

# MAINE STATE LEGISLATURE

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# STATE OF MAINE

Inter-Departmental Memorandum Date August 8, 1974

To James E. Mitchell, Director

Dept. Maine State Housing Authority

From Jon A. Lund, Attorney General

Dept. Attorney General

Subject Section 23 Resolution - Town of Kennebunkport

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## SYLLABUS:

A town meeting by the Town of Kennebunkport is required by 30 M.R.S.A. § 4701 to approve the execution of a contract relating to the receipt of funds from the Federal Government for low-income housing.

## FACTS:

The Maine State Housing Authority informs us that on March 14, 1974, the Selectmen of the Town of Kennebunkport, acting alone, approved, by resolution, the application of funds from the Federal Government for low-income housing.

The Authority further informs us that this is the first such resolution which the Authority has submitted to the Department of Housing and Urban Development which was enacted by the Board of Selectmen, rather than approved at a town meeting.

## QUESTION AND ANSWER:

Whether the Selectmen of the Town of Kennebunkport were authorized to adopt and enact the resolution or whether a town meeting is required? A town meeting is required.

## REASONS:

30 M.R.S.A. § 4701 provides, in pertinent part:

"No authority shall enter into any contract for loans, grants, contributions or other financial assistance with the Federal Government for any project unless or until the governing body of the city where the project is to be located, or any regular, special or duly constituted meeting of the town where the project is to be located, as the case may be, shall, by resolution duly adopted,

James E. Mitchell, Director  
Page Two  
August 8, 1974

have approved its entering into such contract."

The plain language of this provision calls for a town meeting.

Further support for this conclusion lies in the fact that the phrase "any regular, special or duly constituted meeting of the town" appears in several other related statutory provisions; namely, 30 M.R.S.A. § 4601 (relating to the creation of city and town authorities) and 30 M.R.S.A. § 4651(10) (relating to powers of an authority). Section 4601 provides, in part:

"In each city and in each town there is created a public body corporate and politic to be known as the 'Housing Authority' of the city or town. Such authority shall not transact any business or exercise its powers until or unless the governing body of the city or any regular, special or other duly constituted meeting of the town, as the case may be, by proper resolution shall declare that there is need for an authority to function in such city or town. Any housing authority created and existing pursuant to the public laws of 1943, chapter 260, shall, notwithstanding the expiration of that chapter, continue in existence for the purposes of and shall have the powers granted by this subchapter, if the governing body of the city or any regular, special or other duly constituted meeting of the town for which such housing authority was created declares by proper resolution that there is need for such housing authority to exercise the powers granted by this subchapter. The governing body of the city or any regular, special or other duly constituted meeting of the town shall give consideration as to the need for an authority on its own motion or upon the filing with the mayor or the selectmen, as the case

James E. Mitchell, Director  
Page Three  
August 8, 1974

may be, of a petition signed by 25 qualified voters of the city or town, as the case may be, asserting that there is need for an authority to function in such city or town and requesting that its governing body or any regular, special or other duly constituted meeting of the town so declare. The governing body of the city or any regular, special or other duly constituted meeting of the town shall adopt a resolution declaring that there is need for an authority in the city or town, as the case may be, if it shall find that insanitary or unsafe inhabited dwelling accommodations or blighted areas exist in such city or town, or that there is a shortage of safe or sanitary dwelling accommodations in such city or town available to persons of low income at rentals or prices they can afford. \* \* \* "

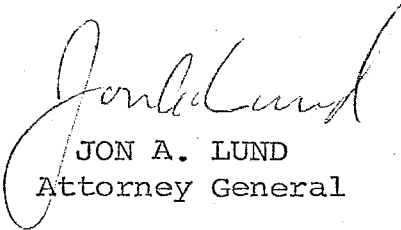
In our view, the foregoing references to a "meeting of the town" mean just that -- and we perceive no good reason why the language in § 4701 should be afforded a different, inconsistent and inharmonious construction. It is well established that unless the context indicates otherwise, words or phrases used in provisions that are in pari materia, as § 4701 and § 4601 are, will be construed to be used in the same sense. See generally, Sutherland Statutory Construction, (3rd Ed.) Vol. 2, § 5201, pp. 532-535 and cases cited therein.

Finally, it should be noted that the second paragraph of 30 M.R.S.A. § 4601 specifically refers to "the selectmen of the town" as opposed to a meeting of the town, as follows:

"Upon the adoption of a resolution by the governing body of a city of any regular, special or duly constituted meeting of a town, the mayor of the city or the selectmen of the town, as the case may be, shall proceed to appoint the commissioners of the authority."

James E. Mitchell, Director  
Page Four  
August 8, 1974

Had the Legislature intended the selectmen to also have the power to unilaterally approve § 4701 resolutions, it presumably would have said so in plain language similar to the phraseology referred to above. See also 30 M.R.S.A. § 4552(1).

  
JON A. LUND  
Attorney General

JAL/jwp