

APPROVED MINUTES
Approved on October 10, 2008

KITTERY TOWN COUNCIL

September 22, 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 Spiller and Chairman Jeffrey Thomson. Also present were Town Manager Jonathan Carter, Town Clerk Maryann Place, Town Attorney Duncan McEachern, Conservation Commission Chair Earldeen Wells, Jackie Dow, Russell Plante, Phil Knutel, members of the press and others.
5. **ACCEPTANCE OF MINUTES**
The Minutes of August 25, 2008 and September 9, 2008 were accepted, as amended.
6. **INTERVIEWS FOR THE ZONING BOARD OF APPEALS, PLANNING BOARD OR CABLE TELEVISION RATE REGULATION BOARD: None**
7. **PUBLIC HEARINGS**
 - a. (090208-1) *THE KITTERY TOWN COUNCIL MOVES TO HOLD A PUBLIC HEARING ON AN APPLICATION FROM PAULA REED, 14 CHARLES HILL ROAD, KITTERY POINT, MAINE, FOR A VICTUALERS LICENSE FOR CIRCLE SUBS, 167 STATE ROAD.*
Chairman Thomson stated that notification of this Public Hearing appeared in the local printed media on September 12th and opened the Public Hearing. Not receiving a response, the Chair then closed the Public Hearing.

VICE CHAIR SPILLER MOVED TO APPROVE THE APPLICATION FROM PAULA REED, 14 CHARLES HILL ROAD, KITTERY POINT, MAINE, FOR A VICTUALERS LICENSE FOR CIRCLE SUBS, 167 STATE ROAD, SECONDED BY COUNCILOR SHWAERY.

A ROLL CALL VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 7/0.
 - b. (090208-2) *THE KITTERY TOWN COUNCIL MOVES TO HOLD A PUBLIC HEARING TO RELEASE UNENCUMBERED SURPLUS IN AN AMOUNT NOT TO EXCEED \$200,000 FOR*

ARCHITECTURAL/ENGINEERING SERVICES TO IMPLEMENT THE THREE SCHOOL KITTERY PLAN AND DEVELOP A RE-USE PLAN FOR FRISBEE SCHOOL.

Chairman Thomson indicated that, per the Town Charter, the amounts involved required a Public Hearing and then a Town wide vote, which, in this case, would take place on voting day, November 4, 2008. Notification of this Public Hearing appeared in the local printed media on September 12th. The Chair opened the Public Hearing, asking if anyone present would like to speak in favor of the proposed ballot questions.

Jackie Dow came to the podium and said she thought this was a very fine and good thing to be doing. One thing she would say concerning Frisbee - especially given the present economy - looking at that kind of money from the point of view of the average, everyday person on the street, she might wonder if it would be better to postpone this and, because of that concern, thought the Council would really have to do a good selling job on it with the time they had left. Ms. Dow thought it could be done but suggested that the Council would have to show people how it would benefit the average person because sometimes the average person felt left out, wondering whom the development and the money was for and who was going to benefit. She noted that sometimes, as the average, everyday person, she certainly didn't feel it benefited her so she did not vote for a lot of things she thought didn't touch the average, everyday person. Other than that, Ms. Dow said she wanted to comment on something that was said at last Thursday's meeting about making Kittery a destination. It was a destination she said – it was a destination to York and had been for years - and she would like to change that but that's how it has been.

Chairman Thomson asked if there was anyone present who wanted to speak in opposition to the proposed ballot questions.

Russell Plante of One Linden Lane, Kittery, came forward saying he understood the Council received a letter from Janice Muir regarding her concerns about the proposed warrant and he requested that it be read to the public before the Public Hearing was closed. Mrs. Muir, he said, wanted to emphasize to the Town Council - and he agreed with her - that there were other alternatives and he was concerned because he didn't think all her questions had been answered. Mr. Plante said he thought the Council needed more answers before any warrant was placed on the ballot and that they might be spending taxpayers' money prematurely at this point.

Chairman Thomson noted that the Council had received a couple of communications from Mrs. Muir regarding this issue and, due to their length, the Chair had made the decision not to read them in their entirety. However, he said, they would become part of the record of this Public Hearing. The Chair said that, as Mr. Plante indicated, those communications spoke to a number of Mrs. Muir's concerns regarding the projects and raised a number of questions. The information contained in them had been shared with the entire Council and would be attached to the Minutes of this meeting. The Chair then closed the Public Hearing.

CHAIRMAN THOMSON MOVED THAT THE FOLLOWING QUESTION BE PLACED ON THE NOVEMBER 4TH MUNICIPAL BALLOT FOR A TOWN-WIDE VOTE:

“SHALL THE TOWN VOTE TO AUTHORIZE THE TOWN COUNCIL TO TRANSFER AN AMOUNT NOT TO EXCEED \$50,000 FROM UNENCUMBERED

SURPLUS AND TO APPROPRIATE AND SPEND SAID AMOUNT TO DEVELOP A PLAN AND BUDGET FOR THE RE-USE OF THE FRISBEE SCHOOL SITE?"
SECONDED BY COUNCILOR SHWAERY.

Speaking to the motion, Chairman Thomson stated that his intent was to separate the questions; to have two, not one, questions on the ballot. He said he believed the proposed projects were separate, one involving the School Department and one involving the Municipal Department and in the interest of clarification for the voters, as well as clarification of the issues involved, he felt it was best that the questions be separated so he made the motion that the Frisbee question, as he worded it for the \$50,000, be separately placed on the ballot in November.

Councilor Shwaery stated he had seconded the motion for the sake of discussion. Even though the intent was to keep them separate, he said, there was some linkage and there was no reason to develop a plan for the Frisbee's re-use if it wasn't closed so, in some ways, you couldn't vote "yes" on one and "no" on the other and, frankly, he was probably going to vote in opposition to both.

Councilor Dow asked the Chair if he thought the language in the proposed article had not been clear that it referred to two different things? Chairman Thomson replied he thought it could be confusing to folks who had perhaps not been following events very closely. As Councilor Shwaery stated, he said, the projects were obviously linked but he still felt the questions should be posed separately, merely as clarification for the voters. Councilor Dow wondered if they would end up confusing people more and thought the article, as written, would be sufficient because of the need to educate.

Councilor Grinnell asked the Chair if there was any stipulation on how that \$50,000 would be spent or who would be part of any possible committee?

The Chair stated that at Thursday's meeting they had talked about some of the possibilities for the site and he had put forward that if the vote was in the affirmative in November, they should develop some type of study committee made up of representatives from the Council and those municipal entities that had expressed interest in the site, as well as two or three citizens at large. At the same time, he would expect that the Manager would put together an RFP for firms to come in and look at the site, which might very well cost much less than \$50,000.

Councilor Grinnell stated she did not know how she would vote on this because she did not understand who would be holding the \$50,000 or who would be making decisions about a committee. In response, the Chair said that, in a sense, the Council held the purse in that if the vote was in the affirmative and they received a proposal from some firm for work that would cost \$21,000, then that was all the Council would authorize to be spent and a committee would work with that firm to proceed. When they moved on, that was when the Council would come back into the equation for any further expenditures or appropriations to move forward to the next step, which would be entertaining actual engineering/architectural renderings and he didn't see anything beyond the \$50,000 being expended without Council approval by any group that might be formed to start the process of looking at the Frisbee site.

Vice Chair Spiller stated that she would not support the motion because she thought these two projects were tied together. She would prefer that they discussed the original warrant for the

proposed \$200,000 and talk about where the School Committee saw itself going with the three school project and was it really working toward spending perhaps \$6 Million to add eight classrooms to Shapleigh and five to Mitchell? Vice Chair Spiller said she was not sure, based on her knowledge of the work that had been done, that they needed to do that but thought they needed some mechanism to study it and the \$150,000 would provide that mechanism.

Councilor Shwaery stated that, concerning the Frisbee re-use, they actually had the luxury of time. If the school warrant passed, then there was a study, but they still would have to put the funding warrant on, so they were talking about at least a year before they had funding for any construction. He thought they could talk about Frisbee re-use at that time and that it was probably premature to go ahead and spend money on it now since it would be at least 18 to 24 months before they could start talking about specific plans. Within that time, ideas could change and new ones brought into the mix.

Discussion continued regarding the advisability of splitting the proposed warrant into two separate questions.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION AS FRAMED BY CHAIRMAN THOMSON, AS FOLLOWS: ONE IN FAVOR; SIX OPPOSED. MOTION FAILS 1/6, WITH COUNCILORS BRAKE, DENNETT, DOW, GRINNELL, SHWAERY AND VICE CHAIR SPILLER OPPOSED.

**COUNCILOR DOW MOVED THAT THE FOLLOWING QUESTION BE PLACED ON THE NOVEMBER 4TH MUNICIPAL BALLOT FOR A TOWN-WIDE VOTE:
“SHALL THE TOWN VOTE TO AUTHORIZE THE TOWN COUNCIL TO TRANSFER AN AMOUNT NOT TO EXCEED \$200,000 FROM UNENCUMBERED SURPLUS AND TO APPROPRIATE AND SPEND SAID AMOUNT TO (1) DEVELOP A SET OF DESIGN PLANS AND BUDGET IN ORDER TO IMPLEMENT THE THREE SCHOOL PLAN AND (2) DEVELOP A PLAN AND BUDGET FOR THE RE-USE OF THE FRISBEE SCHOOL?”
SECONDED BY VICE CHAIR SPILLER.**

Councilor Grinnell had questions concerning where this money would be going and how it would be appropriated. The Town Manager explained that, as with any normal warrant article, the Town would pay bills as they came and hopefully the Council and School Committee would meet in order to set up committees, etc. to determine how to proceed from there. Councilor Grinnell thought that, with no stipulations put on the money, she thought this was way too vague for her to vote for.

Councilor Shwaery indicated that for the same reasons he voted against the first motion, he was against spending any money on a Frisbee re-use plan, thinking it was premature. He also said he wanted to publicly apologize to the School Committee because at their meeting he had basically indicated he would vote in favor of investigating this. At that meeting, however, he had mentioned that he was in sticker shock at what had come back. He thought this was where the RFP's were critical and that they really had to have oversight of them because his fear was that once the ball got to the top of the hill, there would be no stopping it and they could wind up being committed to a \$6.1 Million project. Councilor Shwaery said he envisioned a wait and see attitude, seeing how people did over the winter. He also noted that they didn't even know what would happen with consolidation.

Councilor Dow said his view was that this article was intended to give them an educated idea of what it was going to cost them to move in a direction that they were hoping would help them reduce infrastructure costs. It would help them get to a position where they knew what the costs were so, as a community, they could then decide if it was too much.

Chairman Thomson then shared some numbers from a WBRC Report that had been published this spring:

Mitchell School – The State requirement for any new construction in schools such as Mitchell was 145 sq. ft. per student. Currently, given the population at Mitchell, there was 210 sq. ft. per student, an excess of 45% above the State standard.

Shapleigh School – At Shapleigh, the State requirement for new construction was 160 sq. ft. per student. Currently, given the population at Shapleigh, there was 326 sq. ft. per student, an excess of 103% above the State standard.

Traip Academy – At Traip, the State requirement for new construction was 195 sq. ft. per student. Currently, given the population at Traip, there was 263 sq. ft. per student, an excess of 35% above the State standard.

The Chair stated that the information they had for the three school option that included new construction at Mitchell and Shapleigh was for \$6.1 Million. With 230 students at Frisbee School, \$6.1 Million broke down to \$26,086 per student to relocate them. A \$6.1 Million bond with a 15-year note would turn into \$9.5 Million and dividing that by 230 students yielded a figure of \$40,000. The three school option identified by WBRC proposed annual operating costs from closing Frisbee to be in the area of \$450,000 to \$600,000. Using a mid-range figure of \$525,000, at an indebtedness of \$9.5 Million for this new construction, would mean a 17 and a half year pay-back period before the Town would begin to realize any savings from closing Frisbee School.

The Chair suggested a couple of options to look at:

If the 4th and 5th grade were moved into Shapleigh, enrollment would go from 215 to 375, which, when divided by the 70,103 sq. ft. at Shapleigh, would yield 186 sq. ft. per student, still well above the State requirement for new construction.

If Grade 3 were moved to Mitchell, the enrollment would go from 241 to 321, which, when divided into the 50,690 sq. ft. at Mitchell, would yield 158 sq. ft. per student, again, well above the State requirement for new construction.

If Grade 8 were moved from Shapleigh to Traip, the enrollment would go from 347 to 427, which, when divided into the 991,136 sq. ft. at Traip, would yield 213 sq. ft. per student, again, above the State requirement.

If Grade 8 were moved to Traip, that would then make Shapleigh a Grades 4 through 7 school with a square footage of 237, which would be 48% above the State requirement.

Chairman Thomson stated that he could not support spending \$6.1 Million to move 230 children. They were making a decision to close the school because of excess capacity and, detailing his observations during visits to each of Kittery's schools, he said he felt it was possible to make this change without any additional external construction. The Chair said he would support a modest amount of money to be placed on the ballot for the purpose of reconfiguration within the schools but for that purpose alone.

Councilor Dow said he appreciated the Chair's efforts. He said he was not opposed to looking at the three school option but did not know to what extent reconfiguring the present footprints had been looked. However, he said, if they were going to go forward with any configuration of any sort, they had to put this money out there.

Vice Chair Spiller said she didn't think that a \$6 Million Bond issue would fly so when she looked at this warrant, her hope was it was not intended to come to that \$6 Million point but was intended to look at what the Chair had provided that evening and what the consultants provided and find some point in there that allowed them to move to three schools, reduce infrastructure and have a good learning environment without breaking the backs of the citizenry.

Councilor Shwaery thought that everyone in Town was under the assumption that the design plans in this warrant article were for what was investigated over the past year and it seemed like they were suddenly changing mid-stream. He wondered what they were looking for with this money; he certainly didn't think it would be architectural drawings.

Councilor Grinnell said she was not ready to vote on this issue. She understood this was another pact, it was taking \$150,000 and using that money for a different purpose than what she believed the schools wanted it used for. Referring to a Feasibility Study provided to the School Committee last year by WBRC, Councilor Grinnell was concerned that the \$150,000 earmarked for the schools could not be monitored in such a way as to ensure its being used in the way the Council had been discussing.

Councilor Dow suggested that since they seemed so undecided, perhaps they needed to step back and hold another workshop. Chairman Thomson reminded him that if there was no vote that night to place a question on the November 4th ballot, there would be no question on the ballot.

A ROLL CALL VOTE WAS TAKEN ON THE MOTION AS FRAMED BY COUNCILOR DOW, AS FOLLOWS: TWO IN FAVOR; FIVE OPPOSED. MOTION FAILS 2/5, WITH COUNCILORS BRAKE, DENNETT, GRINNELL, SHWAERY AND CHAIRMAN THOMSON OPPOSED.

8. DISCUSSION

a. *DISCUSSION BY MEMBERS OF THE PUBLIC (Three minutes per person)*

Phil Knutel of 56 Chauncey Creek Road came to the podium and thanked the Council for supporting the ordinance around Seapoint Beach, saying he and his neighbors were very appreciative of it because of the parking and safety benefits. He said that a petition had been put together that contained the signatures of almost all the people on whose doors they knocked. The only hesitation on the part of some people had been the thought that it seemed kind of elitist. Mr. Knutel said he didn't

quite understand that, given the benefits they were experiencing and the fact that they volunteered their own time to clean this beach. They were invested in trying to keep the beach as nice as it could be so he didn't see it as being elitist, especially given that New Hampshire residents were offered a discount price for admission to Fort Foster. In terms of extending this ordinance to year-round, Mr. Knutel noted that there was often very nice weather in the fall, as well as in April and May, and they were envisioning lots of people coming with their dogs and having the situation return to what it had been before the ordinance went into effect. Rather than having non-residents get used to using Seapoint Beach all the time and again becoming upset when the ordinance was again in force next May, he and his neighbors were suggesting they have a year-round ordinance that would be consistently maintained.

b. *CHAIRPERSON'S RESPONSE TO PUBLIC COMMENTS*

Chairman Thomson thanked Mr. Knutel on behalf of the Council for his kind words. The Chair said they were in receipt of the petition and he didn't think it was a bad idea but, at the same time, thought maybe they ought to let this run a year as it was proposed in order to do some traffic counts in the off season and see if some of the problems reared up again and then it would certainly be within the purview of this body to consider.

Councilor Shwaery agreed with the Chair and noted that he would be more convinced if some of the signatures came from other parts of Kittery since the ordinance was meant to benefit all of Kittery's residents.

Town Manager Carter indicated that the Parks Commission planned to do a critique of how it was running in late October or November and then report back to Council.

Chairman Thomson thanked Mr. Knutel and asked that the Manager inform Mr. Knutel of when the Parks Commission would be meeting.

9. UNFINISHED BUSINESS

Chairman Thomson asked about where empty yogurt containers should be going since he hadn't been able to locate a receptacle at the Solid Waste Facility. The Town Manager noted that the Energy Committee was having a hard time coming up with the correct opening for a 55-gallon drum that would exclude containers that were not acceptable to the firm buying them back. He noted, however, that Beach Pea would take the containers.

The Chair's second item concerned yard sale signs, making note of the amount of signage during the Labor Day weekend. He wondered if people were informed of signage rules when they came in for permits because there seemed to be no compliance. The Chair thought perhaps if they had a more strictly enforced ordinance and hefty fines were applied, that might make a difference.

10. NEW BUSINESS

a. (090208-3) *THE KITTERY TOWN COUNCIL MOVES TO CONSIDER AND RECOMMEND LANGUAGE TO THE PLANNING BOARD DIRECTED TO THE AUTHORITY OF THE ZONING BOARD OF APPEALS TO GRANT VARIANCES FROM WETLAND SETBACKS.*

Chairman Thomson indicated that Councilor Shwaery had asked that this be an agenda item. The Chair said that Council had correspondence from the ZBA, the Conservation Commission and Town Attorney McEachern and that a course of action would be pointed out for them.

Town Manager Carter explained that about a month ago, the Zoning Board had made a decision that the Conservation Commission stated was in violation of a Town Ordinance regarding wetland setbacks, State regulations and an Opinion rendered by Town Attorney McEachern. Due to the vagueness of the language contained in the ordinance, some latitude was given to the ZBA to make decisions and the Town Attorney would present three options for Council's consideration and forwarding to the Planning Board.

Councilor Dennett noted that the Town Attorney had pointed out that it was really incumbent upon the Council to make an ordinance change and had presented three clear alternatives: that the ZBA had authority to grant variances to wetland setbacks; that the ZBA had no authority to grant variances to wetland setbacks; or they had authority to grant a variance within certain limitations, plus or minus. Councilor Dennett recommended that the Council send these three alternatives to the Planning Board, asking the Board to review them, consult with the Town Attorney on the legalities and come back to the Council with a recommendation.

Councilor Shwaery said he concurred completely with Councilor Dennett and would certainly be happy to attend that Planning Board meeting to offer input and he would prefer this be on the Planning Board's agenda as soon as possible because he thought it was far reaching in Town.

Chairman Thomson thought the course Councilor Dennett proposed was a wise one and thought they would want to ask the Planning Board to choose an alternative, using very clear language, and come back to this body with a recommendation so it could be acted upon in the proscribed manner.

Councilor Dennett added that if there was a minority report that came out of the Planning Board's recommendation, he would like to see that position.

Town Attorney McEachern came to the podium to make it clear to the public that they were not speaking about encroachment into the wetlands, which they did not allow, but were discussing setbacks. The Attorney explained that when the definition of wetlands was changed a few years ago, it created a number of pre-existing non-conforming lots. That was really what they were talking about, whether there should be some relief and what the limitations were to that relief.

Councilor Shwaery added that he agreed with the Town Attorney's position that Council should not stick its nose into the ZBA's rationale. However, he said, Council did interview and appoint Zoning Board Members so he felt they bore some responsibility for their actions. If the Zoning Board did not follow Town ordinances or processes, that did need to be addressed and if the Conservation Commission's letter of August 2008 was correct in that the Zoning Board did not follow the requirement that the applicant wait a year before coming back to the ZBA with a request or did not go to the Planning Board for a wetland operation, those needed to be addressed, probably first by the Code Enforcement Officer or the Planning Office, and if that was not satisfactory, then it should come back to Council.

Town Attorney McEachern clarified that his response to the letter from the Conservation Commission stating that the Council should investigate the ZBA’s decision was that the Council should be very careful, that the ZBA was a quasi-judicial board. Council had a point of authority and did have the right to review people on the Board during the interview process and appoint them but once they were appointed, in the absence of any wrong-doing or demonstrated illegal activity, this Board would be wandering into the wrong pond to call Board members on the carpet for a decision they made. There was an appellate process that corrected extra-judicial activity and Atty. McEachern said Council should be very careful because they could be intimidating to that process.

Chairman Thomson stated that would be the direction that the Council would go in and they would look forward to hearing from the Planning Board.

b. (090208-4) *THE KITTERY TOWN COUNCIL MOVES TO APPROVE THE DISBURSEMENT WARRANTS.*

Chairman Thomson listed the following warrant articles:

Warrant No. 4	School Nutrition Program	\$ 264.10
Warrant No. 1	Minor Capital Repair	\$ 73,300.00
Warrant No. 6	School Accounts Payable	\$ 170,164.44
Warrant No. 3	Dedicated Maintenance Account	\$ 44,378.00
Warrant No. 24	Town Accounts Payable	\$ 731,624.83

VICE CHAIR SPILLER MOVED TO APPROVE THE DISBURSEMENT WARRANTS, SECONDED BY COUNCILOR DOW.

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

c. (090208-5) *THE KITTERY TOWN COUNCIL MOVES TO SIGN AN INTERLOCAL AGREEMENT WITH THE TOWN OF ELIOT TO ADMINISTER AND RECEIVE THE BENEFITS FROM THE STATE OF MAINE COMMUNITY DEVELOPMENT BLOCK GRANT FOR TRANSPORTATION SERVICES.*

Chairman Thomson said that the State had granted funds applied for by the Towns of Eliot and Kittery to extend senior transportation services and now required an interlocal agreement to be signed by the Towns. No funds were required by Kittery.

COUNCILOR GRINNELL MOVED TO SIGN AN INTERLOCAL AGREEMENT WITH THE TOWN OF ELIOT TO ADMINISTER AND RECEIVE THE BENEFITS FROM THE STATE OF MAINE COMMUNITY DEVELOPMENT BLOCK GRANT FOR TRANSPORTATION SERVICES, SECONDED BY VICE CHAIR SPILLER.

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

d. (090208-6) *THE KITTERY TOWN COUNCIL MOVES TO RE-APPOINT JOHN J. CARSON TO THE PORT AUTHORITY UNTIL 3/31/2013.*

Chairman Thomson indicated that the appropriate interview had been held and Councilor Dennett stated that the interview was favorable.

COUNCILOR DENNETT MOVED TO RE-APPOINT JOHN J. CARSON TO THE PORT AUTHORITY UNTIL 3/31/2013, SECONDED BY CHAIRMAN THOMSON.

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

e. (090208-7) *THE KITTERY TOWN COUNCIL MOVES TO SIGN A PROCLAMATION PROCLAIMING THE WEEK OF SEPTEMBER 17TH THROUGH THE 23RD AS CONSTITUTION WEEK.*

Chairman Thomson read aloud the proclamation, as presented by the Daughters of the American Revolution.

COUNCILOR SHWAERY MOVED TO SIGN A PROCLAMATION PROCLAIMING THE WEEK OF SEPTEMBER 17TH THROUGH THE 23RD AS CONSTITUTION WEEK, SECONDED BY COUNCILOR BRAKE.

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

f. (090208-8) *THE KITTERY TOWN COUNCIL MOVES TO AMEND APPENDIX A TO INCLUDE A FEE FOR CLOSING-OUT SALES, AS REQUIRED BY M.R.S. TITLE 30-A §3781, AND TO SET A FEE FOR THAT LICENSE.*

COUNCILOR SHWAERY MOVED TO AMEND APPENDIX A TO INCLUDE A FEE FOR CLOSING-OUT SALES, AS REQUIRED BY M.R.S. TITLE 30-A §3781, AND TO SET A FEE FOR THAT LICENSE, SECONDED BY COUNCILOR GRINNELL.

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

g. (090208-9) *THE KITTERY TOWN COUNCIL MOVES TO APPOINT A REPRESENTATIVE TO MEET WITH THE CHAIR OF THE RICE LIBRARY BOARD OF TRUSTEES TO INTERVIEW CHARLES SIMPSON FOR HIS APPOINTMENT TO THAT BOARD.*

COUNCILOR BRAKE MOVED TO APPOINT COUNCILOR DOW TO MEET WITH THE CHAIR OF THE RICE LIBRARY BOARD OF TRUSTEES TO INTERVIEW CHARLES SIMPSON FOR HIS APPOINTMENT TO THAT BOARD, SECONDED BY COUNCILOR SHWAERY.

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

h. (090208-10) *THE KITTERY TOWN COUNCIL MOVES TO SET A DATE FOR A PUBLIC HEARING FOR RELEASE OF \$2,250 IN GRANT MATCH FUNDS FOR THE CLIMBING WALL AT TRAIPI ACADEMY FROM THE GRANT MATCH RESERVE ACCOUNT.*

COUNCILOR SHWAERY MOVED TO SET THE DATE OF OCTOBER 15, 2008 FOR A PUBLIC HEARING FOR RELEASE OF \$2,250 IN GRANT MATCH FUNDS FOR THE CLIMBING WALL AT TRAIPI ACADEMY FROM THE GRANT MATCH RESERVE ACCOUNT, SECONDED BY COUNCILOR DOW.

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

i. *OTHER*

Councilor Shwaery reiterated his desire to look into the interview process for the Kittery Port Authority, his rationale being that the KPA had similar impact on the Town as the ZBA . Councilor Shwaery said he would further investigate the process of a Charter amendment in this regard.

Councilor Brake had a check in the amount of \$140 for the Recycling Scholarship Fund.

Councilor Grinnell asked about the Freedom of Information Act meeting to be held in Eliot.

Chairman Thomson suggested that having school stationery simply indicate Kittery School Department rather than containing individual names would save money.

11. COMMITTEE AND OTHER REPORTS

a. *COMMUNICATIONS FROM THE CHAIRPERSON*

Chairman Thomson reminded Council that a workshop was scheduled for next Monday evening at 6:30 p.m. in the Council Chamber with the School Committee to begin discussions for the FY-10 budget process.

b. *TOWN MANAGER'S REPORT*

Town Manager Carter reported that MDOT held their second construction meeting last week on Route 1. It was going fairly well and they felt pretty good that they could meet the November 15th date when things would begin to slow down.

The Manager said they were approached by Seacoast Media Group to have their traditional Candidates Night on October 16th and they had agreed to move their start time to 7:30 p.m. so the Town would have their local Candidates Night from 6:00 p.m. to 7:30 p.m. They were waiting to hear if the high school students were going to put together questions for that evening and, if not, an alternative would be found.

The Manager reported that the Boy Scouts had asked if they could have a small camp-out October 31st through November 2nd at Fort Foster and noted that the Parks Commission had no problems with that.

VICE CHAIR SPILLER MOVED TO AUTHORIZE BOY SCOUT TROUP #307 TO HAVE AN OVERNIGHT CAMP-OUT OCTOBER 31ST THROUGH NOVEMBER 2ND AT FORT FOSTER, SECONDED BY COUNCILOR SHWAERY.

A ROLL CALL VOTE WAS TAKEN, AS FOLLOWS: SIX IN FAVOR; ZERO OPPOSED; ONE ABSTENTION. MOTION PASSES 6/0/1, WITH COUNCILOR GRINNELL ABSTAINING.

The Manager noted that the Town worked with the Town of York in doing a salt bid and that York had awarded the bid to Morton Salt for \$67.50 per ton.

The Fuel and More Program had really begun to take off and they were working toward a major fundraiser to be held on Saturday, October 11th, at the Weathervane Lobster in the Rough on Badger's Island. Tickets were \$35/person, \$60/couple.

The MMA Convention was coming up on October 9th and they were looking for voting delegate credentials. The Manager said that, normally, he and the Town Clerk were nominated by the Council for that.

VICE CHAIR SPILLER MOVED TO NOMINATE TOWN MANAGER CARTER AND TOWN CLERK PLACE TO BE THE VOTING DELEGATES TO THE MMA CONVENTION, SECONDED BY COUNCILOR SHWAERY.

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

The Town Manager noted that the Sarah Long Bridge would be closed for three weeks, commencing October 27th through November 14th.

The Manager said they were working with the York/Kittery Chamber of Commerce to work with the merchants as best they could on the Route 1 By-pass.

Lastly, the Manager noted that, as normally happened this time of year, the threat of mosquitoes and triple-e became the highest threat to this area and over the weekend a horse died in Lebanon because of triple-e. Public health alerts had gone out warning people to take pro-active precautions.

The Manager added that the wind turbine was on the ground at the Solid Waste Facility and Monday of next week the contractor should be back to assemble it.

c. COMMITTEE REPORTS

12. ADJOURNMENT

COUNCILOR SHWAERY MOVED TO ADJOURN, SECONDED BY VICE CHAIR SPILLER, WITH ALL IN FAVOR.

MEETING ADJOURNED: 9:02 P.M.