

Town of Kennebunkport
Board of Selectmen Meeting
February 8, 2024
5:00 PM
Village Fire Station (32 North Street)

MINUTES

Selectmen attending in person: Mike Weston, Sheila Matthews-Bull, Jon Dykstra, Marybeth Gilbert.

Selectmen attending via Zoom: Allen Daggett

1. Call To Order.

Chairman Weston called the meeting to order at 5:00 PM.

2. 5:00 PM - Executive Session per MRSA 1, §405-6D - discussion of labor contracts and proposals for upcoming negotiations.

Motion by Selectman Matthews-Bull, seconded by Selectman Dykstra, to enter Executive Session per MRSA 1, §405-6D. **Voted:** 4-0. **Motion passed.** (Selectman Daggett had not yet joined the meeting).

The Selectmen entered Executive Session at 5:01 PM.

Motion by Selectman Matthews-Bull, seconded by Selectman Gilbert, to leave Executive Session per MRSA 1, §405-6D. **Voted:** 4-0. **Motion passed.**

The Selectmen resumed the public meeting at 6:08 PM.

3. ESTIMATED 6:00 PM - Approve the January 18, 2024, January 25, 2024, and January 30, 2024, selectmen meeting minutes.

Motion by Selectman Matthews-Bull, seconded by Selectman Dykstra, to approve the January 18, 2024, January 25, 2024, and January 30, 2024, selectmen meeting minutes. **Voted:** 4-0. **Motion passed.**

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.)

Kate Bauer Burke asked if there would be time for public comment when the Board takes up the agenda item reviewing the January 13th storm response. Chairman Weston responded that public comment would be permitted at that time.

Selectman Daggett confirmed that he had joined the meeting via Zoom.

Bob Domine stated that he does not support the Climate Action Committee or the Climate Action Plan. He feels it provides an avenue for local government overreach. As an example, he cited the plan's recommendation that gas-powered backpack leaf blowers are not used. Bob claimed they emit an estimated 90 pounds of carbon dioxide when used for 8 hours. He contrasted this with the estimated 48,000 international tourists to Maine each year (encouraged by the Maine State Office of Tourism), whose flights are responsible for 106 million pounds of carbon dioxide emissions. Selectman Dykstra pointed out that there is no mandate in the draft of the Climate Action Plan and that no committee has the power to write an ordinance. Any changes would have to be approved by the Board of Selectmen and the voters.

No motion was necessary. No motion was taken.

5. Presentation of proposed June 2024 ordinance changes:

a. LD 2003 Land Use Ordinance Amendments

Galen Weibley, Director of Planning and Development, informed the Board that he met with the Growth Planning Committee (GPC) earlier in the week. He presented a Venn diagram they developed to help people understand the Affordable Housing Density Bonus. It has three circles/colors:

Yellow (caution) – where multiplexes are permitted. The property must have a connection to public water & sewer to get the density bonus.

Blue (freeze) – growth map areas. They don't have the zoning for multiplexes and, therefore, do not get the density bonus.

Green (go) – the overlap of yellow and blue, where the density bonus is applied.

The GPC also recommended some changes, including adding a definition for multi-family to be included in the definition of multiplex, a definition of average median income, and rephrasing the affordable house definition to make it clearer.

The GPC also discussed the “double-dipping provision” regarding the 2-4 units to make clear that the bonus is “one and done” and to clarify that only one Accessory Dwelling Unit (ADU) is permissible per lot.

Laurie Smith, Town Manager, and Chairman Weston said they would like to have a public workshop on LD 2003 attended by the Select Board, Growth Planning Committee & Planning Board, and staff from the state to answer questions. Galen and Laurie said they would work to set up a date for the workshop.

b. Floodplain Ordinance Amendment

Galen informed the Board that he had spoken with the Town attorney. She has submitted the amendment she is proposing to the State, but they have not yet responded with a comment.

Bob Domine commented that in his many years as a Maine resident, the State has tightly constrained what he can and cannot do with his property. He finds it strange that now the State seems to be advocating a rush of high-density buildings.

Selectman Dykstra commented, and Galen confirmed, that Kennebunkport currently limits the number of new building permits to a total of 40 per year. No individual or developer may be issued more than seven permits unless there are unused permits by December.

No motion was necessary. No motion was taken.

6. Approval of bid for construction of bridges for wastewater tanks.

Eric Labelle, Project Engineer, informed the board that in our last budget, \$60,000 was approved for two bridges to go over the aeration tanks at the wastewater treatment plant. We didn’t have a design, so we went to a local fabricator. They came back with a bid of \$57,703.02 for design, fabrication & installation of three bridges. Eric did a cost check with Apex Construction, who said their estimated price would be approximately \$90,000.

Motion by Selectman Matthews-Bull, seconded by Selectman Dykstra, to purchase the three aeration tank bridges for \$57,703.02. **Voted:** 5-0. **Motion passed.**

7. Review of January 13, 2024, storm response.

Laurie stated that the January 10th & 13th storms were severe and brought historic flooding to the coast of Maine and Kennebunkport. We have submitted our initial storm damage estimate to FEMA in the amount of \$850,000. Dock Square, Ocean Avenue,

and Cape Porpoise Pier were the most damaged. The flooding was exacerbated by heavy rains and frozen ground. Laurie developed an analysis which is broken up into Strengths, Challenges & Recommendations.

Craig Sanford, Police Chief and EMA Director, added that the Public Works staff were helpful in putting up barricades in flooded areas. He estimated approximately \$50,000 in damage from the January 10th storm. Though the January 13th storm was projected to be like the previous storm, it came with almost three times as much rain as predicted. There were five police officers on duty that day who spent much of their time getting people out of dangerous situations. Ocean Avenue near Wandby Beach was a particular concern as the flooding was compromising the pavement, and people were attempting to walk and drive through. The police wrote a few summonses as some people moved barricades aside and drove through deep water. The chief worked with the Maine Turnpike Authority to acquire 25 Jersey barriers, which were delivered to Colony Beach. He stated that it was a challenge to address the situation with so few staff in this small community. The Board thanked the Chief and the Police department for their efforts.

Chris Simeoni, Public Works Director, added that crews monitored the streets for flooding on Friday evening (January 12th), but there weren't significant problems until Saturday when full Public Works and Wastewater crews were called in. Eric managed the Wastewater crew and the situation at the plant while Chris managed the highway crew. Chris thought it was a strength that the crews were well prepared and got out the equipment. But they weren't prepared for the intensity of the storm. A half inch of rain was predicted, but 3.1 inches were recorded at the Wastewater plant in a short period of time. In combination with the frozen ground and snow melt, interior roads flooded, as well as those on the coast. "Storm tourists" complicated the situation not only because they were putting themselves in precarious situations but also because they were getting in the way of storm crews operating heavy machinery. The Jersey barriers made the situation easier. By Saturday at 8 pm, all roads were reopened except for Ocean Avenue near St. Ann's and Wandby Beach and the west end of Goose Rocks Beach. Chris attempted to procure a pump to relieve the flooding on Kings Highway, but none were available, even from as far away as Massachusetts. The Board thanked Chris and the Public Works crews for their efforts.

Selectman Dykstra asked Chris to comment on the implications of opening the manhole covers at the west end of Kings Highway to solve the flooding situation there. Chris responded that this is not a good long-term solution because it puts the flood waters through the wastewater treatment system. The system is not designed to deal with this quantity of water, nor to treat saltwater as it affects the "flock" of microbes at the plant that treats the wastewater, potentially causing a permit violation. Only one of three

aeration tanks was in use at this time of year, so we were able to open the other two 107,000-gallon tanks to take some of the overflow. Yet we were still over peak capacity. Had this storm happened in the summertime when all three tanks were already in use, the results could have been catastrophic.

Jay Everett, Fire Chief, described the situation during the storm where six or seven structures were “sizzling” with smoke in them because the flood waters had covered their electrical systems. Mutual aid was not an option because all the surrounding communities were dealing with the storm. He had Central Maine Power (CMP) turn off power to the affected block. The Fire Department also dealt with a situation where they had to extract a person from a car because he attempted to drive through two feet of water, and the car was floating. Additional calls were coming in from people asking to have their basement pumped or floating LP tanks that had broken away from buildings and were leaking. There were 62 calls to the Fire Department that Saturday. All but a couple of the calls were for not very dangerous situations. But the Chief would like to discuss public expectations when it comes to pumping out basements.

Laurie followed up with lessons learned and recommendations for the future being considered:

- Issue a notice to evacuate locations in Town we know are susceptible to flooding and have an evacuation protocol.
- Purchase additional electronic message boards to deploy around town to enhance communications.
- Call additional fire and dispatch personnel ahead of the storm.
- Have fire crews stationed with the equipment.
- Provide a storm refuge for the public during flooding events.
- Deploy Jersey barriers in advance of the storm.
- Purchase a trash pump.
- Add staff to answer the phones (dispatch and/or Town Hall).
- Create a nuisance flooding alert for King and astronomical high tides.
- Educate the public about preparation for storms and thinking about storage and electrical systems in basements.
- Notify the public that the pump-out program is intended for residents experiencing a frozen pipe burst or after a fire and that it is not intended for flood pumping. Residents should make their own provisions to deal with basement flooding.
- Communicate with and prepare Town staff at all levels regarding the Town’s protocols and policies to provide a consistent message to the public, no matter which individual the public questions.

- Inform the public about the problem of water from sump pumps being introduced into the wastewater treatment system.

Laurie continued, saying that the Board had been provided with a storm surge concern list of roads, properties, areas with flooding and drainage issues, and the wastewater treatment system. Also of concern is Prescott Drive – a private road at the back of Goose Rocks that was used for public access during the flooding when other roads were impassable.

Kate Bauer Burke stated that the group of roads, including Prescott Drive, which she calls the Beaver Pond Corridor, was heavily used by emergency vehicles and the public during and after the second storm as the only safe way to access and evacuate the beach. She was not asking that the Town take over the roads but did ask that the Town consider making improvements to the drainage and culverts to make the road safer and more passable. John Downey added that he feels Prescott Dr should be redesignated from “Private” to “Access.” He accepted that the property owners are responsible for maintaining grading and plowing of the road but was requesting that the Town assist in bringing the road up about 12 inches to make it safer for transit by emergency vehicles and the public when needed for beach access and evacuation.

Laurie updated everyone on storm repair efforts. Ocean Avenue remains closed at Wandby Beach as the pavement is buckled, and there is surrounding erosion damage. We considered pulling up the pavement, allowing vehicles to pass on gravel. However, the engineers were concerned about further erosion and advised us to leave the pavement in place for the moment. In March, when we have warmer weather and the asphalt plants have reopened, we can reconstruct that section of the road with completion targeted at the beginning of May.

Colony Beach presents a more difficult situation. Part of the gravel parking area eroded in the storm last Winter. Laurie & Chris made the recommendation last year that we should add gravel to the area to shore it up at a cost of about \$40,000. However, the January 2024 storms caused more severe damage to the parking area, rendering it unsafe for vehicle parking. It would cost more than double the previous estimate to remediate the parking area now, with the real possibility that another storm could damage it again in a short time if configured the same way. The Town has announced that Colony Beach is closed to vehicles until further notice, but that the limited parking along Ocean Avenue can be used, and people are still welcome to visit the beach on foot. Town staff have met with various groups to investigate other potential solutions, but nothing promising has been proposed yet. We are still looking for solutions for Colony Beach.

Chris added that there is another damage along Ocean Avenue that Public Works intends to address. He will get some more definitive cost estimates for repairs and present those to the Board, deferring some other projects that were planned for this fiscal year.

No motion was necessary. No motion was taken.

8. Approval of Dock Square Parking Lot fees for the 2024 season.

Yanina Nickless, Director of Support Services, stated that the Dock Square Parking Lot fee is currently \$4 per hour.

The Town provides five “chaser tickets” to Town resident taxpayers who request them as part of a voucher system. Last year, 7,650 tickets were mailed out last year, but only 20% were used. This manually intensive system is a barrier to adopting a more streamlined technology in the future. Town staff are asking if the Board is willing to explore other options. The Board members expressed their support for continuing the voucher system and requested that staff investigate ways it could be integrated with new technology.

Motion by Selectman Dykstra, seconded by Selectman Daggett, to increase the Dock Square Parking Lot fee from \$4 per hour to \$5 per hour. **Voted: 4-1. Motion passed.**

9. Discussion of waiver of beach stair building permit fees.

Laurie relayed a request from a Goose Rocks Beach resident. Considering that so many stairs to the beach were washed away in the recent storms, the resident is requesting that the building permit fees be waived for those who are rebuilding beach stairs. Galen explained that rebuilt stairs require a Natural Resources Protection Act (NRPA) permit by rule, which includes a \$307 fee submitted to the State. The Town's fee is approximately \$60, which covers the expense of a code officer visiting the stair construction to confirm that it has been built to code. While the Town is sympathetic to the intent of the request, other towns have requested that the NRPA fee be waived, and the State has declined.

No motion was necessary. No motion was taken.

10. Other Business.

Laurie asked Eric to provide a Pier Road causeway update. He informed the board that there will be a pre-construction meeting next week, with the block to be delivered on

February 26th and construction to begin in March. The project is due for completion by the end of May. While the road will be reduced to one lane at times, it will remain open. Yanina announced that Laurie will mark her ten-year anniversary as Kennebunkport Town Manager on Saturday. She praised Laurie for her hard work and dedication to the Town in a position that can often be quite challenging, saying that Town staff and the community are lucky to have her.

Selectman Daggett requested an update on an analysis of flooding along the Kennebunk River and what can be done to mitigate it. Laurie responded that we are working with the Town of Kennebunk to explore solutions. We met with Boston-based VHB, a national firm, as Woodard & Curran indicated that the scope of the project is not in their wheelhouse. Eric added that VHB wants to study the hydraulics of the area before recommending the feasibility of resiliency options (e.g., raising roads) or a tide gate and where it would go. The project study would cost between \$200,000 - \$300,000 and take 9 to 18 months to complete. Kennebunk's Town Manager indicated a willingness to split costs for the study. Laurie also reached out to the Southern Maine Planning and Development Commission, briefing them on the potential cost. They are looking into grants and other funding possibilities.

11. Approve the February 8, 2024, Treasurer's Warrant.

Motion by Selectman Matthews-Bull, seconded by Selectman Dykstra, to approve the February 8, 2024, Treasurer's Warrant. **Voted: 5-0. Motion passed.**

12. Adjournment.

Motion by Selectman Matthews-Bull, seconded by Selectman Daggett, to adjourn. **Voted: 5-0. Motion passed.** The meeting adjourned at 7:30 PM.

Submitted by,
Dave Powell,
Technology Specialist