



TOWN OF KINGSTON
BOARD OF SELECTMEN
OPEN SESSION
MINUTES
TOWN HOUSE-26 EVERGREEN ST. ROOM 200 & VIA ZOOM
February 15, 2024

6:00 p.m. – CALL TO ORDER – ROOM 200

Chairman Kimberley Emberg called to order the meeting of the Board of Selectmen at 6:00 p.m.—selectmen in attendance: Donald Alcombright (virtual), Sheila Vaughn, and Eric Crone.

Staff Present: Keith Hickey, Town Administrator; and Patricia Tucker, Assistant to Town Administrator.

ANNOUNCEMENTS:

- After 26 years, PACTV has changed its name to the Local Seen Government Services. The new website will be www.thelocalseen.media and will be live in March.
- This meeting is being recorded by The Local Seen. Anyone intending to make an audio or video recording of this meeting should notify the Chair at this time.
- Financial Assistance Applications are available on the town's website or by calling the Selectmen's Office.
- The Highway department is still seeking plow drivers for the upcoming winter season. We have increased our rates this year and are also offering a \$750 insurance stipend for qualified contractors. For more information, please call 781-585-0513.
- Dog licenses are available in the Clerk's office. Please keep in mind that there is a \$20 late fee if your dog is not registered by March 15th.
- The Annual Town Meeting is scheduled for Saturday, May 4th
 - The last day to register to vote in the Annual Town Election is May 8th
- The Annual Town Election is scheduled for Saturday May 18th.
- Nomination Papers will be available on Monday, February 12th
- Nomination Papers need to be returned by March 29th at 11:30
- For anyone interested in volunteering, we have a number of vacancies on various committees and boards. To see a complete list of the openings, please visit our website at kingstonma.gov.

Ms. Emberg called the meeting to order via roll call vote as Mr. Alcombright is attending via zoom.

OPEN FORUM:

There was nobody in attendance for open forum.

Appointment of Interim Police Chief

Ms. Emberg began by saying Chief Splaine's employment is ending in the next few days and until the appointment of the next police chief Mr. Bouchard made a recommendation to the Board to appoint an interim police chief, so unless there are any questions or concerns Ms. Emberg asked for a recommendation.

Motion by Mr. Crone, seconded by Mr. Alcombright and a 4-0-0 vote, by roll call vote,

VOTE: I move the Board of Selectmen appoint Thomas Kelly as the Interim Police Chief effective at the end of Chief Splaine's shift on February 20, 2024, until April 1, 2024, or until the start of the new Police Chief's employment, whichever comes first.

Ms. Emberg thanked Chief Splaine for all his years of service.

Request to Authorize Kingston School Committee's Submission of a Statement of Interest to the Massachusetts School Building Association

Ms. Emberg stated that the Kingston School Committee voted at a recent meeting to submit a Statement of Interest to the Massachusetts School Building Association (MSBA) to seek funding to replace the Elementary School roof, along with doors and windows. Ms. Emberg added that as a reminder this has been applied for this in the past as the roof is 27 years old.

Motion by Ms. Vaughn, seconded by Mr. Crone and a 4-0-0 vote, by roll call vote,

VOTE: I move to authorize the Board of Selectmen of Kingston, in accordance with its charter, by-laws, and ordinances, to authorize the Superintendent to submit to the Massachusetts School Building Authority the Statement of Interest Form dated February 28, 2024, for Kingston Elementary School located at 150 Main Street, Kingston, MA, 02364 which describes and explains the following deficiencies and the priority category(s) for which an application may be submitted to the Massachusetts School Building Authority in the future replacement, renovation or modernization of school facility systems, such as roofs, windows, boilers, heating and ventilation systems, to increase energy conservation and decrease energy related costs in a school facility description of the deficiency described therein for each priority: The existing roof is 27 years old and is past its life expectancy (20-25 years). The roof has numerous leaks but is in good enough condition that a full restoration is recommended versus a full rip and replace; The windows, doors and storefront sections are 24 years old and need replacement due to operational issues. They all have sealant and gaskets that have failed along with damaged or missing screens; and hereby further specifically acknowledges that by submitting this Statement of Interest Form, the Massachusetts School Building Authority in no way guarantees the acceptance or the approval of an application, the awarding of a grant or any other funding commitment from the Massachusetts School Building Authority, or commits the Board of Selectmen of Kingston to filing an application for funding with the Massachusetts School Building Authority.

Review of Proposed Schedule for Town Administrator's Annual Evaluation

Ms. Emberg explained that the Town Administrator's annual evaluation is due to be completed in April as stated in his contract. Ms. Emberg reached out to the HR Manager requesting a draft of the schedule. Below is the proposed schedule for the Board to complete the Town Administrator's annual evaluation.

2/26/2024 – BOS individually receives evaluation form.

3/11/2024 – BOS individually submits evaluation to TA evaluation.

3/13/2024-3/27/2024 – BOS members each meet with TA to review their individual evaluation. TA should receive the evaluation prior to meeting with the Selectman.

4/1/2024 – BOS confidentially returns individual forms to Town Counsel to compile all assessments of the BOS.

4/12/2024 – Town Counsel returns consensus document to the Selectmen and Town Administrator.

4/23/2024 – BOS presents and discusses evaluation in public session.

Motion by Mr. Crone, seconded by Mr. Alcombright and a 4-0-0 vote, by roll call vote,

VOTE: I move the Board of Selectmen approve the Town Administrator's annual evaluation schedule as presented

Acceptance of Donation

Ms. Emberg stated that the Veteran's Memorial Group received the following donations and has asked the Board to accept:

Motion by Ms. Vaughn, seconded by Mr. Alcombright and a 4-0-0 vote, by roll call vote,

VOTE: I move the Board of Selectmen accept the following donations for the Veteran's Memorial

- Site Work donated by Crystal Construction with an estimated value of \$7,200
- Electrical Labor donated by Lenny Warner with an estimated value of \$4,000
- Cast and Place Foundation Work donated by Priolo Concrete Forms with an estimated value of \$4,800

APPOINTMENTS:

6:15 P.M. Continuation of Public Hearing for Earth Removal Permit for PK Realty Trust for Off Route 44

Ms. Emberg explained that PK Realty Trust is requesting a permit for earth removal. The public hearing began on December 19, 2023, where testimony was heard from the applicant and the attendees. A peer review of the plan was proposed by the Town and agreed to by the applicant. The public hearing has been continued a few times and the applicant is requesting a continuation again until Tuesday, March 12, 2024, at 6:15 pm until at which time the peer review should be completed.

Motion by Mr. Crone, seconded by Ms. Vaughn and a 4-0-0 vote, by roll call vote,

VOTE: I move the Board of Selectmen reopen the public hearing.

Motion by Mr. Crone, seconded by Mr. Alcombright and a 4-0-0 vote, by roll call vote,

VOTE: I move the Board of Selectmen continue the public hearing until Tuesday, March 12, 2024, at 6:15 pm

Review of Aquaculture Regulations for Kelp

Ms. Emberg explained that at the last meeting the Board discussed drafting sugar kelp regulations proposed by the Shellfish Constable. These regulations were developed based on information gathered from the State Division of Marine Fisheries, Kingston shellfish license holders and the Duxbury Harbormaster.

Ms. Vaughn has seen the edits and is ok with the changes.

Tom Taylor the Harbormaster has also reviewed and is ok with the changes.

Ms. Emberg asked the applicant if he had any questions to which Mr. Waitkus of 15 Village Path believed the fee of \$300 is a lot higher than the oyster farmer fees. (Oyster farmers pay \$25 an acre)

Mr. Hickey stated that Harbormaster does not work in the winter, and since kelp farming happens in the winter there is an added cost.

Ms. Emberg wanted to add, that if there is an added increase with the Harbormaster in the office season there may be a possibility of incident fees if there are added costs.

Joe Zlogar the Shellfish Constable asked if this a Town Issued Permit and Mr. Hickey stated he needs approval from the BOS annually to use the waterways.

Motion by Ms. Emberg, seconded by Mr. Crone and a 4-0-0 vote, by roll call vote,

VOTE: I move the Board of Selectmen approve the Aquaculture Regulations for Kelp as amended to number the items and add "seed" to Kelp Seed purchases must be made from a licensed kelp dealer as approved by the Department of Fisheries.

Recommendation from Recreation Commission for Beach Stickers

Ms. Emberg explained the Recreation Commission voted at their last meeting to recommend that beach sticker rates remain the same. Beach sticker sales will begin on April 1st. Below are the fees:

Residents \$20

Non-Residents \$40

Seniors (62+) and Veterans - \$5 fee reduction

An additional \$5 for the mailing option, that will remain the same.

Motion by Ms. Vaughn, seconded by Mr. Crone and a 4-0-0 vote, by roll call vote,

VOTE: I move the Board of Selectmen approve the recommendation from the Recreation Commission for the Beach Sticker fee of 2024 as presented this evening

Ms. Emberg made a note that she believes that fees need to be looked at yearly and should be increased as costs continue to increase.

Recommendation from Shellfish Constable for Shellfish Fees and Regulations

Ms. Emberg stated that Shellfish Constable Joe Zlogar is recommending the 2024 shellfish license fees remain the same as 2023 as well as no changes to the regulations.

- Residents 70 years or older – FREE
- Residents 62-69 years old – \$15.00
- Residents 14-61 years old – \$40.00
- Resident Veteran 70 years or older – FREE, must provide proof.
- Resident Veteran 62-69 years old – FREE, must provide proof.
- Resident Veteran 14-61 years old – \$15.00, must provide proof.
- Non-Residents – \$100.00
- Nonresident Veteran's follow the same pay schedule as residents, must provide proof.

Ms. Emberg also added please note that Shellfish Licenses will be available to purchase on Friday, March 1st. As a reminder to all that a parking permit is required and needs to be purchased online.

Motion by Mr. Alcombright, seconded by Ms. Vaughn and a 4-0-0 vote, by roll call vote,

VOTE: I move the Board of Selectmen approve the recommendation from the Shellfish Constable for the 2024 Shellfish Licenses as presented this evening

Appointment of CDL Driver/ Laborer with Streets, Trees, and Parks

Ms. Emberg added that the position of CDL Driver / Laborer with Streets, Trees and Parks is vacant. Mr. Paul Basler stated that after the recruitment process, Paul Basler, Superintendent of Streets, Trees, and Parks, has requested the hiring of David Thompson to the position.

Motion by Ms. Vaughn, seconded by Mr. Crone and a 4-0-0 vote, by roll call vote,

VOTE: move the Board of Selectmen appoint David Thompson, to the position of CDL/ Driver/Laborer, a Grade 3, Step 6 nonexempt full-time position as part of the Kingston Town Employee Union - Labor, with the Streets, Trees, and Parks Department with an anticipated start date of February 20, 2024, consistent with the terms of the offer letter.

Approval of Vacation Carryover

Ms. Emberg explained that despite his best efforts the Town Administrator did not use all his vacation time. There is a memo dated February 7, 2024, in the meeting requesting to carry over an additional 5 days.

Motion by Mr. Crone, seconded by Ms. Vaughn and a 4-0-0 vote, by roll call vote,

VOTE: I move the Board of Selectmen approve the request from the Town Administrator to carry over the additional 5 vacation days.

Acceptance of Resignation from Kingston 300th

Ms. Emberg stated that at the Monday, February 5, 2023, Recreation Commission Meeting Melissa Bateman resigned from the Kingston 300th Committee as their representative, the Board needs to accept his resignation.

Motion by Mr. Crone, seconded by Mr. Alcombright and a 4-0-0 vote, by roll call vote,

VOTE: I move the Board of Selectmen approve the resignation of Melissa Bateman from the Kingston 300th effective immediately.

Finalize FY25 Operating Budget

Ms. Emberg explained that at the Board meeting held January 11th, the Town Administrator presented his proposed budget to the Board. The Board has had time to review and now the Board needs to finalize a recommended budget to present to the Finance Committee.

Mr. Hickey stated that there was a 4-page spreadsheet with a few changes,

	FY25 <u>Original</u>	FY25 <u>Revised</u>	<u>Difference</u>
Police-Dept. Head-Contractual	\$ 175,000	\$ 197,789	\$ 22,789
Library-Books and Periodicals	\$ 116,269	\$ 125,000	\$ 8,731
Veterans – Medical/Ordinary Benefits	\$ 210,000	\$ 240,000	\$ 30,000
Harbor Master Vehicle Maintenance	\$ 250	\$ 1,500	<u>\$ 1,250</u>
Total Recommended Budget Adjustments			\$ 62,770

Mr. Hickey discussed that if the Board is willing maybe the Harbormaster budget may have another line item that can absorb some of the increase to his budget as the Finance Committee is not in favor of this.

Ms. Emberg is satisfied that the budget presented fulfills the request from the Budget Advisory Committee for a level services budget. She noted that the Finance Committee wanted to see a 3% increase as well as a level-funded budget and Ms. Emberg wanted to confirm that if the Board of Selectmen agree to the Town Administrator's proposed budget that both the TA and BOS columns in the budget that goes to Finance Committee for consideration should match.

Ms. Vaughn believes that a level service budget is important and every year you can try each year to stay at 3% but is hard.

Mr. Hickey discussed the potential cuts that could be considered if Finance Committee or the Board of Selectmen would prefer to reduce the budget to 3% including the reduction of tuition exchange, eliminating brush chipping on Saturdays and having the brush chipping occur during regular business hours.

Mr. Hickey discussed the total of the budget that the Selectmen would be recommending is \$55,442,097. That is a 4.53% increase of just town level services.

Motion by Mr. Crone, seconded by Mr. Alcombright and a 4-0-0 vote, by roll call vote,

VOTE: I move the Board of Selectmen recommend FY25 budgets for the General, Water, Sewer to the Finance Committee with the following bottom-line amounts:

General Fund \$55,442,097

Water Fund \$2,094,509

Sewer Fund \$3,232,682

Renewable Energy \$750,000

Report of Animal Control Officer Regarding Compliance with November 27, 2023, Order of the Selectmen. Discussion Regarding Possible Enforcement Action

Ms. Emberg explained that at the November 21, 2023, Board meeting, the Board voted Wren a nuisance dog and provided six conditions the owner Matthew Frazier was to comply with, within 60 days. On February 1, 2024, Mr. Frazier contacted Animal Control to inform them that conditions 1 & 2 were complied with. Conditions 3-6 have not been met.

Ms. Emberg introduced Attorney Steve Chaplin who explained that an extension to the owner or the Board can authorize counsel to file a case in district court and to seek an injunction against the owner.

Matt Frazier, the dog owner, stated that he has spoken to Kingston Animal Hospital regarding her spay date and it is set for July.

Mr. Frazier said that he will also reach out to his insurance company to get a policy.

Mr. Frazier discussed the rehoming process and will the restrictions follow Wren to her new home.

Attorney Chaplin discussed that the Town's position is enforceable while the dog lives in Kingston.

Mr. Hickey asked that this be placed on the February 27th agenda,

Motion by Mr. Crone, seconded by Mr. Bouchard and a 4-0-0 vote, by roll call vote,

VOTE: I move the Board of Selectmen extend the deadline to obtain liability insurance until March 2, 2024.

7:00 P.M. Continuation of Public Hearing for Review of Sugar Kelp License

Ms. Emberg explained that on January 21st Jared Waitkus requested the Board review the requested location for a Sugar Kelp Farm. The hearing was continued until tonight so the applicant and staff could gather more information.

Motion by Mr. Crone seconded by Ms. Vaughn, and a 4-0-0 vote, by roll call vote,

VOTE: I move the Board of Selectmen reopen the public hearing.

Ms. Emberg asked for questions, and there were none.

Motion by Mr. Crone, seconded by Mr. Alcombright and a 4-0-0 vote, by roll call vote,

VOTE: I move the Board of Selectmen to close the public hearing.

Motion by Ms. Vaughn, seconded by Mr. Alcombright and a 4-0-0 vote, by roll call vote,

VOTE: I move the Board of Selectmen approve the proposed location of the Sugar Kelp Farm.

Meeting Minutes Open Session Meeting Minutes: January 16, 2024

Motion by Mr. Crone, seconded by Mr. Alcombright and a 4-0-0 vote, by roll call vote,

VOTE: I move the Board of Selectmen to accept the open session meeting minutes of January 16, 2024, as amended.

TOWN ADMINISTRATOR'S REPORT:

Mr. Hickey read from his report:

Financial Updates

Three legal firms have submitted responses to the legal request for proposals. Staff is currently compiling the results of the submission. The Board may want to hold a special meeting in the near future to interview one or more of the firms submitting a response.

Project Updates

The boat ramp project will begin no later than March 1st. Anticipated completion is no later than May 15th.

Personnel Update

IT Manager Marie Grossmann has indicated she will be retiring in mid-July.

The Fire Department has hired the four new firefighters approved at the FY24 Town Meeting. A call firefighter has also been hired.

Miscellaneous Updates

Seven communities received a Mass Wildlife Habitat Management Grant. The Town of Kingston has been awarded \$23,765 to treat the invasive aquatic plant species, variable-leaved milfoil, at Smelt Pond. This aggressive non-native species outcompetes native aquatic species and reduces water quality.

The Kingston Fire Department received a FY24 Firefighter Safety Equipment Grant in the amount of \$18,999.95. These funds will be used to replace a worn-out gas chain saw with a battery-operated saw and a fit test machine to properly fit firefighter breathing apparatus.

7:10 P.M. Dangerous Dog Hearing

Ms. Emberg explained that an email was received on January 29th from Animal Control Officer Joanna Boudreau requesting

a dangerous dog hearing after receiving a complaint from a resident who was bitten by a dog on January 22nd, 2024. Ms. Emberg explained the backup within the packet.

Staff consulted with Town Counsel to notify the dog owner of the hearing. As required, a formal letter was hand delivered to the dog owner, Paula Kamensky informing her of the hearing. A copy of that letter is included in your Board materials.

Also included in your materials is:

- A copy of the Animal Control Bite Report from the incident on January 22, 2024.
- A copy of the Animal Control Bite Report from the incident on October 15, 2023.
- A summary of the Nuisance/Dangerous Dog hearing MGL created by Town counsel.
- Memo from the Animal Control Officer

Motion by Ms. Vaughn, seconded by Mr. Crone and a 4-0-0 vote, by roll call vote,

VOTE: I move the Board of Selectmen open the public hearing.

Attorney Steve Chaplin explained the process of a dangerous dog hearing. Atty. Chaplin called the dog's owner to the podium.

Atty. Chaplin swore in the dog owner Paula Dwyer Kaminski of 142 Lake Street.

Ms. Kaminski began by saying she has rescued rottweilers for many years and was experienced with them. She then explained the first incident in her words. She stated she was having a visiting nurse to her home, she stated she spoke to the nurse on the phone and explained that she told the nurse she had two dogs, one would lick her the other would bite her, and asked that nurse to call first so she could secure the dog.

Ms. Kaminski stated that the dog (Tyson) came from a family of a husband and wife, the wife was brutal with Tyson and was petrified of woman with long blond hair.

She stated the nurse called from the driveway and she asked her not to come in until she secures the dogs. The next thing she knew was the nurse was in the kitchen and Tyson bit her. At that time Ms. Kaminski asked her to leave.

Ms. Kaminski stated that she never saw Tyson bite her but assumed it happened due to the rip in her pants.

Atty Chaplin asked about the 2nd incident and then swore in David Flores of 142 Lake Street.

Atty Chaplin asked Mr. Flores to recount the incident in his words. He discussed walking through the trails on Silver Lake Sanctuary and he let Tyson and his other dog off leash. They were about 20 yards away from him when he noticed a couple in the distance and Tyson charged the couple and bit the male. Mr. Flores called Tyson back to which Tyson came right back to him and at that point he was leashed.

Mr. Flores was very emotional and remorseful to the victim, apologizing for allowing this to happen by letting Tyson off leash.

The Board took a 5-minute recess.

Ms. Emberg asked if there were any more questions.

Atty. Chaplin swore in Animal Control Officer Joanna Boudreau Animal Control Officer and Soyna Bucker Assistant Animal Control Officer

Ms. Boudreau spoke regarding the incidents, and she read her report that was in the packet. It was noted after the first incident Ms. Boudreau stated that the dogs were not licensed, and citations were given. A 10-day quarantine was given to Tyson for the bite.

The second incident citations were given at that point again and a quarantine on the 2nd incident was at the animal shelter. While at the shelter Tyson was agitated during his stay. He was disruptive and it was not a pleasant experience. Prior to his release Ms. Boudreau stated she was not comfortable releasing the dog and at that point requested a dangerous dog hearing.

Animal Control does not feel comfortable having this dog in Kingston, he is aggressive. Their recommendation, which they do not take lightly, is to have the dog humanely euthanized.

Ms. Vaughn asked how long they had the dog, and it was answered they have had the dog for two years.

Atty. Chaplin swore in Animal Inspector Debra Mueller who addressed the Board by saying she has been employed for 30 years and has never made this recommendation but feels strongly that this dog is dangerous.

Ms. Emberg asked if the victims would like to speak.

Atty. Chaplin swore in Amanda DiCarlo the visiting nurse.

Ms. DiCarlo states she has been a visiting nurse for 8 years. She stated she called at 11:15am and was instructed to call back when she arrived at the house. She called when she arrived, and Ms. Kaminski asked her to give her a few minutes to put the dogs away and to meet her in the kitchen. After waiting in her car, she entered the house and while in the kitchen the dogs came in unprovoked and Tyson bit her 4-5 times. She was placed on antibiotics for 3 weeks and needed a CT scan for her injuries.

Atty. Chaplin swore in Peter Kraft, the 2nd victim who provided his story on the incident.

The dogs were off their leash and ran up to him and his wife. Tyson went to his right side and the other dog to the left; Mr. Kraft was shielding his wife from the dogs when Tyson bit him multiple times. He continued to say that Mr. Flores called the dogs and when he called the dogs, they went running back to him and at that point were leashed.

Mr. Kraft asked Mr. Flores for his information after the incident and the incorrect information was provided to him, including an incorrect phone number. None of the conversation gave him a good feeling and that is why he called 911. Mr. Kraft struggles with recommendation for euthanasia as the dogs were handled appropriately when on a leash.

Motion by Mr. Crone, seconded by Ms. Vaughn and a 4-0-0 vote, by roll call vote,
VOTE: I move the Board of Selectmen close the public meeting.

Attorney Chaplin read from the information in the packet the definitions of a nuisance dog vs a dangerous dog.

"Nuisance dog", a dog that: (i) by excessive barking or other disturbance, is a source of annoyance to a sick person residing in the vicinity; or (ii) by excessive barking, causing damage or other interference, a reasonable person would find such behavior disruptive to one's quiet and peaceful enjoyment; or (iii) has threatened or attacked livestock, a domestic animal or a person, but such threat or attack was not a grossly disproportionate reaction under all the circumstances.

"Dangerous dog", a dog that either: (i) without justification, attacks a person or domestic animal causing physical injury or death; or (ii) behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of physical injury or death to a person or to a domestic or owned animal.

Motion by Ms. Emberg, seconded by Mr. Alcombright and a 4-0-0 vote, by roll call vote,
VOTE: I move the Board of Selectmen to make a finding that Tyson is a dangerous dog.

Motion by Ms. Emberg, seconded by Mr. Crone and a 4-0-0 vote, by roll call vote,
VOTE: I move the Board of selectmen have Tyson humanely euthanized prior to close of business on February 23, 2024, with written evidence of the same provided to the ACO on or before February 27, 2024.

Until such time as Tyson is humanely euthanized:

- a. Tyson shall be confined to the premises of the Owner, which means securely confined indoors or confined outdoors in a securely enclosed and locked pen or dog run area upon the premises

of the owner or keeper; provided further, that such pen or dog run shall have a secure roof and, if such enclosure has no floor secured to the sides thereof, the sides shall be embedded into the ground for not less than 2 feet; and provided further, that within the confines of such pen or dog run, a dog house or proper shelter from the elements shall be provided to protect the dog; and

- b. When removed from the premises of the Owner, Tyson shall be securely and humanely muzzled and restrained with a chain or other tethering device having a minimum tensile strength of 300 pounds and not exceeding 3 feet in length.

SELECTMEN COMMENTS:

Motion by Ms. Vaughn, seconded by Mr. Crone and a 4-0-0 vote,
VOTE: I move to adjourn

The meeting was adjourned at 8:22 p.m.

Respectfully submitted,

Patricia Tucker
Assistant to the Town Administrator/Board of Selectmen

Documents used at the meeting:

Agenda
Agenda Addendum
Earth Removal request for continuation
Aquaculture Regulations
Information on Dangerous Dog Hearing
TA Evaluation
Donation
Recommendations from Recreation and Shellfish
FY25 Budget
Vacation Carryover
Resignation
Minutes