

**Town of Kennebunkport
Board of Selectmen's Meeting
Village Fire Station-32 North Street
August 13, 2015 – 7:00 PM**

Minutes of the Selectmen Meeting of August 13, 2015

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

Selectmen absent: Edward W. Hutchins

Others present: Judy Barrett, Barbara Barwise, Deb Bauman, Mary Lou Boucouvalas, Bob Butler, Joyce Butler, Sandra Guay, David James, Alison Kenneway, Bill Leffler, James McMann, Elizabeth Milligan, Arlene McMurray, Marlene Raum, Craig Sanford, Roger Seavey, Laurie Smith, Zachary Taylor, Luverne Preble Tinkham, Don Tinkham, and others

1. Call to Order.

Chair Matthews-Bull called the meeting to order at 7:00 PM.

2. Approve the July 23, 2015, selectmen meeting minutes.

Motion by Selectman Briggs, seconded by Selectman Barwise, to approve the July 23, 2015, selectmen meeting minutes. **Vote:** 3-0-1/Selectman Daggett abstained because he was not present at that meeting.

3. Recognize Joyce Butler, author of *Kennebunkport: The Evolution of an American Town, Vol. 1, 1603-1923*.

Chair Matthews-Bull presented a short announcement on author Joyce Butler's recent book on the history of the Town.

Ms. Butler thanked the Board and Graves Library. She also added that her book is written in two volumes.

Town Manager Laurie Smith thanked Ms. Butler for this valuable historical reference book.

4. Introduce Alison Kenneway, assistant director of public health.

Director of Public Health Judy Barrett introduced Alison Kenneway. She said she has 25 years of nursing experience working in the emergency room, urgent care, and as a flight nurse.

Ms. Kenneway said she appreciates this opportunity to work for the town, and that she has lived here over a decade and has two children in the school system.

5. 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.).

Luverne Preble Tinkham said the Town House School is scheduled for demolition sometime this month. She said it has a lot of history and asked that the people of the Town get together to SOS "Save Our School."

Bill Leffler said he is on the board of No Place Like Home. Their mission is to provide the services to help older residents stay in their homes. He would like to follow Kennebunk's example and make Kennebunkport an AARP "Age Friendly Community." An "Age Friendly Community" has services that target the older population. He wants the Town to set up an advisory committee to see what the Town can provide.

Town Manager Laurie Smith said the next step is getting stakeholders to set up a meeting for further discussion on this proposal.

6. Consider renewal liquor license application submitted by Sarah and Erik Lindblom, DBA Captain Jefferds Inn, 5 Pearl Street.

Motion by Selectman Daggett, seconded by Selectman Briggs, to approve the renewal liquor license application submitted by Sarah and Erik Lindblom, DBA Captain Jefferds Inn, 5 Pearl Street. **Vote:** 4-0.

7. Consider the following ordinance amendments for November 2015 Special Town Meeting.**a. Amendments to the Animal Control Ordinance**

Ms. Smith said there are no substantive changes to this ordinance since the last meeting. (See Exhibit A).

b. Amendments to the Land Use Ordinance regarding roomers.

Barbara Barwise said she was standing in for Werner Gilliam who could not attend this meeting. She mentioned the changes in the ordinance since the last meeting such as putting back in the requirement for ZBA approval. (See Exhibit B). She said she checked private homes around town and mentioned a list of houses that rent out their homes from two nights to seven days in the village residential zone.

Discussion followed that:

- The ordinance should change the length of stay to at least 30 days.
- Renting rooms was supposed to be a way for older residents to acquire the additional income they need to stay in their homes, but apparently it is to make

as much as they can from tourists. They are eliminating the incentive to rent out to students with this ordinance.

- The ordinance needs to be clearly defined.
- It is illogical to be able to rent out a whole house without having to follow the regulations of having exit signs; yet, in some zones you can't rent out a room.
- People who rent rooms are different kind of travelers. They like the intimacy of the home environment. Whereas people who go to hotels are not looking for that same kind of treatment. They just pay their bill and go to their room.
- Allowing homes to conduct business is not fair to the other establishments who have more stringent regulations.
- The rooms that the ordinance allows to rent are in owner occupied homes.
- These room rentals could continue to grow.

The Growth Planning Committee (GPC) will be meeting again next week and will give the Board the final version.

Chair Matthews-Bull said it was a good discussion and that she would like to see everyone at the next GPC Meeting.

Selectman Briggs agreed there are good arguments on both sides. He would like to see something brought forth from the groups involved.

8. Consider dock application from 21 Lands End Lane, LLC for construction of a 4 ft x 12 ft fixed pier with associated ramp and float located at 21 Shore Farm Lane.

Attorney Sandra Guay, who represented the applicant, explained the project.

Selectman Matthews-Bull said at the sitewalk she saw that one of the neighbors had the same thing the applicant wished to construct, and she saw no problems with it.

Motion by Selectman Barwise, seconded by Selectman Briggs, to approve the dock application submitted by 21 Lands End Lane, LLC to proceed to Planning Board review for construction of a 4 ft x 12 ft fixed pier with associated ramp and float located at 21 Shore Farm Lane. **Vote:** 4-0.

9. Consider committee appointments.

a. Growth Planning Committee—Paul Hogan

Motion by Selectman Barwise, seconded by Selectman Daggett, to appoint Paul

Hogan as an alternate to the Growth Planning Committee for a term expiring in July 2016. **Vote:** 4-0.

b. Cape Porpoise Pier Advisory Committee—Bob O'Reilly

Motion by Selectman Barwise, seconded by Selectman Daggett, to appoint Bob O'Reilly to a term expiring in July 2016. **Vote:** 4-0.

10. Resolution to amend the 457 plan to permit loans.

Ms. Smith explained that town employees have a 457 retirement plan. She said the IRS allows employees to borrow against their 457 funds if the Board of Selectmen approve these loan provisions. She suggested that employees only be permitted to have one open loan at a time, and that all loans must be paid in full upon termination of employment.

Motion by Selectman Briggs, seconded by Selectman Barwise, to adopt the resolution to amend the 457 retirement plan to permit loans. **Vote:** 4-0.

11. Authorize the Town Manager to negotiate a contract with Port City Architecture for first design of police station addition renovations.

Ms. Smith said she met with the Public Safety Committee to get their feedback on the police station addition renovations, and then met with Port City Architecture to discuss design needs and changes. The next step is to have Port City Architecture develop a Request for Proposal (RFP) for architects.

Police Chief Craig Sanford added that Port City Architects are very professional and aware of the community requirements.

Motion by Selectman Briggs, seconded by Selectman Barwise, to authorize the Town Manager to negotiate a contract with Port City Architecture for the first design of the police station addition renovations. **Vote:** 4-0.

12. Authorization to proceed with RFQ for construction management services.

Ms. Smith said Port City Architects recommend that the Town hire a construction management service.

Chief Sanford said he saw construction managers when he worked in Sanford and found it was very helpful to have them.

Motion by Selectman Barwise, seconded by Selectman Daggett to proceed with the Request for Qualifications (RFQ) for construction management services. **Vote:** 4-0.

13. Accept anonymous donations in the amount of \$515.00 to the Kennebunkport emergency fuel account in memory of Kathy Jones.

- a. Gift #1 for \$50
- b. Gift # 2 for \$25
- c. Gift #3 for \$40
- d. Gift #4 for \$25
- e. Gift #5 for \$75
- f. Gift #6 for \$100
- g. Gift #7 for \$50
- h. Gift #8 for \$50
- i. Gift #9 for \$100

Motion by Selectman Daggett, seconded by Selectman Briggs, to accept anonymous donations in the amount of \$515.00 to the Kennebunkport emergency fuel account in memory of Kathy Jones. **Vote:** 4-0.

14. Other business.

Ms. Smith announced that the Public Health Office is trying to meet their goal of filling 8 backpacks for Consolidated School students and 10 for the middle and high school students. She said donations are also accepted. For more information people can call the public health office at 967-4401.

15. Approve the August 13, 2015, Treasurer's Warrant.

Motion by Selectman Daggett, seconded by Selectman Barwise, to approve the August 13, 2015, Treasurer's Warrant. **Vote:** 4-0.

16. Adjournment

Motion by Selectman Daggett, seconded by Selectman Briggs, to adjourn. **Vote:** 4-0.

The meeting adjourned at 7:58 PM.

Submitted by

Arlene McMurray
Administrative Assistant

Proposed version dated August 10, 2015

*Comparison red-lined
between original & amend.*

The Kennebunkport Dog Ordinance adopted at a Special Town Meeting on June 9, ~~2015~~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. LIMITED DOG ACCESS AREA: Any beach area on Goose Rocks Beach, Colony Beach or Cleaves Cove, that is designated by the Board of Selectmen or designee for special protection of piping plovers or other endangered species based upon scientific and historical data, where dogs may be either prohibited entirely or permitted only if on-leash based on time of day and/or date, as provided herein or pursuant to rules adopted hereunder. This designation may be seasonal or permanent.
10. NESTING AREA: 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.

9.11. OWNER: Owner or any person ~~oref~~ persons, firm, association or corporation owning, keeping or harboring an animal or any person having custody, possession, or control of an animal.

10.12. _____ 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.~~

12.13. _____ 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.
1. **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.
2. **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.

3. **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.
4. **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.
5. **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 or Section D.2 of this Ordinance. For example, the Board of Selectmen or designee may designate Limited Dog Access ~~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.
- ~~2.1.~~ **DOG RESTRICTIONS** ~~RULES ON BEACHES:~~ The following ~~restrictions~~ rules, ~~adopted in accordance with Section D.1 above,~~ apply to dogs on 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-a.~~ The West End Plover Protection Area at is a Restricted Area on Goose Rocks Beach ("WEPPA"), which that begins at Norwood Avenue and continues westerly to the Batson River, is designated a Limited Dog Access Area.
- ~~a.~~ From April 1 to September 30, in the Limited Dog Access Areas, dogs must be on leash.
- ~~b.~~ From April 1 to September 30, no dog shall approach or remain within 200 feet of any clearly marked Nesting Area, except that lawns or upland properties within 200 feet of a Nesting Area are excluded from this requirement.
- ~~c.~~ From April 1 to September 30, dog owners who live within 200 feet of a Nesting Area must leash their dog when attempting to access the beach and stay as far away as possible from the Nesting Area.
- ~~d.~~ From April 1 to June 14th, dogs must be on leash on the beach at all times other than between 6:00 am and 7:30 am, when they may be off leash if under Voice and Sight Control, except to the extent the restrictions in Sections D2c or e above may require otherwise.
- ~~e.~~ From June 15 to September 30, if under Voice and Sight Control, dogs may be off leash on the beach between 6:00 am and -am and 7:30 am, except to the extent the rules in Sections D(2)(a), (c) and (d) above may require otherwise.
- ~~f.a.~~ From April 1 to September 30, dogs must be on leash between 7:30 am and 8:30 am, except to the extent the restrictions in Sections D2c, e or f above may require otherwise and after 6:00 pm
- ~~g.a.~~ From June 15 to September 30, dogs are not permitted on the beach between from 8:30 am and AM to 6:00 pm 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. Between 6:00 pm and 6:00 am and between 7:30 am and 8:30 am, dogs are permitted on the beach if on leash, except to the extent the restriction in Section D(2)(e) above may require otherwise. Between 6:00 am and 7:30 am, dogs may be off leash, if under Voice and Sight Control, in accordance with Section D2h above.
- ~~h.a.~~ From October 1 through March 31, if under Voice and Sight Control, dogs may be off leash on the beach, except betweenfor the hours of 12:00 pm and -2:00 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.~~1. 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.~~1. 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.~~1. 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.~~1. 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.

EXHIBIT B – August 13, 2015

ROOMER Revisions

Article 2 Residential Rental Accommodation: The licensed accessory use of no more than 2 bedrooms in a legally existing dwelling or dwelling unit. This dwelling unit shall be an owner occupied dwelling. Rooms rented may be for either short term or long term rental to a roomer who may be unrelated to the owner or occupant of the unit, for periods no less than 2 days.

Roomer – A person residing in and paying rent for a room in a ~~single-family dwelling~~ legally existing residential dwelling unit whether or not the person eats meals on the premises. see Residential Rental Accommodation

Article 4 Add to VR (4.3), VRE (4.4) & CA (4.7) as conditional use

Article 6 Add to parking requirements (6.10)

Article 7.13 ~~No more than two (2) rooms in a single-family dwelling, which was in existence on March 6, 1972, may be let out to roomers as an accessory use to a single-family dwelling provided that:~~ an owner occupied dwelling unit may be let out to roomers provided that:

- A. No separate kitchen or cooking facilities are provided for or use by the roomers;
- B. No sign is located on the premises advertising the availability of rooms for lease or rent to roomers;
- C. ~~No alteration or change of the single-family dwelling-~~ the dwelling unit in its exterior appearance is made to accommodate the presence of roomers;
- D. ~~No accessory apartment or home occupation is located in the single family dwelling; The bedroom(s) being rented shall be inspected by the Code Enforcement Officer and shall have code compliant smoke and carbon monoxide Detectors in addition to complying with current building code primary and secondary means of emergency escape and rescue requirements.~~
- E. The rooms occupied by the roomers ~~do~~ not have a separate entrance from the outside;
- F. The rooms occupied by the roomers are within the principal structure;
- G. The roomers use utilities which are not separately metered from those used by the remaining occupants of the dwelling unit and
- H. One (1) off-street parking space per room rented ~~roomer~~ shall be required in addition to the requirements of Article 6.10.
- I. A license to operate a Residential Rental Accommodation shall be issued by The Code Enforcement Officer after approval by the Zoning Board of Appeals and after a successful property inspection has occurred subject to section D

above. Such license shall be issued to the property owner only, and is subject to sufficient evidence that the property is owner occupied. License shall become void upon a change in ownership or owner residency status.

- J. License shall be revoked upon confirmation of a second (2nd) confirmed Noise or Barking Dog Citation. Any such License having been revoked may not be reissued to the same property owner within 1 year (365 days) from the date of revocation.