

**Town of Kennebunkport
Board of Selectmen's Meeting
Village Fire Station-32 North Street
June 25, 2015 – 7:00 PM**

Minutes of the Selectmen Meeting of June 25, 2015

Selectmen present: Stuart E. Barwise, Allen A. Daggett, and Sheila Matthews-Bull

Selectmen absent: Patrick A. Briggs and Edward W. Hutchins

Others present: Barbara Barwise, Michael Davis, Werner Gilliam, Sarah Lachance, Arlene McMurray, Laurie Smith, Tim Spang, and Mark Terry

1. Call to Order.

Chair Matthews-Bull called the meeting to order at 7 PM. She thanked the Board for having the confidence in her to make her chair again.

2. Approve the June 11, and 13, 2015, selectmen meeting minutes.

Motion by Selectman Daggett, seconded by Selectman Barwise, to approve the June 11, 2015, selectmen meeting minutes. **Vote:** 3-0.

Motion by Selectman Daggett, seconded by Selectman Barwise, to approve the June 13, 2015, 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.).

There were no comments.

4. Consider a renewal liquor license application submitted by US Hotels New England LLC, US Hotels New England Management Corp, DBA The Breakwater Spa, 133 Ocean Ave.

Motion by Selectman Barwise, seconded by Selectman Daggett, to approve the renewal liquor license application submitted by US Hotels New England LLC, US Hotels New England Management Corp, DBA The Breakwater Spa, 133 Ocean Ave. **Vote:** 3-0.

5. Consider a renewal liquor license application submitted by Richard W. Litchfield and Beverly D. Davis, DBA Captain Lord Mansion, 6 Pleasant St.

Motion by Selectman Barwise, seconded by Selectman Daggett, to approve the renewal liquor license application submitted by Richard W. Litchfield and Beverly D. Davis, DBA Captain Lord Mansion, 6 Pleasant St. **Vote:** 3-0.

6. Update by Sarah Lachance on the wind turbine and charging station project at Village Fire Station.

Sarah Lachance, chair of the Conservation Commission, said in regard to the wind turbine at the police station, that the software data conflicts with the CMP data. Unfortunately, the turbine company went out of business. She is going to bring a sound level meter to track it on a high wind day. She did a site visit and did not notice a significant difference. She said the wind turbine savings in kilowatts of energy is significant.

As for the solar powered charging station, Ms. Lachance said she raised \$3,400 of the funds and the Conservation Commission gave her additional funds. She received a quote of approximately \$9,000 for the charging station and anticipates raising up to half of the funds. She asked the Board if it would match the \$4,500 in funds.

Motion by Selectman Barwise, seconded by Selectman Daggett, to give the Conservation Commission \$4,500 from the contingency fund to match funds for the solar powered charging station.

7. Consider property transfer Goose Rocks Road-Mark Terry.

Director of Planning and Development Werner Gilliam, explained the land swap which will give Mark Terry the needed frontage for a buildable second lot. The Town would gain connectivity between two town forest parcels. He recommends this swap. (See Exhibit A).

Motion by Selectman Barwise, seconded by Selectman Daggett to move forward with the property transfer of Goose Rocks Road between the Town of Kennebunkport and Mark Terry as recommended. **Vote:** 3-0.

8. Consider request to remove deed restriction for parcel map 14, block 2, lot 11A on Arundel Road.

Mr. Gilliam explained that the deed restriction in 1988 limited the parcel to one septic system. He said technology has changed and he does not have an issue if the deed restriction was removed.

Motion by Selectman Barwise, seconded by Selectman Daggett, to remove the deed restriction that was placed in 1988 on parcel map 14, block 2, lot 11A on Arundel Road. **Vote:** 3-0.

9. Consider Animal Control Ordinance clarification.

Town Manager Laurie Smith explained that the Town approved the Animal Control Ordinance on June 9, but there were unintended consequences. She said the ordinance could be interpreted to mean that no dogs are allowed on

the West End plover protection area, which was not the intention of the Goose Rocks Beach Advisory Committee. The Maine Department of Inland Fisheries and Wildlife gave recommendations for clarifying the rules applying to dogs on the beach (See Exhibit B). She proposed an amendment which would be on the November Town Warrant. Her proposal is to allow dogs on the beach within the West End plover protection areas as long as they are leashed, and only during the times that dogs are allowed on the beach. Also, dogs may not be off leash within the West End plover protection areas at anytime from April 1 to September 30. The Board agreed with her changes.

10. Approve a Quit Claim deed for property located on Wakefield Pasture Road (map 9, block 4, lot 82).

Ms. Smith said this property was foreclosed on this past year for unpaid taxes. Representatives of the estate wish to sell this property and have paid off the taxes.

Motion by Selectman Barwise, seconded by Selectman Daggett, to approve the Quit Claim deed for property located on Wakefield Pasture Road (map 9, block 4, lot 82). **Vote:** 3-0.

11. Authorization to transfer up to \$18K from contingency to public health.

Ms. Smith explained that the public health department went over budget due to hiring per diem nurses to cover during the Director of Public Health's absence and also to pay out earned time for an employee who resigned. She anticipated it would be just under \$18,000.

Motion by Selectman Daggett, seconded by Selectman Barwise, to authorize the transfer of up to \$18,000 from the contingency fund to the public health department. **Vote:** 3-0.

12. Authorize waiver of sewer lien for Ann Seavey account #792.

Ms. Smith said the foreclosure is occurring this week and staff recommends the waiver of foreclosure on this property.

Motion by Selectman Barwise, seconded by Selectman Daggett, to authorize the waiver of sewer lien for Ann Seavey account #792. **Vote:** 3-0.

13. Approve \$300 expenditure from the Goose Rocks Beach Advisory Committee account for Dog Ordinance language inserts placed in the Goose Rocks Beach brochure.

Motion by Selectman Barwise, seconded by Selectman Daggett, to approve \$300 expenditure from the Goose Rocks Beach Advisory Committee account for

Dog Ordinance language inserts placed in the Goose Rocks Beach brochure.

Vote: 3-0.

14. Authorize Union Contract.

Ms. Smith said the only changes in the Union Contract are the 3% wage increase for three years and the title change for Carol Kloth's position at the police department.

Motion by Selectman Barwise, seconded by Selectman Daggett, to approve the Collective Bargaining Agreement between the Town and Teamsters Union Local 340 from July 1, 2015 through June 30, 2018. **Vote:** 3-0.

15. Accept donations to the Emergency Fuel Program in the amounts of \$50 from Angela Gendron and \$150 from Rachel Grier-Reynolds in memory of Anthony Kravotil.

Motion by Selectman Daggett, seconded by Selectman Barwise, to accept the \$200 donations to the Emergency Fuel Program. **Vote:** 3-0.

16. Investment Committee appointment.

The Investment Committee met and interviewed two candidates. The Committee recommended Bob McCrillis, but said both candidates were good.

Motion by Selectman Daggett, seconded by Selectman Barwise, to appoint Bob McCrillis to the Investment Committee for a term ending July 1, 2016. **Vote:** 3-0.

17. Discuss Matt Lanigan Bridge improvement.

Ms. Smith said there will be no division between the sidewalk and the travel lane. She and Town Manager Barry Tibbetts were concerned it would be a safety issue. They discussed this with the DOT and they came up with plans for an overlook. She and Mr. Tibbetts recommend having an overlook on both sides of the bridge for safety. This was approved in Kennebunk. The estimated cost is approximately \$35,000, with each town paying \$17,500. She said the Bridge Committee meets again in July.

Motion by Selectman Barwise, seconded by Selectman Daggett to support the Town Managers' recommendations to have an overlook on both sides of the Mat Lanigan bridge.

18. Approve the Certificate of Supplemental Commitment of Sewer User Rates for property located on Lock Street (Map 12, Block, 1, Lot 5C) for three years: January 1, 2013–December 31, 2013, January 1, 2014–December 31, 2014, and January 1, 2015–December 31, 2015.

Ms. Smith said it was discovered that the property had been split. This supplemental bill will correct that error. It is for three years.

Motion by Selectman Daggett, seconded by Selectman Barwise, to approve the Certificate of Supplemental Commitment of Sewer User Rates for property located on Lock Street (Map 12, Block, 1, Lot 5C) for three years: from January 1, 2013–December 31, 2013 for \$415.00; from January 1, 2014–December 31, 2014 for \$410.00, and \$410.00 from January 1, 2015–December 31, 2015.

Vote: 3-0.

19. Other business.

a. Student correspondence

Ms. Smith said she received two letters from Consolidated School students who had a persuasive writing project. Drew Highbarger proposed swimming lessons at the Grist Mill, and Janelle Powell suggested borrow-a-bike at Dock Square.

Chair Matthews-Bull said both projects would work out well on the Conservation Trust property. She said if the students will contact her, she can connect them to Tom Bradbury of the Trust.

b. November election timelines.

The Board received timelines for the election.

Ms. Smith mentioned committee vacancies:

Administrative Code Committee – 1 opening
Board of Assessment Review – 1 opening
Budget Board – 1 opening
Conservation Commission – 1 opening
Government Wharf Committee- 2 openings
Growth Planning Committee – 4 openings
Lighting Committee – 1 opening
Solid Waste Committee – 2 openings
Zoning Board of Appeals – 2 openings

Ms. Smith announced:

- At the next Selectmens Meeting on July 9, the Board will be appointing Selectmen Representatives to committees along with committee/board members.
- Town Hall will close at 3:30 PM on June 30, to complete end of fiscal year paperwork.

- On Tuesday, July 7, Town Hall will close for one-half hour, from noon to 12:30 PM, so that employees can be present to receive service awards.
- The Town received a letter from the Secret Service thanking the police and fire departments, especially Craig Sanford and Kurt Moses, for the great work that they did for Mrs. Bush's 90th birthday celebration at St. Ann's Episcopal Church.

20. Approve the June 25, 2015, Treasurer's Warrant.

Motion by Selectman Barwise, seconded by Selectman Daggett, to approve the June 25, 2015, Treasurer's Warrant. **Vote:** 3-0.

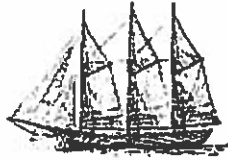
21. Adjournment.

Motion by Selectman Barwise, seconded by Selectman Daggett, to adjourn.
Vote: 3-0.

The meeting adjourned at 7:50 PM.

Submitted by

Arlene McMurray
Administrative Assistant



TOWN OF KENNEBUNKPORT, MAINE

~ INCORPORATED 1653 ~

MAINE'S FINEST RESORT

MEMO

June 18, 2015

RE: Goose Rocks Road Land Swap

To: Board of Selectmen

From: Werner Gilliam CFM Director of Planning and Development

After having received direction from the Board of Selectmen last year I have been working with Mark Terry and Jim Logan from Albert Frick and Associates to rework proposed boundary lines for the anticipated land swap to occur between Mark Terry and the Town. Direction from the Board of Selectmen specifically requested the preservation of as much undisturbed road frontage along Goose Rocks and Log Cabin Rd, and the connection of the Jullian Howard Memorial Parcel with the larger Town Forest Parcel further down Goose Rocks Road. The Terry's goal was to secure enough land area for two legal lots (one vacant and one with their current home) along with having their proposed building site to be in a specific location which is fairly secluded and not visible from Goose Rocks Road. The goals stated above were given greater importance over ensuring a more or less equal "square ft. for square ft. swap"

Acreage wise due to wetland locations and constraints the Terry's land overall increases from 6.53 acres to 9.2 acres which includes the area considered unbuildable occupied by the CMP Easement (1.5+- acres). The inclusion of the CMP area was necessary to capture required road frontage and connectivity with additional upland on the easterly side of the easement.

The Town's overall acreage with the two Town Forest parcels combined decreases from 47.2 acres to 44.53 acres. This reduction in acreage is primarily due to the unique shape and size of wetland areas, and the subtraction of the CMP ROW area, which was necessary to accomplish the Terry's goal of two legal lots.

Overall I believe this plan meets with the overall stated goals of both parties. While alternative boundary line arrangements could be explored I do not believe that the end result would be significantly different acreage wise than what you see proposed here.

Exhibit B – June 25, 2015



Maine Department of Inland Fisheries and Wildlife (MDIFW) recommendations for Kennebunkport proposed Animal Control Ordinance

The purpose of MDIFW recommendations regarding the proposed animal control ordinance is to prevent "Take" of federal and/or state listed species that may occur on Kennebunkport beaches (Piping Plover, Least Tern, Red Knot and Roseate Tern) and potential liabilities under state and federal law. MDIFW acknowledge that the Town of Kennebunkport needs to develop a dog ordinance that works best for the Town and considers all their needs and demands. MDIFW is willing to work with and help the Town through this process. MDIFW offers the following suggestions and comments regarding the proposed Animal Control Ordinance.

Points to consider:

- After hatch plover chicks leave the stake and twine Restricted Area to forage on invertebrates in the wrack and intertidal area. MDIFW has documented chicks moving 1-1.5 miles from the nest site.
- Plover chicks "freeze" when they perceive a threat, making them almost invisible and easily snatched up by a predator.
- Roseate Terns and Red Knots use beaches beginning in mid-July through the end of September. April 1 – September 30 is consistent with the restriction window MDIFW uses during permit review of Essential Habitat and Shorebird Significant Wildlife Habitat.

MDIFW primary recommendation to prevent "Take": All dogs on leash only during April 1 – September 30. Definition of leash is hand held device 8 feet or less.

Dogs and cats can be a significant source of mortality for piping plovers. It is the experience of Federal and State agencies charged with protection and management of piping plovers through the Atlantic flyway that "voice control" does not work to prevent "take" of nesting piping plovers or their chicks.

Other considerations:

Section D: Specific Requirements for dogs on beaches

Under 2 - c : Dogs must kept at least 200 feet from any designated Restricted Area – the Town should clarify this does *not* include back dune, lawns, and upland properties within 200 feet of the designated Restricted Area. To prevent "Take" dog owners that live within 200 feet of a restricted area should leash their pet and access the beach as far away as possible from the Restricted Area.

Under 2 –d i and ii: MDIFW appreciates the Town's willingness to establish Restricted Areas with 200 foot buffers from off leash pets. However, plover chicks and fledglings foraging outside of the Restricted Areas will be vulnerable to mortality caused by off leash dogs.

The Kennebunkport Dog Ordinance adopted at a Special Town Meeting on June 9, 1976 is hereby repealed and replaced with this Animal Control Ordinance

PROPOSED ANIMAL CONTROL ORDINANCE

Section A: Purpose

The purpose of this ordinance is to require that all animals in the Town of Kennebunkport be kept under the control of their owner or keeper at all times so that they will not injure persons or other animals, damage property or create a public safety threat.

The provisions of this ordinance that apply to the owner of an animal apply equally to any person keeping, or having control, custody or possession of that animal.

Section B: Definitions

1. **ANIMAL:** Every living, sentient creature not a human being.
2. **ANIMAL CONTROL:** Control of dogs, cats and domesticated or undomesticated animals.
3. **ANIMAL CONTROL OFFICER:** Any person appointed by the Town of Kennebunkport to enforce animal control laws.
4. **ANIMAL SHELTER:** A facility that includes a physical structure that provides temporary shelter to stray, abandoned, abused or owner-surrendered animals.
5. **AT LARGE:** Off the premises of the owner, unleashed and not under the Voice and Sight control of a responsible party.
6. **BEACH:** The beaches within the Town of Kennebunkport commonly referred to as Goose Rocks Beach, Colony Beach, and Cleaves Cove.
7. **DOG:** Any of large and varied groups of domesticated animals in the canine family.
8. **LEASH:** Hand held device, 15 feet or less in length, which can be used to restrain a dog.
9. **OWNER:** Owner or any person or persons, firm, association or corporation owning, keeping or harboring an animal or any person having custody, possession, or control of an animal.
10. **RESPONSIBLE PARTY:** Any person who has custody, possession or control of a dog, whether or not that person is the Owner.
11. **RESTRICTED AREAS:** Any beach area on Goose Rocks Beach, Colony Beach or Cleaves Cove, that is designated for special protection for piping plovers or other endangered species based upon scientific and historical data.

12. **VOICE AND SIGHT CONTROL:** "Voice Control" means that the dog returns immediately to and remains by the side of the responsible party in response to the responsible party's verbal command. "Sight Control" means that dog is always within sight of the responsible party and the dog is capable of complying with Voice Control. If a dog approaches or remains within 10 feet of any person other than the responsible party, that dog is not under voice control and is in violation of this Ordinance unless such person has communicated to the responsible party by spoken word or gesture that such person consents to the presence of the dog. A dog barking repeatedly is not considered under Voice and Sight Control.

Section C: Requirements for Control of Animals

1. **AT LARGE DOGS:** It is unlawful for any dog, licensed or unlicensed, to be at large within the Town of Kennebunkport, except when used for hunting. Dogs shall be considered at large unless leashed or under Voice and Sight Control of a responsible party. A responsible party shall maintain control of their dog(s) at all times, not allow the dog(s) to charge, chase or display aggression towards any person, or disturb or harass any person, other dogs or wildlife. A responsible party shall have a leash in his/her possession for any dog that is off leash. The owner of any dog found at large or otherwise in violation of this section will be subject to the civil penalties provided in the Ordinance and/or Maine State Law, Title 7, Section 3911.
2. **DOGS LEASHED:** A leash shall be used to restrain a dog: (a) if the dog fails to respond to voice commands when off the premises of the owner, (b) when a dog is walking with a responsible party on roads and sidewalks in the Town of Kennebunkport, or (c) if the responsible party is ordered by the Animal Control Officer or a law enforcement officer to leash the dog. The owner of any dog found in violation of this section will be subject to the civil penalties provided in the Ordinance.
3. **IMPOUNDMENT OR RETURN OF AT LARGE DOGS:** All dogs found at large in violation of this Ordinance or Title 7, M.R.S.A., Section 3911 may be impounded at the animal shelter or returned to the owner, at the discretion of the Animal Control Officer or law enforcement officer.
4. **LICENSES:** No dog shall be kept within the limits of the Town of Kennebunkport unless such dog is licensed by the owner in accordance with Maine State Law.
5. **RABIES TAGS:** Rabies tags obtained from a veterinarian for immunization against rabies must be securely attached to the dog's collar and must be worn by the dog for which the tag was issued except when the dog is hunting, in training or in an exhibition or on the premises of the owner.

6. **CONTROL OF ANIMAL WASTE:** An owner or responsible party must remove and dispose of any feces left by his/her animal on any sidewalk, street, beach, public property or private property (other than the property of the owner of the animal or of a person who has consented to the presence of the animal on his or her property). Deposit of feces left off property of the owner shall be placed in an appropriate litter receptacle.

Section D: Specific Requirements for Dogs on Beaches

1. **AUTHORITY:** The Board of Selectmen shall have the authority to adopt specific rules governing dogs on Goose Rocks Beach, Colony Beach and Cleaves Cove that are more restrictive than the provisions of Section C of this Ordinance. For example, the Board of Selectmen may designate Restricted Areas on these beaches for special protection for piping plovers or other endangered species based upon scientific and historical data consistent with state and federal laws governing endangered species. For specific rules governing dogs on Goose Rocks Beach, the Board of Selectmen shall have the authority to adopt such rules after consultation with the Goose Rocks Beach Advisory Committee, in accordance with Section IV.D of the Beach Use Ordinance for Goose Rocks Beach.
2. **DOG RULES ON BEACHES:** The following rules, adopted in accordance with Section D.1 above, apply to the following beaches located within the Town of Kennebunkport: Goose Rocks Beach, Colony Beach and Cleaves Cove.
 - a. An owner or responsible party shall always be required to leash their dog on any of the applicable beaches referenced above when directed to do so by a law enforcement officer or Animal Control officer.
 - b. Pet waste must be picked up immediately and disposed of properly in an appropriate litter receptacle.
 - c. Dogs must be kept at least 200 feet from any designated Restricted Area.
 - d. Restricted Areas include the following:
 - i. Any beach area on Goose Rocks Beach, Colony Beach or Cleaves Cove that has been roped off, fenced off or otherwise demarcated or posted by governmental officials or their agents to protect the nesting site of a piping plover or of any other endangered species protected under federal or state law.
 - ii. The West End Plover Protection Area is a Restricted Area on Goose Rocks Beach that begins at Norwood Avenue and continues westerly to the Batson River.
 - e. From April 1 to September 30, if under Voice and Sight Control, dogs may be off leash on the beach between 6 am and 7:30 am, except to the extent the rules in Sections D(2)(a), (c) and (d) above may require otherwise.

- f. From April 1 to September 30, dogs must be on leash between 7:30 am and 8:30 am, and after 6:00 pm
- g. From June 15 to September 30, dogs are not permitted on the beach from 8:30 AM to 6:00 PM. This provision does not apply to use of a service dog by a person with a disability when the dog is required to perform work or tasks directly related to the person's disability.
- h. From October 1 through March 31, if under Voice and Sight Control, dogs may be off leash on the beach, except for the hours of 12-2 pm when they must remain on leash, and except to the extent the rules in Sections D(2)(a), (c) and (d) above may require otherwise.

Section E: Rulemaking Authority governing Other Public Resources

Notwithstanding the general rules found in Section C herein, the Board of Selectmen shall have the authority to adopt specific rules governing dogs on other publicly owned or operated lands located within the Town of Kennebunkport, such as public parks.

Section F: Penalties

1. Any person who violates any provision of this Ordinance shall be subject to civil penalties for each violation, as follows:
 - First violation: not less than \$50.00 and not more than \$100.00, plus costs and reasonable attorneys' fees.
 - Second violation: not less than \$100.00 and not more than \$250.00, plus costs and reasonable attorneys' fees.
 - Third and subsequent violations: not less than \$250.00 and not more than \$500.00, plus costs and reasonable attorneys' fees.
2. Notwithstanding multiple violations of this Ordinance, any person who violates Section C(4) (Licenses), or Section C(5) (Rabies Tags) of this Ordinance shall be subject to a civil penalty of not more than \$100.00 for each offense, consistent with 7 M.R.S.A. §§3918, 3924.
3. All civil penalties collected pursuant to this Ordinance shall be recovered to the use of the Town of Kennebunkport and deposited in the separate account required by 7 M.R.S.A. Section 3945.
4. A person issued a civil violation citation for violating this Ordinance may elect to pay the minimum penalty specified above for each violation alleged in the citation, in lieu of appearing in court to answer the citation. Such payment must be received at the Office of the Town Clerk in the amount specified by the Animal Control Officer by the seventh day prior to the court appearance date specified in the citation. Upon receipt of such payment by the Clerk, the Animal Control Officer or law enforcement officer shall cause

the citation to be dismissed. However, the violations alleged in the citation shall be deemed admitted for purposes of assessing any future penalties under this section.

5. Any civil penalty collected for a violation of this Ordinance shall not preclude the Town from imposing or collecting a fine or penalty for a violation of the Barking Dog Ordinance (adopted March 10, 1984).

Section G: Severability Clause

If any part of this Ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this ordinance.