

Town of Kennebunkport  
Board of Selectmen Meeting  
October 12, 2023  
6:00 PM

**MINUTES**

**Selectmen attending:** Mike Weston, Allen Daggett, Jon Dykstra, Marybeth Gilbert.

**1. Call to Order.**

Chairman Weston called the meeting to order at 6:00 PM, noting that Selectman Matthews-Bull was not present this evening.

**2. Approve the September 28, 2023, selectmen meeting minutes.**

Selectman Dykstra asked that the September 28<sup>th</sup> minutes be amended regarding the Appointment of the RSU 21 School Board representative and the first vote for candidate Rachel Kennedy Smith. He requested that the vote be noted as 2-0-3, not 2-3-0. (3 abstentions as opposed to “no” votes).

**Motion** by Selectman Daggett, seconded by Selectman Dykstra, to approve the September 28, 2023, meeting minutes as amended. **Voted:** 4-0. **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.)**

Town Clerk Tracey O’Roak reminded everyone that absentee ballots are available between now and November 2<sup>nd</sup> for the November 7<sup>th</sup> election. Voters can pick them up at Town Hall, call 967-1610, or click on the link on the Town’s website, and the Town Clerk’s Office will mail you your ballot.

**No motion was necessary. No motion was taken.**

**4. Public hearing on ordinances for November ballot:**

**Motion** by Selectman Daggett, seconded by Selectman Dykstra, to open the public hearing for all the November ballot items. **Voted:** 4-0. **Motion passed.**

Chairman Weston explained that in the interest of time, each member of the public would be allowed to speak once on each of the items for no more than 4 minutes. He also noted that the purpose of the public hearing was to get feedback from the public. However, the ballot questions have already been set and will not be changed before the election.

**a. Acceptance of the 2030 Comprehensive Plan**

Director of Planning and Development, Werner Gilliam, informed the group that this ordinance is to accept minor amendments in the Comprehensive Plan to bring it into alignment with State law. He noted that the Town had submitted the plan to the State in a timely manner but that staffing issues at the State resulted in a delay in their review longer than their mandate, resulting in the Town voters approving the plan before the State provided feedback.

There were no comments from the meeting attendees.

**b. Amendment to the Street Opening Ordinance**

Chris Simeoni, Public Works Director, explained that this amendment is to change the minimum bond amount for a street opening to \$5,000, that the Public Works Director will make a recommendation regarding additional surety amounts, and can approve street openings for streets that are not under moratorium (not reconstructed in the past five years). Street openings for streets that are under moratorium will continue to be decided by the Board of Selectmen. Utility companies will be permitted to make their own repairs under the direction of the Public Works director. The amendment will also introduce standards as to how street repairs are to be made.

There were no comments from the meeting attendees.

**c. Construction of a new Town Hall**

Owens McCullough from Sebago Technics and Architect Mike Hayes gave a presentation about the proposed Town Hall construction, reviewing information that has been previously provided at several Board of Selectmen meetings. Owens provided a history of the existing Town Hall building at 6 Elm Street, reviewing its size and describing the work of the building committee in considering and determining the best plan and size for a new building construction.

Mike Hayes described the programming study that examined the current cramped office space and determined the square footage that would best support town office functions, programming, and needs. Eight-floor plans and variants were considered before agreeing upon a one-story option with no basement and added bulk storage. A multiple-floor building plan was ultimately rejected as it would mandate additional square footage for an elevator, stairs, and multiple egress routes, which would increase the building cost. He went on to describe in some detail the spaces and their functions included in the preferred floor plan.

Owens presented the Site Layout Plan for the building on the North Street end of the Village Parcel. He showed the building orientation, vehicle entrance and parking lot, and main public entrances to the building. He shared that solar is included in the plan cost, though the details of that will be determined by engineering if the voters approve the new Town Hall. He described the projected \$8.8 million total not-to-exceed cost, including a 15% contingency allowance. Assuming the voters approve the construction in November 2023, the permitting and building design would proceed from then until May 2024, the project would be put out to bid in June-July 2024, and construction would commence in August 2024 with an estimated completion in December 2025.

Chairman Weston addressed a few points regarding the proposal. He described the process that resulted in the decision to locate the new Town Hall at the Village Parcel. He specified the other locations that were considered but deemed less appropriate. He also defended the methodology used for creating a concept plan, using that to estimate building cost, getting that approved by the voters, and then proceeding with the detailed design. He also addressed the frequently asked question of why this Town Hall design costs more than that of the recently built Arundel Town Hall, saying that Arundel's needs are different as we have more Town employees and are including a modest amount of space for expansion. This is an attempt to avoid the need to come back and ask the taxpayers for an expansion soon after the initial build of the facility. He spoke with Willette Construction Company (that built the Arundel Town Hall), and they informed him the construction of that facility would be 35%-40% more expensive if it were done today.

Chairman Weston and Selectman Gilbert reiterated measures we're taking to reduce the amount that needs to be bonded, including sales of other town-owned properties and fundraising efforts. Selectman Dykstra explained that if we were to bond \$6.3 million for the project, it would mean a 12-cent increase to the mil rate, or \$12 for every \$100,000 of property valuation. For example, if your property were valued at \$500,000, that would mean an increase in your property tax of \$60 annually. He also stated the Board's intention to make the new building net zero regarding energy use. Chairman Weston expanded on this, saying that the design does not include fossil fuels for energy.

Nauto Inoue stated his belief that we should have plans for high-performance, onsite energy generation before bonding the project.

Chairman Weston expressed that the Select Board meetings are not political, and any political activity is not welcomed.

Selectman Dykstra responded to Mr. Inoue's statement about building energy design, stating that the plan is to make the building as energy efficient as possible, but it would be a waste of a great deal of money to have that detailed engineering work done in advance if the voters voted "no" on the project in November.

Dick McCabe commented that he felt the Town should sell a portion of the Village Parcel to counter the cost of building the new Town Hall.

Nick Phillips, an abutter to the Village Parcel, asked if the current entrance to the Village Parcel was the only means of access that was planned to the new Town Hall and on from there to the remainder of the property. He also asked why the "McCabe" property on School Street was not considered for the new Town Hall site. Chairman Weston responded that the road is intended to go from North Street all the way through the property to School Street as the parcel is developed. Selectman Dykstra responded that the McCabe property would be no less expensive to develop for a Town Hall than the Village Parcel because of the slope of the lot, among other factors. Selectman Gilbert added that we have Question 4 asking if the Town should sell the 8-acre "McCabe" property to determine if the voters want to reduce the tax burden of building a new Town Hall.

Denora Ellis asked what would be cut if the not-to-exceed price of the project was reached. Selectman Gilbert responded that we would need to look at reducing the square footage of the building. Ms. Ellis asked why we couldn't do that size reduction now. Selectman Dykstra responded that the current design allows for some growth. He met with people involved in the Arundel Town Hall construction and was told that they initially wanted a 9,000 sq ft facility, but that was trimmed back to 7,000 sq ft. Now, just a few years later, they find themselves in the position of wanting to expand, but they don't have the space for it, so the space is now tight for them. In planning for a facility that will last for 30 to 40 years, we should plan to have expansion space in the design. Selectman Daggett added that Kennebunkport and Arundel aren't the same and have different needs. Arundel has a population of about 4,000. While Kennebunkport's year-round population is about 3,500, its summertime population, for 4 to 6 months of the year, is nearly 12,000. Arundel doesn't have two harbors or many hotels and restaurants as Kennebunkport does. Kennebunkport requires a larger number of staff to do the municipal business associated with these needs.

Bill Lord described the solar heating and electrical systems on his house and the great electrical cost savings he has enjoyed with his photovoltaic array. He expressed his support for a new Town Hall and the use of solar power for the building.

David Kling praised the Town for the courage and wisdom to purchase the Village Parcel when it did. Had the Town not taken advantage of that opportunity, he postulates that there would now be eighty or more houses on the site, most of which would be seasonal. He feels that is not what the Town needs. He is glad to see the Town taking advantage of the purchase and praises the Selectmen for the

process they've used to propose a new Town Hall and possible uses for the remainder of the parcel.

Dick Smith, one of the new Town Hall building committee members, stated that the committee did a very thorough job of considering building design. He added that the additional space for growth in the plan was not substantial, and the offices as designed are not palatial but are functional. He praised Sebago Technics and Hayes Engineering for the good work they have done to date on the project.

Robin Phillips stated that she questions putting the expense of another bond on future generations who hope to remain in Kennebunkport. She also questioned the Town's decision to sell the property. She asked who sued the Town in 1999. The Selectmen did not have a specific answer, but Chairman Weston said he would find out if she felt it important to know. Ms. Phillips also questioned the size of the building committee, which she felt was too small. While she supports a new Town Hall, she doesn't think the current plan is the right one. She feels the building in the current plan is too big, too expensive, and hasn't had enough public input. Ms. Phillips also asked why the Town Hall project was being "put before" the Cape Porpoise Wharf renovation project. Chairman Weston explained that the pier permitting process is long and slow, and planning for that project began almost three years ago. He went on to say that no project is being put before another. The Board deals with each project as the need for it occurs.

Lorrie Ouellette, via Zoom, questioned whether the Town Hall project included solar or not, claiming that in a previous Board meeting, it was said to not be included. The Board members responded that solar is included in the plan, though the specific design has not been set at this time.

Stephanie Bryant, via Zoom, pointed out that if both Questions 3 & 4 are approved by the voters, we would be losing two Town properties. She went on to list several surrounding communities, their population, and the cost of building new or renovating existing municipal buildings in that community. She expressed a desire to see a list of other options and their costs for a new Town Hall besides the \$8.8 million proposal in Question 3. She praised the Selectmen and Town staff for their responsiveness to her questions.

Melinda Anderson, via Zoom, asked for the engineers to respond about the various options for the inclusion of solar in the design of the building and about the faux windows planned on the south side of the building. Mike Hayes explained that the meeting room has faux windows on the lower section because that wall would display visuals during meetings, and therefore, having that wall backlit by windows is not practical or desirable. Regarding solar panel options, Mike said that the building would be designed to allow solar panels on the roof, but also that ground-mounted was being considered, preferably with motors allowing the panels to move and track the sun for optimum performance.

Selectman Dykstra asked about a flat roof to accommodate solar. Mike responded that they're not truly flat and do have some pitch to them. Many factors are taken into consideration when engineering them to ensure that they are structurally sound and can withstand snow loads. He added that flat roofs are very common on commercial buildings in this area.

Melinda Anderson commented that a generator for use in case of commercial power failure is not included, nor is furniture in the design and cost of the building. She also questioned again if solar was included in the cost. Selectmen Dykstra and Weston assured her that it was, though the specific design of it has not been set. Selectmen Dykstra added that the \$400,000 for furniture and equipment is already allocated in the capital budget.

Susan Kagan, via Zoom, stated she is in favor of a new Town Hall and that it is important to be bold and design it for the future with climate resiliency in mind. Selectmen Dykstra thanked her for her comment, saying he was in total agreement with it as a member of the Climate Action Task Force.

**d. Sale of School Street property**

Selectman Gilbert explained that the sale of the Town-owned parcel, colloquially known as the "McCabe property," was originally part of Question 3 but had been split out as a separate Question 4 to get voter input on whether the property should be sold to lower the tax burden of the new Town Hall construction. She added that if the citizens voted no on Question 3, the McCabe property would not be sold.

Susan Lamb stated her opposition to the sale of the McCabe property, reading passages from the Comprehensive Plan that express broad support for the preservation of open spaces in town. Considering that, she was shocked to see the sale of the Town-owned McCabe property being considered. Selectman Gilbert responded that she takes ownership of Question 4, saying that there are many points of view and that a major concern for her was lowering the tax burden as much as possible for the new Town Hall, with the sale of this property as one mechanism of achieving that goal. Breaking out the issue of the McCabe property sale into a separate Question gives the voters the opportunity to weigh in on the issue.

Melinda Anderson, via Zoom, said she agreed with Ms. Lamb and that we don't want overdevelopment, which could occur in the event that the School St property is sold. She feels that those providing feedback are not being heard by the Selectmen. Chairman Weston responded that the Comprehensive Plan puts forward several goals, and there needs to be a balance between them when they conflict. He pointed out that one of the goals of the plan is to try to direct residential development to areas of town where there are existing water and sewer utilities, as is the case with this property. Selectman Gilbert added that voting on Question 4 is the way that residents can provide feedback and make their voices heard.

**e. Cape Porpoise Pier funding**

Mike Claus, Consultant for the Cape Porpoise Pier Project, described the current pier and the changes proposed in the project, including a new bait shed, better access, dinghy piers for commercial fishermen, and new floats on the other side for recreational boats. This would provide some separation of the two groups, providing space for fishermen to offload their catch without recreational boats in their way. The fuel tanks will be moved up under the parking lot to get them above the water line.

He went on to explain that as the engineers began looking at the specifications for the project, they determined that the initial budget of \$2.3 million was insufficient, increasing the projected cost to \$3.2 million. As the design was being finalized this July, that figure was revised further to \$3.7 million. The design plan and projected cost were submitted to Maine DOT and the Federal Economic Development Administration (EDA). Maine DOT thought that the budget was too small and advised a larger budget of \$4.5 million, including a larger contingency percentage. EDA reported that construction costs for similar projects in this area vary widely. This leaves the Town with a budget shortfall of \$1.1 million. Mike decided to move solar panels, a second jib crane, and the south float system to be ad alternate items for a savings of \$394,000. These items will be included only if the contingency percentage of 15% is not used for the rest of the project. This brings the budget shortfall down to \$707,000. If the voters approve funding of the budget shortfall in November, the project would be put out to bid in January 2024, the project would be awarded in February 2024, and construction would proceed starting November 2024 with estimated completion in December 2025.

There were no comments from the meeting attendees.

**f. Easement agreement with Green Marine Corporation**

Selectman Gilbert informed the group that during due diligence, after the voters approved and Mooneys sold the boat launch property to the Town, it was discovered that the rails used by Green Marine for decades to launch boats were situated partially on what is now Town owned land. The Town Manager and the Selectmen discussed the situation and agreed that the Town should provide an easement to Green Marine, allowing Mr. Green to continue to use the rails. Question 6 asks the voters to approve the easement.

There were no comments from the meeting attendees.

**g. Acceptance of Cape Porpoise Fire Station**

Fire Chief Jay Everett informed the group that he was approached in January by the Arundel Volunteer Engine Company (AVEC), the group that owns the Cape Porpoise Fire Station building, offering to sell the building to the Town for \$1. The Town currently pays AVEC rent for the building. Kennebunkport Emergency

Medical Services (KEMS) also uses the building and pays about 75% of the utility costs, with the Town paying the remainder. AVEC has put a lot of maintenance work into the building, and it is in good condition.

There were no comments from the meeting attendees.

**Motion** by Selectman Daggett, seconded by Selectman Dykstra, to close the public hearing for all the November ballot items. **Voted:** 4-0. **Motion passed.**

**5. Boatswain Lane public street proposal.**

Boatswain Lane resident Charlie Tremblay explained that Boatswain Lane is an eight-lot subdivision constructed starting back in 2003. By 2007, about half of the neighborhood had been developed. The developer did not want to do the final paving of the street at that time because the development had not been completed. In 2008, the developer requested a refund of the \$6,800 in escrow from the Town. The Town provided the refund but did not require the developer to complete the final paving. Because of the economic downturn at the time, the development of all eight properties on the road was not completed until 2019. The road maintenance agreement specifies that the road was ultimately to be made public. The residents of the street are present at this meeting and are requesting that the road be made public.

Chris Simeoni, Public Works Director, stated that he visited the street recently and noted that the base pavement is in fair condition and would require filling a few potholes. The condition of the stormwater and wastewater infrastructure is unknown. There is a sidewalk that requires minor reclamation in a few spots. It is not of sufficient width to allow the use of the trackless to clear snow without the possibility of damage to property owners' turf and possibly sprinkler heads. He is also concerned about possible damage to curbing by a plow truck and a place to dump excess snow.

Chairman Weston stated that some members of the Board currently feel that the request to make the road public does not meet all three requirements. He suggested that the request be tabled until the next Board of Selectmen meeting to give them and Chris time to examine and discuss the request further.

Boatswain Lane resident Steve Kingston echoed Mr. Tremblay's explanation and request for the Town to make the street public. He also stated that he owns a vacant lot on the street that he has no intention to develop and offered the Town its use as a snow dump.

**Motion** by Selectman Daggett, seconded by Selectman Dykstra, to table the Boatswain Lane public street proposal until the next meeting. **Voted:** 4-0. **Motion passed.**

**6. Extension of Climate Action Plan Committee terms to March 2024.**

**Motion** by Selectman Dykstra, seconded by Selectman Gilbert, to extend the term of the Climate Action Plan Committee to March of 2024, including the following members: Jen Armstrong, Ella Boxall, Harvey Flashen, Jon Dykstra, Michael Weston, Steve Kagan, Fred Stafford, and Pam Morgan. **Voted: 4-0. Motion passed.**

**7. Appoint Claire Julian as the election warden for November 7, 2023.**

**Motion** by Selectman Dykstra, seconded by Selectman Daggett, to appoint Claire Julian as the election warden for November 7, 2023. **Voted: 4-0. Motion passed.**

**8. Authorize the warrant.**

Tracey O’Roak explained that when Question 4 was separated out from Question 3 on the warrant, there was a typo in Question 4. This authorization is only to clean up that typo and make the language clear.

**Motion** by Selectman Daggett, seconded by Selectman Dykstra, to authorize the warrant for the November ballot. **Voted: 4-0. Motion passed.**

Melinda Anderson, via Zoom, asked Tracey to read the differences in the warrant. Tracey responded that the only difference was in Question 4, that the Map, Block, and Lot were off by one digit. The new warrant has the corrected Map 9, Block 4, Lot 50.

**9. Other Business.**

None of the selectmen had other business.

**10. Approve the October 12, 2023, Treasurer’s Warrant.**

**Motion** by Selectman Daggett, seconded by Selectman Dykstra, to approve the October 12, 2023, Treasurer’s Warrant. **Voted: 4-0. Motion passed.**

**11. Adjournment.**

**Motion** by Selectman Dykstra, seconded by Selectman Gilbert, to adjourn. **Voted: 4-0. Motion passed.**

The meeting adjourned at 8:33 PM.

Submitted by,  
Dave Powell,  
Technology Specialist