

APPROVED MINUTES
Approved on January 28, 2008

KITTERY TOWN COUNCIL

January 14, 2008

Council Chamber

1. **CALL TO ORDER**
Chairman Jeffrey Thomson called the meeting to order at 7:00 p.m.

2. **INTRODUCTORY**
Chairman Thomson read the Introductory.

3. **PLEDGE OF ALLEGIANCE**
The Chair led those present in the Pledge of Allegiance.

4. **ROLL CALL**
Answering the roll were Councilors Jeffery Brake, Frank Dennett, George Dow, Ann Grinnell, Glenn Shwaery, Vice Chair Judith Spiller and Chairman Jeffrey Thomson. Also present were Town Manager Jonathan Carter, DPW Commissioner Rick Rossiter, Police Chief Edward Strong, members of the press and others.

5. **ACCEPTANCE OF MINUTES**
The Minutes of December 10, 2007 were accepted, as amended.
The Minutes of the December 20, 2007 Special Meeting were accepted, as amended.

6. **INTERVIEWS FOR PLANNING BOARD, ZONING BOARD OF APPEALS AND/OR CABLE TELEVISION RATE REGULATION BOARD – None**

7. **PRESENTATION BY RICHARD ROSSITER, DPW COMMISSIONER, ON THE STATUS OF THE DPW FY-08 BUDGET AND PERSPECTIVE ON THE FY-09 BUDGET.**
Mr. Rossiter came to the podium and told Council that he had separated his presentation into three areas: (1) What they had been doing; (2) his personal notes regarding projects; and (3) Budget issues.
 - (1) Mr. Rossiter said they had: completed some paving projects, which affected approximately six percent of the roads in Kittery; worked on “butt joints” created by a “reclaim” project; worked on some minor drainage projects; installed 1.2 miles of sidewalk; installed some benches at Fort Foster and continued work on the Park’s Master Plan; replaced stockade fence at Emery Field; done mason repairs at Shapleigh School; worked at Haley Soccer Field, screening and removing loam, bringing in sand and putting in about 4,000 feet of under drain, running it into a collection system (a project they were still working on); done some gravel work at Frisbee School, Memorial Field and Traip Academy; and worked on relining the Traip boat landing road (a project that needed completion).
 - (2) Mr. Rossiter said he kept an interoffice list of projects that included such things as: restoring shoulders on Seapoint Road, installing guardrails and raising road with asphalt; reclaiming lower Fernald Road; building proposed sidewalk from Wyman to Old Ferry Lane, pending Council approval; adding directional signal arrows to traffic lights on 236; replacing culverts on Picott and Wilson Roads; installing retrofit low-impact development drainage systems on Route 1 North; constructing sidewalk in front of Town Hall extending to Kittery retirement residences; having the

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culvert on Trafton Lane raised and, in preparation for the State project, widening the road on the Town Farm side; building bike lanes on New Dennett Road from I-95 to the Elliot line; repairing basins on Paul Street; continuing to map out drainage systems for MS4; implementing employee safety training; and a significant number of miscellaneous projects.

(3) Budget issues with regard to Solid Waste concerned the hauling of lumber, painted and unpainted. The plant that used the painted lumber to generate electricity refused to continue taking the lumber so they had to find a new outlet for it. They were now dealing with ERRCO in Epping, NH, whose price was significantly higher for pickup and transportation. Another problem concerned their hauler, with whom they had dealt for 14 years, who couldn't keep a trailer on the road that met inspection, so they had to find an alternate means of getting rid of trash, meaning going back to the old system of using a compactor and they had to stop commercial haulers from bringing in residential waste. That lasted from September 26th until December 1st, during which time, they were able to get a new contract with Ameritech, located in Eliot, but at an increased price for both pickup and transportation. Mr. Rossiter said that, at that point, he wanted to thank Billy Renault for the last 14 years, noting that in all that time Mr. Renault had never raised his prices for either pickup or transportation. Mr. Rossiter also noted that at the staff budget sessions for the last two years, in order for them to come in line, he has had to wipe away money (\$15,000 at that time), which he would have used for crushing the asphalt pile on the left hand side of the Solid Waste Facility. That pile, he said, had grown a couple of thousand yards, creating an increase in cost to about \$20,000. Mr. Rossiter said he would like to take care of that as soon as possible but if he had to wait for a Budget, he would be requesting \$20,000 to do that. For next year's Budget, the increases in transportation costs would amount to a \$12,000. As a result of these changes, they would have to submit an increased Budget request for next year of \$32,000, which was unavoidable.

Concerning the Highway Department and how they were doing as far as snow removal and overtime, Mr. Rossiter said that, at this point, he could only tell them that last week they had spent 50% of their overtime, 60% of their salt and 72% of their diesel fuel.

Because it was such a small amount, Mr. Rossiter said the Parks Budget was always tight and it was hard to do anything with. Capital projects for next year included a restroom for Fort Foster; additional funding for Haley Field; possible highway and solid waste roof replacements; and an addition to the Highway garage, which employees had been requesting for years.

Chairman Thomson thanked Mr. Rossiter for his presentation, stating that Council understood the budget pressures they were under considering fuel and changes in the Solid Waste Station, which Council would hear more about when they had the FY-09 Budget presentation.

Councilor Dow thanked Mr. Rossiter on behalf of all the families and kids in the community for all the work they had done on Haley Field; they had done a tremendous job and he knew Mr. Rossiter had personally gone after a lot of the grant money and put in a tremendous amount of effort, for which they were all grateful. Mr. Rossiter thanked Councilor Dow and noted that he was sure the people of the Public Works Department appreciated his compliment.

Councilor Grinnell asked if Mr. Rossiter had any updates on the Route 1 project and he referred her to the Manager. Town Manager Carter said they were hoping to go out to bid in March or early April, they were purchasing their rights of way and he and Mr. Rossiter had been talking with them about an access point to Memorial Field. If bids came in within budgets, the Manager thought that the project might happen this summer.

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Councilor Grinnell complimented Mr. Rossiter on the job that he and his crew did with the snow. Regarding the path they built on the outside of Fort Foster, Councilor Grinnell said she thought it was fabulous. A question that had been asked of her was why the road down to the marsh had gotten paved. Mr. Rossiter said they were trying to hold the road together in order to prevent erosion. They had replaced the culvert there, as well. One of the problem areas they had was on the left side of the hill going up. Because of the erosion, that side always got washed out so they would need to do something about that in the future.

8. PUBLIC HEARINGS

a. (010108-1) *THE KITTERY TOWN COUNCIL MOVES TO HOLD A PUBLIC HEARING ON THE APPLICATION OF IRVING OIL CORPORATION, 190 COMMERCE WAY, PORTSMOUTH, NH, FOR A VICTUALERS LICENSE FOR KITTERY IRVING BLUECANOE, 103 U.S. ROUTE 1 BYPASS.*

Chairman Thomson opened the Public Hearing and hearing no response, closed the Public Hearing.

COUNCILOR DENNETT MOVED TO APPROVE THE APPLICATION OF IRVING OIL CORPORATION, 190 COMMERCE WAY, PORTSMOUTH, NH, FOR A VICTUALERS LICENSE FOR KITTERY IRVING BLUECANOE, 103 U.S. ROUTE 1 BYPASS, SECONDED BY VICE CHAIR SPILLER.

A ROLL CALL VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 7/0.

b. (010108-2) *THE KITTERY TOWN COUNCIL MOVES TO HOLD A PUBLIC HEARING ON THE RENEWAL APPLICATION FROM LUIS A. VALDEZ, LOCO COCO'S TACOS CORP., 36 WALKER STREET, KITTERY, FOR A MALT, SPIRITUOUS AND VINOUS LIQUOR LICENSE FOR LOCO COCO'S TACOS, 36 WALKER STREET.*

Chairman Thomson opened the Public Hearing and hearing no response, closed the Public Hearing.

VICE CHAIR SPILLER MOVED TO APPROVE THE RENEWAL APPLICATION FROM LUIS A. VALDEZ, LOCO COCO'S TACOS CORP., 36 WALKER STREET, KITTERY, FOR A MALT, SPIRITUOUS AND VINOUS LIQUOR LICENSE FOR LOCO COCO'S TACOS, 36 WALKER STREET, SECONDED BY COUNCILOR DENNETT.

Councilor Shwaery noted a discrepancy concerning the addresses listed for the past five years, a matter which could be cleared up by the Town Clerk.

A ROLL CALL VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 7/0.

9. DISCUSSION

- a. *DISCUSSION BY MEMBERS OF THE PUBLIC (Three minutes per person)*
- b. *CHAIRPERSON'S RESPONSE TO PUBLIC COMMENTS*

10. UNFINISHED BUSINESS

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a. *THE KITTELY TOWN COUNCIL MOVES TO AUTHORIZE THE TOWN MANAGER TO USE AN ALTERNATIVE PROCUREMENT METHOD, IN ACCORDANCE WITH SEC. 3.04.070 OF THE PURCHASING ORDINANCE, TO UNDERTAKE THE MUNICIPAL COMPLEX ENERGY IMPROVEMENT PROJECTS FOR HEATING CIRCULATION AND INSULATION.*

Chairman Thomson noted that the Manager had enclosed in their packets written correspondence concerning his proposal.

Town Manager Carter explained that, after many years of studying the building, they were looking at making improvements through a phased-in approach. Phase 1 included Zero Draft Company coming in to insulate floors in order to hold the heat down on the first floor, after which, they would evaluate that project's effectiveness. If there were areas in the building that needed more ventilation or heat, the second Phase would be to have Siemens Building Technologies, Inc. put in VAV boxes; they were asking for Council's approval on those two Phases.

Councilor Shwaery asked if insulation would have to be removed in the event the second floor was built out and how difficult it would be to remove? The Manager explained that Zero Draft Company had found a fabric insulation that could be rolled in and taped down and, although heat would be lost, some heat was needed on the second floor due to the existing sprinkler system and doubling the fabric insulation would not increase savings sufficiently enough to warrant its cost.

Councilor Dennett wondered if consideration had been given to charging the sprinkler system with antifreeze. The Manager replied that, yes, there was but the system was so large the cost factor made it cheaper to allow for the heat loss.

COUNCILOR DENNETT MOVED TO AUTHORIZE THE TOWN MANAGER TO USE AN ALTERNATIVE PROCUREMENT METHOD, IN ACCORDANCE WITH SEC. 3.04.070 OF THE PURCHASING ORDINANCE, TO UNDERTAKE THE MUNICIPAL COMPLEX ENERGY IMPROVEMENT PROJECTS FOR HEATING CIRCULATION AND INSULATION, SECONDED BY COUNCILOR GRINNELL.

Councilor Dennett cautioned that if they got to Phase 2, the Siemens contract stated that the governing law would be the State of Illinois and he would like to have that negotiated out. He noted that he would also like to discuss some points with the Manager before the Zero Draft contract was signed.

Councilor Shwaery stated that he did not mind voting for this but asked if they could have the Manager hold off on signing a contract until they knew the result of possibly re-using Frisbee School. He also noted that if they were to rent out the building and the tenant needed a reconfiguration, what they installed now might need to be taken out.

Councilor Dow noted that he was in favor of this item as presented and that the investment provided more value to the building.

Police Chief Strong also noted that, without the insulation, they were losing not only heat but a tremendous amount of air conditioning in the summer.

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Chairman Thomson that stated he would support this request with the idea that the Manager, along with the Energy Committee, was making the best decision possible for the current use of the building and possible costs they could recover in any type of lease arrangement down the road.

A ROLL CALL VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 7/0.

b. *THE KITTERY TOWN COUNCIL MOVES TO APPROVE THE SAFFORD SCHOOL RE-USE REQUEST FOR PROPOSAL PROCESS.*

Chairman Thomson said they met with the Safford School Advisory Committee and asked the Manager for his input. Town Manager Carter explained that the concept of the RFP was that over a period of time people would submit proposals for the building's re-use based on the allowed zoning. They were open to anything that would maintain the building's façade while making any type of changes allowed by the zoning on the inside. The Manager said that, with this item, they were requesting permission of the Council permission to release the RFP. Responding to a question posed by the Chair, the Manager noted that included in this motion was a request that the Advisory Committee be authorized to continue working with him in reviewing the RFPs.

COUNCILOR GRINNELL MOVED TO APPROVE THE DRAFT RFP DATED 1-4-08 FOR THE RE-USE OF THE SAFFORD SCHOOL HOUSE AND TO AUTHORIZE THE SAFFORD SCHOOL ADVISORY COMMITTEE TO ASSIST THE TOWN MANAGER IN REVIEWING SUBMITTED RFP'S, SECONDED BY VICE CHAIR SPILLER.

Councilor Grinnell noted that she was part of the Safford School Advisory Committee, which was made up of very devoted residents who had taken the Safford School under their wing. The document had been worked on for a long time, had been reviewed by Councilor Dennett and she hoped Council would support this motion.

Councilor Dennett said he would vote in favor of this and would like to see something done to the building, with the caveat that there would be discussion on the lease before it was signed.

Councilor Shwaery suggested that the dates indicated in the document for April and May be as far apart as possible.

A ROLL CALL VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 7/0.

c. *THE KITTERY TOWN COUNCIL MOVES TO LOWER THE NON-RESIDENT FORT FOSTER SEASONAL PASS FEE FROM \$80 TO \$50 RETROACTIVE TO DECEMBER 1, 2007.*

Chairman Thomson noted that this item was discussed at their workshop with Mr. Rossiter and the Parks Commission.

COUNCILOR DENNETT MOVED TO LOWER THE NON-RESIDENT FORT FOSTER SEASONAL PASS FEE FROM \$80 TO \$50 RETROACTIVE TO DECEMBER 1, 2007, SECONDED BY COUNCILOR SHWAERY.

Councilor Shwaery suggested they pay attention to this next year to determine the amount of fees collected via day passes for a comparison; the Chair agreed.

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Councilor Grinnell noted that since non-residents would no longer be able to go to Seapoint Beach in the summer, she thought this was a real plus for non-residents.

A ROLL CALL VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 7/0.

d. *OTHER*

Councilor Shwaery noted that they had talked about revisiting their selection process for ZBA, Planning Board and Rate Regulation Board but had not yet done that and he just wanted them to keep it in mind. He also thought they needed to pay attention to keeping the wind turbine project on schedule and suggested that other Councilors might want to be present at the next ZBA meeting to support it.

Councilor Grinnell appreciated that they had received an agenda for their upcoming workshop and wanted to make sure they were all on the same page as far as giving direction to the School Board. Discussion ensued concerning the possible variables on the horizon and how the School Committee and the Council would approach them.

Vice Chair Spiller asked the Manager if it would be possible to invite the Eastern Trail Management Representative in February or March to give them an update.

Chairman Thomson requested that Council receive enrollment information from the School Superintendent. The Chair then asked about the “dead” vehicles in the parking area and if they could be moved to the far end; the Manager explained they would be going through a bid process in the not too distant future.

11. NEW BUSINESS

a. (010108-3) *THE KITTERY TOWN COUNCIL MOVES TO APPROVE THE DISBURSEMENT WARRANTS.*

Chairman Thomson listed the following warrant:

Town Warrant No. 56	Town Accounts Payable	\$435,316.81
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COUNCILOR SHWAERY MOVED TO APPROVE THE DISBURSEMENT WARRANT, SECONDED BY COUNCILOR BRAKE.

A ROLL CALL VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 7/0.

b. (010108-4) *THE KITTERY TOWN COUNCIL MOVES TO APPROVE THE POLICE PATROLMEN COLLECTIVE BARGAINING AGREEMENT BETWEEN THE TOWN AND TEAMSTERS UNION LOCAL 340, EFFECTIVE JULY 1, 2007 – JUNE 30, 2010.*

Chairman Thomson noted they had a couple of Executive Sessions concerning this matter and the position taken by a majority of the Council at the last session was accepted on behalf of the Union and was now before them for approval.

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COUNCILOR SHWAERY MOVED TO APPROVE THE POLICE PATROLMEN COLLECTIVE BARGAINING AGREEMENT BETWEEN THE TOWN AND TEAMSTERS UNION LOCAL 340, EFFECTIVE JULY 1, 2007 – JUNE 30, 2010, SECONDED BY COUNCILOR GRINNELL.

A ROLL CALL VOTE WAS TAKEN, AS FOLLOWS: FIVE IN FAVOR; TWO OPPOSED, WITH COUNCILOR DENNETT AND CHAIRMAN THOMSON OPPOSED. MOTION PASSES 5/2.

c. (010108-5) *THE KITTERY TOWN COUNCIL MOVES TO APPOINT A REPRESENTATIVE TO MEET WITH THE CHAIRMAN OF THE RECYCLING SCHOLARSHIP SELECTION COMMITTEE TO INTERVIEW HERBERT KINGSBURY FOR HIS RE-APPOINTMENT TO THAT BOARD UNTIL 2/2/11.*

COUNCILOR DENNETT MOVED TO APPOINT COUNCILOR SHWAERY TO MEET WITH THE CHAIRMAN OF THE RECYCLING SCHOLARSHIP SELECTION COMMITTEE TO INTERVIEW HERBERT KINGSBURY FOR HIS RE-APPOINTMENT TO THAT BOARD UNTIL 2/2/11, SECONDED BY COUNCILOR BRAKE.

Chairman Thomson stated that the Council Rules called for a roll call vote on such items. However, in the past regarding procedural matters, such as adjournment, a simple aye or nay was appropriate and in actions like this, he would submit that a roll call vote really wasn't necessary.

Councilor Dennett said he didn't know what a procedural matter was since it wasn't defined. He didn't disagree with saving time but found that most of their time was eaten up by most of them being too verbal. He then noted that he had no objection.

A VOICE VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 7/0.

d. (010108-6) *THE KITTERY TOWN COUNCIL MOVES TO APPROVE THE FIVE REQUESTED DATES FOR THE 2008 SIDEWALK SALES EVENTS AS REQUESTED BY THE KITTERY OUTLET ASSOCIATION.*

Chairman Thomson listed the following dates:

May 23 rd	-	May 26 th
July 3 rd	-	July 6 th
July 31 st	-	August 3 rd
August 29 th	-	September 1 st
October 10 th	-	October 13 th

COUNCILOR SHWAERY MOVED TO APPROVE THE FIVE REQUESTED DATES FOR THE 2008 SIDEWALK SALES EVENTS AS REQUESTED BY THE KITTERY OUTLET ASSOCIATION, SECONDED BY COUNCILOR GRINNELL.

A ROLL CALL VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 7/0.

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e. (010108-7) *THE KITTERY TOWN COUNCIL MOVES TO APPOINT A REPRESENTATIVE TO MEET WITH THE CHAIRMAN OF THE MARY SAFFORD WILDES TRUST TO INTERVIEW JOYCE TOBEY FOR HER RE-APPOINTMENT TO THAT BOARD UNTIL 2/28/11.*

COUNCILOR DENNETT MOVED TO APPOINT VICE CHAIR SPILLER TO MEET WITH THE CHAIRMAN OF THE MARY SAFFORD WILDES TRUST TO INTERVIEW JOYCE TOBEY FOR HER RE-APPOINTMENT TO THAT BOARD UNTIL 2/28/11, SECONDED BY COUNCILOR SHWAERY.

A VOICE VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 7/0.

f. (010108-8) *THE KITTERY TOWN COUNCIL MOVES TO SCHEDULE A PUBLIC HEARING ON AMENDING CHAPTER 2.24 PERTAINING TO POSITION DESCRIPTIONS OF THE TOWN PLANNER (2.24.070) AND THE CODE ENFORCEMENT OFFICER (2.24.100).*

COUNCILOR SHWAERY MOVED THE DATE OF JANUARY 28, 2008 TO SCHEDULE A PUBLIC HEARING ON AMENDING CHAPTER 2.24 PERTAINING TO POSITION DESCRIPTIONS OF THE TOWN PLANNER (2.24.070) AND THE CODE ENFORCEMENT OFFICER (2.24.100), SECONDED BY CHAIRMAN THOMSON.

A ROLL CALL VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 7/0.

g. (010108-9) *THE KITTERY TOWN COUNCIL MOVES TO SCHEDULE A PUBLIC HEARING ON AMENDING CHAPTER 5.12, CABLE TELEVISION, BY REPLACING ARTICLE III, CABLE TELEVISION FRANCHISE ORDINANCE, WITH NEW LANGUAGE, BEGINNING WITH SEC. 5.12.090.*

COUNCILOR SHWAERY MOVED THE DATE OF JANUARY 28, 2008 TO SCHEDULE A PUBLIC HEARING ON AMENDING CHAPTER 5.12, CABLE TELEVISION, BY REPLACING ARTICLE III, CABLE TELEVISION FRANCHISE ORDINANCE, WITH NEW LANGUAGE, BEGINNING WITH SEC. 5.12.090, SECONDED BY COUNCILOR DOW.

A ROLL CALL VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 7/0.

h. *OTHER*

12. COMMITTEE AND OTHER REPORTS

a. *COMMUNICATIONS FROM THE CHAIRPERSON*

Chairman Thomson reminded Council about a workshop on Wednesday with the School Committee.

Secondly, the Chair referred to a letter he had received from a citizen who mentioned the amount of lighting at Mitchell School. The Chair said he drove there one night and found that the lights coming from that complex were quite significant; he noted they might want to discuss that item with the School Committee on Wednesday.

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On behalf of the Council, the Chair thanked David Gooch and all of the Committee, along with the merchants, regarding the Greenville reception at Traip Academy last Sunday, which was very well attended by the community.

On behalf of the Council and the Town, the Chair expressed condolences to the Fire Chief on the passing of his father, Elmer.

b. *TOWN MANAGER'S REPORT*

Town Manager Carter reported that they had received four proposals for their sustainable futures RFP process.

The upcoming coastal planning course had been delayed until March.

The Manager said they were working to finalize the work program concerning the Spruce Creek 319 grant.

There would not be a Planning Board discussion on January 24th concerning the business park since they were still working on it.

Kathie Howard and Richard Shelton, two long time employees, would be retiring at the end of January. The Chair requested appreciation letters be prepared on behalf of the Council to thank them for their lengthy service to the Town.

c. *COMMITTEE REPORTS*

13. ADJOURNMENT

COUNCILOR SHWAERY MOVED TO ADJOURN, SECONDED BY COUNCILOR GRINNELL, WITH ALL IN FAVOR.