

**Town of Kennebunkport
Board of Selectmen's Meeting
August 8, 2013-7 PM
Village Fire Station, 32 North Street**

Minutes of the Selectmen Meeting of August 8, 2013

Selectmen present: Patrick A. Briggs, Allen A. Daggett,
Edward W. Hutchins

Selectmen absent: Stuart E. Barwise and Sheila Matthews-Bull

Others present: Jennifer Feals, David Powell, Werner Gilliam, David James,
Larry Mead, Arlene McMurray, Allan Moir, and others

1. Call to Order.

Vice-Chair Daggett called the meeting to order at 7:01 PM.

2. Approve the July 25, 2013, selectmen meeting minutes.

Motion by Selectman Hutchins, seconded by Selectman Briggs, to approve the July 25, 2013, selectmen meeting minutes. **Vote:** 3-0.

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 Manager Larry Mead mentioned Selectmen Barwise and Matthews-Bull had other commitments and send their regrets that they were unable to attend this meeting.

4. Confirm appointment of Werner Gilliam as Director of Planning and Development.

Mr. Mead said consolidating the Planning, Assessing, and Code Enforcement Departments into one department called Planning and Development was approved during the fiscal year 2014 budget process and by the voters at Town Meeting. The Administrative Code requires confirmation of appointments of department heads. The position was posted in July. He said Werner is very capable for the position, and he is happy to have him on the management team.

Motion by Selectman Hutchins, seconded by Selectman Briggs, to confirm the appointment of Werner Gilliam as Director of Planning and Development.
Vote: 3-0.

Mr. Gilliam thanked the Board for the appointment, and said he looks forward to continuing his work for the Town.

5. Establish new fees for building permits.

Motion by Selectman Hutchins, seconded by Selectman Briggs, to table this item until the next meeting when there is a full board. **Vote:** 3-0.

6. Consider tax abatements for the following:

Property Owner	Location	Map	Blk	Lot(s)	Abatement Amount 2012	Abatement Amount 2011	Abatement Amount 2010
Diane B. Cullen	37 Pier Road	30	1	10	\$169.91	169.91	184.92
Total Abatement					\$524.74		

Mr. Gilliam explained that an assessing error occurred during the 2009 revaluation. The buildings on this property consist of a cape and a cottage which were on separate property cards. It was discovered that the cottage was assessed twice, once as an outbuilding. Since state law allows abatements to go back three years, Assessor Donna Moore Hays recommends giving the property owner abatements for 2010, 2011, and 2012.

Motion by Selectman Briggs, seconded by Selectman Hutchins, to approve the tax abatement for Diane B. Cullen as recommended by Assessor Donna Moore Hayes for the total amount of \$524.74. **Vote:** 3-0.

7. Accept donations from Kennebunk Savings Bank to the Public Health Department resulting from customers voting for worthy non-profits.

Motion by Selectman Briggs, seconded by Selectman Hutchins, to accept the donation of \$981 from the Kennebunk Savings Bank designated for the Kennebunkport emergency fuel account. **Vote:** 3-0.

8. Consider purchase of 12 grinder pumps for the Sewer Department.

Sewer Superintendent Allan Moir said they reevaluated their pump system and Ron Taylor, chief wastewater equipment operator, found replacements. They budgeted \$20,000 for these replacements. Below are the prices for each system:

E-1 pump (currently in use)	\$1,820.00 each
Liberty pump system	\$1,650.00 each
Barnes pump system	\$1,589.95 each

Mr. Moir would like to purchase the Barne's pump system. He said they installed it at Pier 77, and it works efficiently. He would also like to purchase one spare level switch for \$275.

Motion by Selectman Hutchins, seconded by Selectman Briggs, to purchase 12 Barnes grinder pump systems and one spare level switch at a cost of \$275 for a total cost of \$19,354.40. **Vote:** 3-0.

9. Consider proposed warrant articles for the November election:

Mr. Mead pointed out that Election Day is on November 5, and it is not yet clear if the state will have anything on the ballot. He said it will remain unclear until after Labor Day.

Town Clerk April Dufoe added that the Board of Selectmen have until September 12 to decide if it wants to continue as a Special Town Meeting in November or if the state has an election, to change it to a secret ballot.

a. Changes to the Administrative Code.

Mr. Mead said the Administrative Code Committee met and endorsed all of the proposed changes but had concerns about the proposed name of the Planning and Development Department. The Committee thought the name might be confusing for people trying to locate the code enforcement and assessing offices. Mr. Mead assured them that the town office telephone system would lump them together under one extension option, and the Town's website distinguishes them sufficiently.

Mr. Mead said for the next meeting, another change in the Administrative Code will be under section **3. Appointed Officers**. He said he is removing the title of Building Official and also putting Town Clerk back in.

b. Changes to the Kennebunk River Ordinance.

Mr. Gilliam said there are no new changes to this ordinance since the last meeting. He is waiting for the River Committee to meet and give its comments.

c. Consider acceptance of Squier Lane as a public street.

Mr. Mead read the proposed language for the warrant article written by the Town attorney. There is also a Quit Claim Deed conveying the street to the Town and an agreement between the Town and the Shawmut Woods Homeowners Association that was discussed at the previous Selectmen's Meeting.

d. Consider exchange of land on Goose Rocks Road in order to physically connect two parcels owned by the Town.

Mr. Gillian said there have been no changes to this article since the last meeting.

e. Amendments to the Fire Code Ordinance.

Mr. Gilliam and Fire Chief Allan Moir prepared revisions to the Kennebunkport Fire Code Ordinance that remove all of the sections of the Fire Code except for the National Fire Protection Association (NFPA) 101 Life Safety Code. Mr. Gilliam reiterated what he said from the previous meeting that the Town should consider removing items from the Fire Code Ordinance because the Town does not have the staff to enforce them. He provided a memo with their comments on the codes listed in the Fire Code Ordinance (See exhibit A).

f. Amendments to the GPC Ordinance.

Mr. Gilliam said there are no changes to this article since the previous meeting.

g. Consider purchase of property adjacent to Parsons Field on School Street.

Mr. Mead said Mr. McCabe is interested in selling a parcel of his property to the Town which is a good location for expansions to either the recreation, school, or wastewater treatment plant. He said he would not have the selling price in time for the warrant article, so the article will be written so that the Town can negotiate a price not to exceed a certain amount.

10. Other business.

Mr. Mead mentioned the ongoing issues between the York County Commissioners and the York County Budget Committee related to disputes of the Budget Committee's authority. He said the latest conflict occurred when the Budget Committee refused to sign the Board of Commissioner's Ethics Policy. The Budget Committee is appealing this decision and would like the towns to share in the costs of the appeal.

David James, a York County Budget Committee member, proceeded to explain the background of the relationship between the County Commissioners and the Budget Committee. He said the problems began three years ago when the Commissioners approved for themselves a health benefits package that they are not entitled to because they are part-time employees. In response, the Budget Committee took the health benefits package out of the budget. After the budget was approved, the Commissioners used money to put several of them back on the benefits package.

Two year ago, another issue causing conflict was when the Commissioners decided not to fund any nonprofit organizations including the York County Food Shelter Program. The Budget Committee, on the other hand, voted unanimously to fund \$30,000 for the York County Food Shelter Program. Since the Commissioners have the authority to write the checks, they elected not to write that check.

Mr. James said last September the Commissioners decided to take over the caucusing procedures to elect the Budget Committee; however, since the Budget Committee has been doing it for the past several years and is authorized to hold the caucus by state law, the Budget Committee went ahead and held the caucus procedure. Representatives from the 29 municipalities voted in 15 members, of which 10 are elected officials from the 29 municipalities divided into 5 districts, and 5 are public representatives, which includes Mr. James. The Commissioners backed down and accepted the Budget Committee members.

The next conflict occurred when the Commissioners decided to have an ethics policy for all employees and decided that the Budget Committee should sign it. The Budget Committee opposed this decision because its members are not employees and because the policy also includes that all votes by a committee may be later reviewed, modified, or reversed by the County Commissioners. He said the state authorizes the Budget Committee to approve the final budget.

In the meantime, the Budget Committee decided to adopt its own code of ethics policy almost identical to the other ethics policy except for a few changes. All of the Budget Committee members signed the Budget Committee's ethics policy.

Since the Budget Committee had only 30 days to appeal the Commissioners' decision, the appeal was submitted on August 6 and a request for money to help pay for this appeal has been sent out. The funds received would be handled by Southern Maine Regional Planning. It is estimated that \$15,000 is needed. The assessment to the Town of Kennebunkport would be \$604. Mr. James said the Budget Committee may need to withdraw its appeal because it is not sure how many of the Towns will contribute to the cost.

Mr. Mead added that it is a continuing ongoing dispute on something that is not critical, so towns may not want to contribute to the \$15,000 price tag for the appeal. He said Wells voted to approve the amount requested, but he is not sure the towns with smaller populations would support this. He said perhaps the Towns would support funding the hiring of a mediator.

In response, Mr. James said the Commissioners voted 4-1 for censuring the Budget Committee. He does not think mediation will happen.

Board members wanted further discussion when there is a full board.

Motion by Selectman Hutchins, seconded by Selectman Briggs, to table this item until the next meeting. **Vote:** 3-0.

11. Consider the August 8, 2013, Treasurer's Warrant.

Motion by Selectman Hutchins, seconded by Selectman Briggs, to approve the

August 8, 2013, Treasurer's Warrant. **Vote:** 3-0.

12. Executive session per 30-A M.R.S.A. § 2702 to discuss personnel matters.

Mr. Mead said the discussion will be on selecting an interim town manager. He said there would be no action taken.

Motion by Selectman Hutchins, seconded by Selectman Briggs, to go into executive session per 30-A M.R.S.A. § 2702 to discuss personnel matters. **Vote:** 3-0.

The Board went into executive session at 7:50 PM.

The Board came out of executive session at 8:25 PM.

No action was taken.

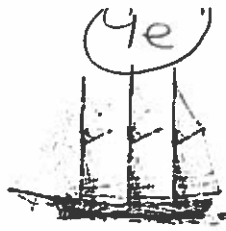
13. Adjournment.

Motion by Selectman Hutchins, seconded by Selectman Briggs, to adjourn. **Vote:** 3-0.

The meeting adjourned at 8:25 PM.

Submitted by

Arlene McMurray
Administrative Assistant



TOWN OF KENNEBUNKPORT, MAINE

~ INCORPORATED 1653 ~

MAINE'S FINEST RESORT

August 5, 2013

Memo: Revisions to Kennebunkport Fire Code

From: Werner Gilliam Director of Planning and Development, Allan Moir Fire Chief

To: Kennebunkport Board of Selectmen

Currently you have before you a proposed revision to the Kennebunkport Fire Code Ordinance that would remove all components of the Fire Code except for NFPA 101 Life Safety Code. It is our belief that if the town does not intend to enforce these ordinances, that from a legal liability perspective we should remove them from ordinance.

However as the governing body which makes decisions for warrant articles that result in town policy, this decision should not be taken lightly. The decision to remove codes/ordinances should not be based solely on our existing staff constraints and the perceived negative public response to "yet another restriction".

We've listed below some comments relative to each of the codes listed in the Fire Code Ordinance.

- NFPA 1 Fire Prevention Code. This code has also been adopted by the State Fire Marshall's Office (SFO) and is thereby fully enforceable throughout the State of Maine by the Fire Marshall and locally via their representative the Fire Chief. Per our local ordinance it is also enforceable by the Code Enforcement Officer. Due to its inclusion via the SFO we do not believe that it is necessary to have it locally adopted as well.
- NFPA 70 & 70A National & Dwelling Electrical Code. These codes are not adopted by the SFO, they are however the codes adopted by the State of Maine for the electrical code. Homeowners are entitled to do their own electrical work within their own single family dwelling, and are required to follow this code. In the absence of a local electrical inspector homeowners are supposed to pull a state permit and have a state inspector check their work, however this is typically only done when the work requires a new or replacement service. All other electrical work is to be done by a licensed electrician. These codes to a certain extent are self-enforced by the electrician. Their work on multifamily and commercial installations is typically the only work inspected by the state. Having a local electrical inspector is one of the areas that we have from time to time received requests for. Where we do not have a local electrical inspector we do not believe that we should be enforcing the electrical code under the Fire Code Ordinance.



TOWN OF KENNEBUNKPORT, MAINE

~ INCORPORATED 1653 ~

MAINE'S FINEST RESORT

- NFPA 101 Life Safety Code. This code is exactly what it states, minimum requirements related to life safety primarily used for commercial properties. This code has been adopted by the SFO and the town. It forms the basis on which the town does its annual victualers inspections. We believe it is prudent to keep this code adopted locally.
- NFPA 211 Chimneys Fireplaces and Vents. This code regulates the construction of Chimneys and Vents. It has been adopted by the SFO and is thereby fully enforceable throughout the State of Maine by the Fire Marshall and locally via their representative the Fire Chief. Per our local ordinance it is also enforceable by the Code Enforcement Officer. In addition the Maine Uniform Building Code (MUBC) which we have adopted also contains standards related to the same. Due to its inclusion via the SFO and the MBUC, we do not believe that it is necessary to have it locally adopted as well.
- NFPA 303 Marinas and Boatyards. This code regulates fire protection standards related to Marinas and Boatyards and covers items such as sprinkler requirements, management practices, electrical installations, and operational hazards. This code is not adopted by the SFO and has only been adopted locally via the Kennebunkport Fire Code Ordinance. Being a waterfront community we have our fair share of properties that would be classified as such. This code as adopted is not retroactive to existing marinas however it would govern work being done at those locations. There are items under this code that may not make sense for Kennebunkport. Under the provisions of home rule the town could chose to modify this code and keep only those items that it wishes to enforce, and this may be the practical approach that the Board should consider. This code does represent stricter electrical and fire protection requirements that are not covered under NFPA 101 or 70. There is no doubt that keeping this code would require an investment on the town's part to provide proper enforcement. However, adoption of specific sections of this code that address our local needs and enforcement capacity would be better than just doing away with the code in its entirety.

For the November warrant, we would recommend that this code be removed entirely from the Kennebunkport Fire Code Ordinance so that the town reduces its liability due to non-enforcement if an incident was to occur. Looking forward to the future we would be happy to provide the Board with specific code recommendations better suited for Kennebunkport for consideration on a future warrant.