

Town of Kennebunkport
Board of Selectmen Meeting
February 23, 2023
6:00 PM

MINUTES

Selectmen attending: Edward Hutchins, Jon Dykstra, Michael Weston in person; Sheila Matthews-Bull & Allen Daggett via Zoom.

1. Call to Order:

Selectman Hutchins called the meeting to order at 6:00 PM.

2. Approve the February 9, 2023, meeting minutes:

Motion by Selectman Dykstra, seconded by Selectman Weston, to approve the February 9, 2023, selectmen meeting minutes. **Voted:** 5-0. **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.)

- a. Roxanne Ferrero of 228 Ocean Ave spoke regarding a short-term rental issue. She stated that she got her STR permit last year without a problem. A few weeks ago, she applied to renew the permit but was told that the application window had passed. She reported speaking to April (Fortier) and Laurie (Smith) and admitted that she had been provided proof that two emails had been sent in November and December to both her and her property manager. She nonetheless claims that the emails were not received. In conversation with the Board, the Selectmen confirmed that a letter had also been sent to Roxanne's postal address in Massachusetts. Selectman Hutchins explained that there are currently 29 people on the waiting list for permits next year and that the Board is bound by the ordinance and cannot make an exception for her. He stated that there is no action the Board can take in this circumstance. Roxanne's husband, John O'Donnell, asked what should happen to get on the waiting list for a license next year. Director of Planning and Development, Werner Gilliam, explained that the wait list opens in October, with those on the existing wait list in line first, and any new applicants added to the end of the list. Renewals are processed first, a determination is made as to how many licenses remain, the Board determines how many licenses will be added to the pool (if any), and then those on the wait list are addressed in sequence for new licenses. Selectman Hutchins clarified that if the property is rented for 31 days or more, it is not considered short-term and that rental is permitted without an STR license.

- b. David Strachan spoke via Zoom. He stated that he had attended the previous Planning Board meeting and brought up the issue of South Main Street between Grandview Avenue and Arlington Avenue, where in the past few years, there have been significant improvements to existing and addition of new developments including the Colony Hotel, Ivy Lane and now Woodland Road. He says that as a result there is significantly more vehicle traffic, but no improvements have been made to South Main Street, which is hilly, winding and has no sidewalk or line markings. It is the opinion of Mr. Strachan and twenty homeowners in this area he has spoken with that these conditions along with increased traffic are dangerous and it's only a matter of time before there is a "preventable calamity". He was told by the Planning Board that this concern should be taken up with the Selectmen. He offered that South Main Street should be subject to a traffic impact study. Chairman Hutchins thanked David for his input and said the Board would take this under advisement, mentioning that Wildes District Road is also up for a similar review. David added that there is a stop sign at the intersection with Arlington Avenue that is located where it cannot be seen from South Main Street and therefore not heeded by many motorists. Chairman Hutchins responded that a study of South Main Street would include the entire length of the street.

No motion was necessary. No motion was taken.

4. Public Hearing on a proposed amendment to Chapter 160-11, unlawful parking, of the General Ordinances regarding Wharf Lane:

Werner Gilliam provided some background. This issue came up when a resident asked him about parking enforcement on Wharf Lane. This lane is private, so the town should not be doing parking enforcement. When referring to the Town Ordinance, however, Wharf Lane is listed. This amendment would remove Wharf Lane from the Ordinance.

Chairman Hutchins opened the public hearing on this proposed amendment. There were no comments from attendees, the Board, or Zoom participants. Chairman Hutchins closed the public hearing.

Motion by Selectman Dykstra, seconded by Selectman Daggett, to accept the proposed amendment. **Voted:** 5-0. **Motion passed.**

5. Consider the renewal of the special amusement and liquor license submitted by The Colony Hotel, located at 140 Ocean Ave:

Motion by Selectman Dykstra, seconded by Selectman Matthews-Bull, to renew the special amusement and liquor license submitted by The Colony Hotel, located at 140 Ocean Ave. **Voted:** 5-0. Motion passed.

6. Consider the renewal of liquor licenses and special amusement permits submitted by the Taylormade Hospitality d/b/a Hurricane Restaurant, 29 Dock Square:

Motion by Selectman Matthews-Bull, seconded by Selectman Daggett, to renew the liquor licenses and special amusement permits submitted by the Taylormade Hospitality d/b/a Hurricane Restaurant, 29 Dock Square. **Voted:** 5-0. **Motion passed.**

7. Presentation by Meagan McDevitt of Woodard & Curran regarding Pier Road causeway updates:

Meagan spoke and presented about several points relating to the proposed project:

Roadway elevation comparisons – Two lines were added to the roadway elevation comparison chart. One was for the January 23rd, 2023 high tide which was at NAVD88 elevation of 6.59 feet. The other was for the December 23rd, 2022 storm showing an elevation of about 9 feet. She had an accompanying picture and video, respectively, showing the water overtopping the roadway on these dates. Meagan noted that they are not changing the proposed roadway elevation, just putting these two events in the comparison chart for perspective, showing that the proposed elevation would help the roadway withstand events such as the two that happened in the past two months.

Revised roadway layout – Per feedback they received, the width of the sidewalk has been reduced from 8 ft to 5 ft (plus a 6-inch wide curb) still making it conform to ADA requirements. Also, the step in the retaining wall was eliminated based on feedback for a more aesthetically pleasing wall line.

Boat launch comparison – They reduced the width of the boat launch to minimize the impact to the surrounding area, creating a ramp with a 12% slope and 18 ft width where it meets the roadway. This change would still allow vehicles to back down the ramp with a trailer. The point where the ramp would meet the street was reduced to 18 ft from 24 ft. This is to allow a longer, narrower retaining wall that would impact the surrounding area less. Though the ramp will be steeper, the gravel will remain within the current footprint.

Update renderings – Meagan displayed renderings showing what the roadway currently looks like and how it would look with the proposed roadway elevation, as well as what it would look like with the higher tide of the December 23rd storm. She also showed renderings comparing the current and proposed view of the roadway from two abutter properties.

Board Chairman Hutchins invited comment or questions from the Board and the public.

Selectman Matthews-Bull expressed concern about the narrower mouth of the boat ramp and its impact on the ability to put in dinghies and other small boats. Chairman Hutchins responded that while it was not ideal, he felt it was workable. Meagan added that the firm had done a “turning template” analysis confirming that there would still be sufficient room for a vehicle with trailer to use the ramp. Selectman Daggett asked how wide the ramp would be and Meagan responded that it would be 18 ft wide at the narrowest point where it meets the road but expands as it goes down to the water to meet the existing width.

Motion by Selectman Weston, seconded by Selectman Daggett, to proceed with the design of the causeway. Chairman Hutchins requested an amendment making note of the fact that there may be an issue with the easement for the boat ramp but thinks that can be worked out. He agreed that the overall causeway design should proceed. Selectman Weston agreed. **Voted: 5-0. Motion passed.**

8. Approve restrictions on vehicle weight limits on certain roads in accordance with 29-A M.R.S.A. Section 2395 and the Kennebunkport Traffic and Parking Control Ordinance:

Eric Labelle proposed that the roads be posted from February 27th until April 30th, asking that the Public Works Director be able to make minor changes within that date range if needed.

Motion by Selectman Dykstra, seconded by Selectman Daggett, to approve restrictions on vehicle weight limits on certain roads in accordance with 29-A M.R.S.A. Section 2395 and the Kennebunkport Traffic and Parking Control Ordinance. **Voted: 5-0. Motion passed.**

9. Presentation of proposed June 2023 ordinance changes:

a. Administrative Code revision regarding Cape Porpoise Pier Committee members.

Town Clerk Tracey O’Roak reported that she had taken this proposed change to the Administrative Code Committee, and they had no issues with it. She worked with the Harbormaster to come up with the definition of a commercial fisherman.

b. Administrative Code revision regarding days of annual town meeting.

Tracey relayed that the Administrative Code Committee had no issues with this proposed change either. She noted that the next step is to take these proposed

changes to the Town attorney and get their comments back, it is hoped, before the next Selectmen's meeting on March 9th.

c. Land Use Ordinance revision regarding accessory dwelling units.

Werner Gilliam reminded the Board that many of these proposed amendments are the result of the passage of LD 2003 by the State Legislature, which requires Towns to make amendments to their Land Use Ordinances (LUOs) regarding housing. In regards to Accessory Dwelling Units (ADUs) it specifies that they cannot be independently conveyed so are not to be sold or be made into condominiums. The square foot minimums have been modified; language that could be construed as discriminatory has been removed, and documentation requirements have been reduced to be in line with LD 2003. Language specifies that ADUs are not to be used as primary residences, not short-term rental units. The statute makes clear that additional off-street parking cannot be made a requirement for ADUs, so that requirement will be stricken from the ordinance.

d. Land Use Ordinance revision regarding private road construction.

Werner explained that this revision relates to the dimensional requirements for new private roads to accommodate larger emergency vehicles and codifies this to help the Planning Board when reviewing proposals brought before them. He brought in Acorn Engineering to provide images allowing applicants to submit compliant designs with appropriate dimensions for cul-de-sacs, hammerheads and Y designs. He requested images for both a 16 ft and 20 ft travel width that will be incorporated.

e. Land Use Ordinance revision regarding the description of the resource protection zone.

f. Update to Floodplain Management Ordinance.

Regarding both ordinance changes, Werner informed the Selectman that the current resource protection (RP) zone is tied to a description of coastal flood plain in our LUO. It is designed to protect sensitive, undeveloped areas, not areas that have already been developed. As things stand now once the new flood plain maps are released, a number of additional properties would become non-conforming. This would prevent house expansions, for example, based on zoning. Dock Square and Riverfront zones are currently excluded from the RP zone. This revision would add other already-developed properties, Goose Rocks in particular, to this exclusion, consistent with Maine Department of Environmental Protection (DEP)

Chapter 1,000. Not accepting this amendment would impact the Planning Board's workload as approximately 330 additional properties would be considered non-conforming, and any improvements would have to go before the Planning Board for an exemption. While the higher standard for properties in the flood plain would still apply, the proposal is to remove the designation of these properties as being in the RP zone.

Though a formal vote by the Board was not required, the Board members agreed that these proposed ordinance changes should be forwarded for legal review.

Robin Phillips, attending via Zoom, had a question asking if 800 square feet is the minimum size of an ADU. Werner replied that 800 square feet is the maximum and 190 square feet is the minimum. Robin then asked how tiny houses would fit into this scenario. Werner answered that there are regulations and other conditions specific to tiny houses, but that they can be considered as ADUs. His office is willing to work with anyone considering building a tiny house to make sure that they conform to the regulations.

No motion was necessary. No motion was taken.

10. Personnel Policy correction:

Special Projects Manager & HR Administrator Yanina Nickless explained that one of the changes to the Personnel Policy that was approved in the previous meeting was in regards to vacation accruals. Originally, Town employees received vacation time after one year of employment and it was accrued on a yearly basis. Subsequently, our Trio software could track vacation time accrual on a weekly basis, so we started doing that. The old policy referred to "longevity" but we changed that to "years of service" in the new policy. But upon closer examination we realized that this was not our practice and we had made unintentional changes. Yanina provided the Board members with a sheet showing the previous verbiage and how she is requesting it be corrected.

Selectman Weston asked if the change needs union approval. Yanina replied that the correction is in line with the union contract and that no one would lose any vacation time as a result. This is restoring the calculation back to the way it was done previously.

Motion by Selectman Weston, seconded by Selectman Dykstra, to approve the policy correction. **Voted: 5-0. Motion passed.**

11. Accept a \$75.00 donation from Robert and Cathy Gordon towards the emergency fuel fund:

Motion by Selectman Daggett, seconded by Selectman Weston, to accept a \$75.00 donation from Robert and Cathy Gordon towards the emergency fuel fund. **Voted:** 5-0. **Motion passed.**

12. Other business:

No Selectmen had other business. Chairman Hutchins stated that he will not be at the next Selectmen's Meeting as he will be out of town in Florida.

13. Approve the February 23, 2023, Treasurer's Warrant:

Motion by Selectman Dykstra, seconded by Selectman Weston, to approve the February 23, 2023, Treasurer's Warrant. **Voted:** 5-0. **Motion passed.**

14. Executive Session per MRSA 1, §405-6C to consider the acquisition of real estate:

Motion by Selectman Weston, seconded by Selectman Dykstra, to enter Executive Session per MRSA 1, §405-6C to consider the acquisition of real estate. **Voted:** 5-0. **Motion passed.**

Selectmen were in Executive Session for 47 minutes. Remotely attending Selectmen Daggett and Matthews-Bull did not return from Executive Session.

No motion was necessary. No motion was taken.

15. Adjournment:

Motion by Selectman Dykstra, seconded by Selectman Weston, to adjourn. **Voted:** 5-0. **Motion passed.** Meeting adjourned at 8:02 PM.

Submitted by,
Dave Powell,
Technology Specialist