

The following definitions shall apply in the interpretation of this Ordinance:

Director means the Emergency Management Director . appointed and supervised as prescribed in the Town's Administrative Code, and also referred to as the "Emergency Management Agency (EMA) Director" in the Town' Emergency Operations Plan.

Disaster means the occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or manmade causes including but not limited to fire, flood, earthquake, wind, storm, wave action, oil spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, drought, critical material shortage, infestation, explosion, riot or hostile military or paramilitary action.

Emergency Management Agency means the agency created under this Ordinance for the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to minimize and repair injury and damage resulting from disasters or catastrophes caused by enemy or terrorist attacks, sabotage, riots or other hostile action or by fire, flood, earthquake or other natural or man-made causes. These functions include, without limitation, firefighting, police, medical and health, emergency welfare, rescue, engineering, air raid warning and communications services; radiological, chemical and other special weapons defense; evacuation of persons from stricken areas; economic stabilization; allocation of critical materials in short supply; emergency transportation; existing or properly assigned functions of plant protection; other activities related to civilian protection; and other activities necessary to the preparation for the carrying out of these functions.

Emergency Management Agency Forces means the employees, equipment and facilities of all town departments, boards, institutions and commissions; and in addition, it shall include all volunteer persons, equipment and facilities contributed by or obtained from volunteer persons or agencies.

Section 4: Organization and administration.

The Kennebunkport Emergency Management Agency is hereby established under the direction of the Town Manager. The Town Manager shall be responsible for the agency's organization, administration and operation utilizing to the fullest extent possible the existing departments within the town, and maintaining a liaison with other local, regional and/or state emergency management and public safety agencies.

The Director shall be the executive head of the Emergency Management Agency. The Director shall be appointed by the Board of Selectmen and work under the direction of the Town Manager as prescribed in the Town's Administrative Code.

Section 5: Emergency proclamation.

- A. The Chairperson of the Board of Selectmen, in consultation with the Town Manager, shall have the power and authority to issue a proclamation that an emergency exists whenever a disaster or civil emergency exists or appears imminent. The proclamation may declare that an emergency exists in any or all sections of the town. If the Board Chairperson is temporarily absent from the town or otherwise unavailable, the Vice Chairperson of the Board of Selectmen may, after consultation with the Town Manager, issue the proclamation that an emergency exists. If neither the Board Chair nor Vice Chair is available, then the following persons shall have the power and authority to issue a proclamation that an emergency exists, in the following order of succession: the Town Manager; the Police Chief; the Fire Chief; the Emergency Management Director; the Public Works Director. A copy of the proclamation shall be filed within twenty-four (24) hours in the office of the town clerk.
- B. The Town Manager and the Director shall be responsible for reporting to the Board of Selectmen all actions taken as a result of the declared emergency as soon as the Board of Selectmen can be convened.

Section 6: Termination of emergency.

- A. When the Chairperson of the Board of Selectmen, in consultation with the Town Manager, is satisfied that a disaster or civil emergency no longer exists, he/she shall terminate the emergency proclamation by another proclamation affecting the sections of the town covered by the original proclamation, or any part thereof. If the Board Chairperson is temporarily absent from the town or otherwise unavailable, the Vice

Chairperson of the Board of Selectmen may, after consultation with the Town Manager, issue the proclamation terminating the emergency proclamation. That proclamation terminating the emergency shall be filed in the office of the town clerk.

- B. No state of emergency may continue for longer than five (5) days unless renewed or extended by the Board of Selectmen. Each state of emergency renewed or extended beyond the state of emergency declared by the original proclamation shall expire after a period not to exceed 30 days unless renewed or extended further by the Board of Selectmen. ..

Section 7: Town manager's emergency powers and duties.

- A. During any period when an emergency proclamation is in effect, when an emergency or disaster exists or appears imminent, or when the Governor has proclaimed a disaster pursuant to 37-B M.R.S.A. §742, the Town Manager may promulgate such regulations as he/she deems necessary to protect life and property and to preserve critical resources. Such regulations may include, but are not limited to, the following:
 - (1) Regulations prohibiting or restricting the movement of vehicles in areas within or outside of the town;
 - (2) Regulations facilitating or restricting the movement of persons within the town;
 - (3) Regulations pertaining to the movement of persons from areas deemed hazardous or vulnerable to disaster within the town;
 - (4) Regulations governing the use of town-owned or town-managed property and facilities;
or
 - (5) Such other regulations necessary to preserve public peace, health and safety.

Nothing in this section shall be construed to limit the authority or responsibility of any department or town official to proceed under powers and authority granted to them by state statute, town ordinance or the town's administrative code.

- B. The Town Manager, in consultation with the Board Chairperson, or the Vice Chairperson if the Board Chairperson is unavailable, shall have the authority to:
 - (1) Order the evacuation of persons from hazardous areas within the town;
 - (2) Request aid or assistance from the State or any of the State's political subdivisions, and render assistance to other political subdivisions pursuant to the provisions of 37-B M.R.S. § 781 *et seq.*;

- (3) Obtain vital supplies, equipment, and other items found lacking and necessary for the protection of health, life, and property.

C. The provisions of this section shall terminate at the end of the declared emergency.

Section 8: Emergency operations plan.

The Director, in consultation with the Town Manager, shall prepare a comprehensive emergency operations plan for the town which shall be submitted to the Board of Selectmen for approval.

It shall be the responsibility of all municipal departments to perform the functions assigned and to maintain their portions of the plan in a current state of readiness. The emergency . operations plan shall be reviewed and updated periodically by the Director in conjunction with the Town Manager for compliance with state law, 37-B M.R.S. § 781 *et seq.*

Section 9: Immunity from liability.

All members of the emergency management agency forces, while engaged in emergency management activities, shall be immune from liability, as set forth in 37-B M.R.S. § 822.

Section 10: Compensation for injuries.

All members of the emergency management agency forces shall be deemed to be employees of the state when engaged in training or on duty and shall have all of the rights of state employees under the Workmen's Compensation Act, as set forth in 37-B M.R.S. § 823.

Section 11: Violation of Regulations.

It shall be unlawful for any person to violate any of the provisions of this Ordinance or of the regulations or plans issued pursuant to the authority contained herein, or to willfully obstruct, hinder or delay any member of the emergency management agency as herein defined in the enforcement of the provisions of this Ordinance or any regulation or plan issued thereunder.

Section 12: Penalties.

Any person, firm or corporation violating any provision of this Ordinance, or any rule or regulation promulgated thereunder, upon conviction thereof, shall be punished by a civil penalty of a minimum of \$100 to a maximum of \$1,000 per occurrence and the costs of prosecution.

Section 13: Severability.

Should any provisions of this Ordinance be declared invalid for any reason, such declaration shall not affect the validity of other provisions of this Ordinance as a whole, it being the legislative intent that the provisions of this Ordinance shall be severable and remain valid notwithstanding such declaration.

Section 14: Effect on existing ordinances and regulations.

At all times when an emergency proclamation is in effect, the orders, rules and regulations made and promulgated pursuant to this Ordinance shall be in effect, they shall supersede all existing ordinances, orders, rules and regulations insofar as the latter may be inconsistent therewith.