

APPROVED MINUTES
Approved on February 9, 2009

KITTERY TOWN COUNCIL

January 12, 2009

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 Gary Beers, Frank Dennett, George Dow, Ann Grinnell, Glenn Shwaery, Vice Chair Judith Spiller and Chairman Jeffrey Thomson. Also present were Town Manager Jonathan Carter, Town Clerk Maryann Place, Connie Moulton, School Committee Chair Jeffrey Pelletier, DPW Commissioner Rick Rossiter, Recorder Chris Kudym, members of the press and others.

5. **ACCEPTANCE OF MINUTES**
The Minutes of December 8, 2008 were accepted, as read.

6. **INTERVIEWS FOR THE ZONING BOARD OF APPEALS, PLANNING BOARD OR CABLE TELEVISION RATE REGULATION BOARD - None**

7. **PUBLIC HEARINGS**
 - a. (10109-1) *THE KITTERY TOWN COUNCIL MOVES TO HOLD A PUBLIC HEARING ON A RENEWAL APPLICATION FROM FOOD FIRST, LLC, 60 WALLINGFORD SQUARE, KITTERY, FOR A MALT, SPIRITUOUS AND VINOUS LIQUOR LICENSE FOR ANNEKE JANS, 60 WALLINGFORD SQUARE.*
Chairman Thomson opened the Public Hearing and receiving no response, closed the Public Hearing.

VICE CHAIR SPILLER MOVED TO APPROVE THE RENEWAL APPLICATION FROM FOOD FIRST, LLC, 60 WALLINGFORD SQUARE, KITTERY, FOR A MALT, SPIRITUOUS AND VINOUS LIQUOR LICENSE FOR ANNEKE JANS, 60 WALLINGFORD SQUARE, SECONDED BY COUNCILOR SHWAERY.

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

 - b. (10109-2) *THE KITTERY TOWN COUNCIL MOVES TO HOLD A PUBLIC HEARING TO APPROPRIATE A SUM NOT TO EXCEED \$50,000 FROM UNENCUMBERED SURPLUS FOR THE PURPOSE OF UNDERTAKING PHASE TWO OF THE KITTERY SCHOOL DEPARTMENT*

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RECONFIGURATION PLAN, IN ACCORDANCE WITH SEC. 6.09(1) OF THE KITTELY TOWN CHARTER.

Chairman Thomson stated that notification of this Public Hearing appeared in the local printed media on Monday, January 5, 2009. The Chair opened the Public Hearing to those wishing to speak in favor of the appropriation and received no response. The Chair then asked if there was anyone wishing to speak against.

Connie Moulton of Haley Road came to the podium and said she was kind of in the middle of the road with this one; she generally supported the schools and understood the need for the \$50,000 but what she was there to speak on was the use of the unencumbered surplus by the Council. Ms. Moulton said that this was becoming more and more of a “cookie jar” type of thing where they were continually going to the unencumbered surplus for Town projects. She noted that other towns within this State gave back the money to residents in the form of tax relief and in these hard times, she thought the Council should be more mindful of this and asked them to please start becoming more mindful of going to the unencumbered surplus. Ms. Moulton said it was a fallacy to say that this was money they would not be taxed on; the residents and taxpayers of this Town had already been taxed on the money so she thought they had to be more clear to the public as to where this money was coming from and how often they were going to keep going back asking to take money out. She had been on the Charter Commission when they were trying to put some curbs on the use of this account and felt that over the past four or five years they had gone to this so many times for projects within the Town that should be on the Town’s Budget. They had Public Hearings for their Budget, it got approved, the money comes back because it’s not spent - give it back to the people of the Town. Ms. Moulton said that in regard to this item, yes, she understood it but she hoped the Council would start becoming more mindful of the use of these funds.

Chairman Thomson asked if there was anyone else wishing to speak in opposition to the transfer or speak to the proposal in any manner, shape or form. Receiving no response, the Chair closed the Public Hearing.

COUNCILOR DOW MOVED THAT THE TOWN OF KITTELY HEREBY ORDAIN THE APPROPRIATION OF A SUM NOT TO EXCEED \$50,000 FROM UNENCUMBERED SURPLUS FOR THE PURPOSE OF UNDERTAKING PHASE TWO OF THE KITTELY SCHOOL DEPARTMENT RECONFIGURATION PLAN, IN ACCORDANCE WITH SEC. 6.09(1) OF THE KITTELY TOWN CHARTER, SECONDED BY COUNCILOR GRINNELL.

Vice Chair Spiller said she would just like to comment that this contract would be carried out with the oversight of the Shared Services Committee, which consisted of three Town Councilors and three School Committee Members. This was really a joint effort and she thought it was an important step forward.

Councilor Dennett said he must speak in opposition to the motion, perhaps for a lack of knowledge if nothing else. He didn’t know the status of Kitterly in School Consolidation and understood they were not currently in compliance with State requirements although there apparently was legislation in the current Session in Augusta to exempt, either in whole or in part, school districts such as theirs. There might be a State referendum forthcoming but, again, these things were unknown as of this moment. Also, Councilor Dennett asked, if there was no consolidation and they were not exempted, what monetary penalties would be imposed on them by the State? In another vein, this

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motion would encumber up to \$50,000 in funds and they had five and a half months left in the fiscal year that would, in effect, leave no cushion for the Council to use in any way, shape or manner if they encountered an emergency. He found it difficult to vote in the affirmative because of the unknowns with consolidation and until that was resolved, he was in limbo so he would have to vote in the negative on this motion.

Councilor Grinnell said she realized that they were encumbering the total amount that the Council had a right to take out within a calendar year and was not happy that that was where they had to get the money but that was not reason enough for her to vote against this. She said she would like to bring up what Vice Chair Spiller brought up and that was that Shared Services would have oversight of the process with the \$50,000; she wanted to get some input from Council if that should be added to the motion. Councilor Grinnell said she didn't want Shared Services to have any say over school policy but stated that she couldn't vote for this motion unless Shared Services was involved in the process of how the money was spent and accounted for.

Councilor Beers said he would ask for two points of order. First, the Town Charter mandated that the Town Manager certify that these funds were available; the Manager confirmed that he had so certified. Second, the motion, as it stood, only indicated that, with approval, the Council would appropriate a sum not to exceed but did not designate expenditure authority and he would ask, consistent with Councilor Grinnell's point, should that not be included as part of the motion?

Councilor Dow said he could agree with Councilor Beers in the sense that the contract and the payment therefor would be going to the School Department. Being on the Shared Services Committee, his own expectation was that they would be a driving force for what they were looking at from this Phase II because for him to ask the Council to encumber and expend \$50,000 of the surplus, he was expecting that this phase would be the "tell-all" as to where they would go down the line. Councilor Dow agreed that the Shared Services Committee should be the ones to dictate whether the contract had been fulfilled and could be paid off.

Chairman Thomson said that as far as the payment vehicle for this particular work, he agreed it would be the School Department's domain. Addressing Councilor Grinnell, the Chair said that like any other time that the Council appropriated additional funds, whether it was for the purchase of a vehicle for the police or fire or a particular program, it was then in the hands of the Department to oversee that payment was appropriated and appeared on the warrant, etc., so he didn't see any problem with the wording of the motion up to that sum and at that point, to him, it became the domain of the School Department to be the payer or "vendor" for that money. He did, however, agree that perhaps they should add that the Shared Services Committee was kind of the clearing house and overseer for the scope of the work and how it was being accomplished and that all the questions they felt needed to be answered were being answered. The Chair said that if she would feel comfortable adding that as an amendment to the main motion, she was certainly welcome to do so.

School Committee Chairman Jeffrey Pelletier came to the podium and stated he didn't think they took any exception at all with the Shared Services Committee being the purveyor of this part of the process. Their intent was to have the Town Council and the School Committee working together on this phase and wanted to have a good part of each Board be intimately familiar with the details in order to be able to ask the questions that each body would have from their own perspective and point of view and to serve later in helping to get both bodies to ratify this. Mr. Pelletier said that either way they went, that was what they were going to get because at the end of this process, they both had to

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sign off on the project; they had to sign off on the educational piece and the Council had to sign off on the monetary piece. There really was no getting around that truth so if they included language about the Shared Services Committee being the clearing house, he didn't think the School Committee had a problem with that, nor should the Council have a problem with how they saw it; he really thought they were in sync.

Councilor Beers said he also wanted to comment, from a support position, that he was sensitive to the concerns about the encumbrance and expenditure of unencumbered surplus. However, he said, this particular consideration went back several months when the Council was asked for a warrant article for \$150,000 to move the Reconfiguration Planning Process forward, which did not occur, and in order to jump start the process, get ahead of the curve and spend money that would undoubtedly be approved at future points in time and budget, he thought this was an appropriate mechanism and a legitimate request for expenditure and encumbrance.

COUNCILOR GRINNELL MOVED TO AMEND COUNCILOR DOW'S MOTION BY ADDING THE FOLLOWING SENTENCE: "THE SHARED SERVICES COMMITTEE WILL BE THE POINT OF CONTACT FOR DISCUSSION, CLARIFICATION AND COMPLETION OF THE SCOPE OF WORK UNDERTAKEN IN PHASE II OF THE KITTELY SCHOOL DEPARTMENT RECONFIGURATION PLAN," SECONDED BY VICE CHAIR SPILLER.

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

Councilor Shwaery noted that he shared some of the concerns of Councilor Dennett but he would say that they were not going to find a partner by the end of this fiscal year so they would be in the same situation whether they passed this or not and so if they were penalized, they were penalized. Regarding the expenditure and Ms. Moulton's comments, Councilor Shwaery said he shared her concerns there, as well, but he actually saw this as an investment that would actually pay back in saved costs. If they delayed this until they found out what was going on with the State, it was likely that another year of students would be in Frisbee, which was a sub-standard building and would require some expenditure just to repair it back up to its current state for some years. It was also money that would save them a year's worth of repairs on the Frisbee School. Councilor Shwaery said that this took a little bit of a leap of faith that what came out of this Phase II was something they could all buy into; it was a little bit of a risk but he was willing to take it.

Chairman Thomson said he would simply say that, again, he certainly heard and understood the concerns mentioned by Councilor Dennett. The Chair said he still remained unconvinced that the money spent last winter and spring for the Phase I work had to be expended. He believed there was nothing that came out of that report that this body, sitting down with the School Committee and perhaps folks in the community that had engineering and architectural expertise, could not have arrived at without expending that money. He did, however, think this next step was necessary and the money had to be expended because they were moving in a couple of different directions. The School Committee, in their last couple of meetings, had voiced a direction of looking toward moving children out of Frisbee this June so that timetable had certainly been moved up and they needed to have a determination made in cold, hard numbers and architectural design concerning what could be done at Mitchell and at Shapleigh (although he hesitated to support any new construction at Shapleigh). The Chair said he would support the motion, as amended, to move to this next step with the understanding

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that everything, as far as he was concerned, was still on the table when this report became final, i.e., depending upon what it said and the financial price tag that came with it. Things like moving the 8th grade to the Traip site, increasing their class sizes and reconfiguring some internal space were all avenues that needed to be explored, depending upon what the result of this study was. The Chair said he was supporting this with that leap of faith Councilor Shwaery referred to that in a few months, when this information became final, they might need to look in other directions and folks would be open-minded about that and willing to enter into that dialogue.

A ROLL CALL WAS TAKEN ON THE MAIN MOTION, AS AMENDED, AS FOLLOWS: SIX IN FAVOR; ONE OPPOSED. MOTION PASSES 6/1, WITH COUNCILOR DENNETT OPPOSED.

8. DISCUSSION

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

Connie Moulton came forward and said she knew a lot of people weren't familiar with the fact that the Town was required to hold a certain amount of money and she was wondering if the Council could tell the public exactly what that was and what was currently in the unencumbered surplus. Again, she said, she just wanted to say she knew the Council was in their budget process but please, please start watching what was coming out of that account.

b. *CHAIRPERSON'S RESPONSE TO PUBLIC COMMENTS*

Addressing Ms. Moulton, Chairman Thomson explained that the audit for the fiscal year that ended this past June had not yet been completed. The fiscal year that ended June 30 of '07 showed an unencumbered surplus of approximately \$6 Million. That number, he said, was somewhat fluid in that the community in June of this past year approved a number of Warrant Articles to have that money taken out of unencumbered surplus, reducing that figure a little over \$1 Million. In addition to that, again, the audited figure for fiscal year ending June '08 had not yet been finalized and revenues may have been more than anticipated for that fiscal year, they may have been less, so he supposed the unencumbered surplus could be as low as \$5 Million or could be more than the \$6 Million that was there as of June 30th of '07. The Town was required to maintain a surplus as a "Rainy Day Fund" but he would say that the Council had been extremely prudent in its use. This was the first time in two plus years that the Council had a Public Hearing to take any money out of the unencumbered surplus for a specific purpose and, as she knew, by Charter, they were limited to \$50,000 in a fiscal year so it was a very small amount compared to what was in there. Other than that, they had identified some one-time expenses and some accounts that needed additional funds for insurance and retirement that the auditor recommended be increased and they had asked voters to approve Warrant Articles to take that money out of the unencumbered surplus. The argument could be made that they simply posed the question and the voters made that decision; it wasn't a decision made solely by the Council. Someone may choose to argue that if things were explained differently to the public, they might vote differently, that was always possible but as far as the Council dipping into the unencumbered surplus, by Charter, Council was limited to that \$50,000 amount.

Town Manager Carter replied to the question, what did they need to keep in there - it was several months of operating funds, around \$4 and a Half Million. They were close to that in pre-audit and he didn't think they would be seeing the Warrant Articles as they had been.

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Chairman Thomson also noted that one of the Warrant Articles that was approved by the voters last June was to take money out of unencumbered surplus to keep the tax rate increase to that \$.04 figure that was eventually approved so, again, that was a vehicle that was available to the Council and the community to use in good times and, as in a family budget, to have money in savings to use to tide them over through tough times.

Ms. Moulton said that hearing the Town Manager say they needed up to \$4 and a Half Million and if \$5 Million was at the low end and that's what was there, then they really had to be watching how that money was spent and she just didn't feel voters were totally aware of what was required and where this money was going. She just felt they should try to work a little more within the Budget for capital projects.

9. UNFINISHED BUSINESS

Referring to the December 8th Minutes wherein a motion had been made to place the Memorial Bridge on the List of Endangered Places, which had failed to pass, Councilor Shwaery noted he had missed the subsequent meeting where the motion to put it back on the List had been approved 5/0 and he was wondering why the Council had changed its mind.

Chairman Thomson explained that he made the motion to reconsider because of information that had come to light in the media, as well as through his reading since the meeting of the 8th regarding the purpose of Dr. Candee's, and he felt that the information was a little clearer, at least to him, as to what Dr. Candee was trying to accomplish. The Chair said that his concerns such as holding any project up, increasing the expense of the project, etc. had been somewhat allayed so he felt comfortable in that it was certainly an avenue they could pursue - to let it go out there and see what happened - as well as what was going on with the \$2 Million study by the States and that had been his rationale.

Chairman Thomson had one item that involved Frisbee School and its possible re-use. As he mentioned during the course of the dialogue on the debate of the supplemental appropriation, it appeared that the School Department was moving closer and closer to vacating that site in June of this year and that should set in motion some strategies on Council's part. The Chair said he saw the issue as being two-fold: (1) they needed to deal with the securing and use of the building in the short term and, obviously; (2) what long-term uses the building was going to have.

For example, the Recreation Department's Safe Program, the after-school program that was housed there, served about 100 students during the course of a year and was a revenue producer, bringing in about \$100,000 during the school year and about \$60,000 during the summer. Being licensed by the State of Maine as a childcare venue at the Frisbee site if it was going to move somewhere else, that would require action on the Town's part and the Recreation Department's part to accomplish that. In addition, the Head Start Program was housed in the Frisbee Annex. The main building and the annex were under two different heating systems but the boiler in the annex was in pretty tough shape and then they had, of course, the roof issue on the main building so the long and short of it was he thought they needed to have a strategy in place moving forward this spring for the very likelihood that that building would be turned over to the Town from the School Department on June 30th.

The Chair said he didn't know if they needed a committee to look at short-term uses to keep the building occupied and used starting this summer and then another group that would deal with the long term re-use. What he was thinking was the short-term situation was one that may not require expending any money; the building was there and the Rec Department could theoretically move most of their programming into the annex. Then they would have to look at how they would handle the

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heating season next fall. The Chair said he was just “throwing that out” that it was something they should be thinking about and moving on given the direction the School Department seemed to be going and he thought they could do that without the appearance of rushing or stepping on anyone’s toes.

Vice Chair Spiller said she thought they should move ahead. Her concern was she thought they wanted to be careful not to do anything now that precluded subsequent options so her suggestion was that a small group of them start working with the Manager and others that would be affected and begin this process.

Councilor Grinnell asked if there were thoughts of the Rec Center moving any other place temporarily other than the Frisbee School and the Chair replied, none that he knew of. He thought what was driving that was the fact that these two children’s services were already housed in the annex and it seemed to make more physical sense to start moving what they could from Cole Street to that site rather than moving them somewhere else. The Chair said, to him, it was all temporary because they were going to need to thoroughly study and determine if they would need more than the \$3.5 Million that was approved for the Rec Center. He thought what was even more important was securing the building and keeping it secure and they might need to make a decision on that boiler in the annex. Councilor Grinnell thought that one committee could do the whole thing and they should set it up and move on.

Councilor Beers said he endorsed the concept whole-heartedly and thought it was entirely appropriate. He agreed with Councilor Grinnell that the folks that started investigating the possibilities in the near term could carry that corporate knowledge through the planning process in the long term and also agreed that the time was now.

Councilor Shwaery asked if the Chair envisioned this as being dramatically different from what the Shared Services Committee was doing and the Chair replied he thought this went beyond their work; Shared Services was just envisioned to deal with School Committee/Town joint ventures and this would go beyond that. He would hope they could get people in the community educated in the areas of architecture and engineering that could offer their expertise to the Town during this process, as had been utilized with their Solid Waste Facility.

Councilor Grinnell agreed with the Chair, she didn’t think this was a Shared Services issue; she thought it was for a Frisbee School Renovation Committee or something like that because once the school was given to the Town, then it was no longer Shared Services.

Vice Chair Spiller said she agreed with Councilor Shwaery that it was Shared Services but thought the scope of it was so large and they wanted to make sure there was community involved with it because this was going to be, if they were successful, a community center. However, some of the programs that might go in there would be a result of sharing between the School System and the Town.

Councilor Beers thought Shared Services functions could provide valuable input to a committee for Frisbee’s future and he strongly suggest that the largest proponent and longest talker on the subject (the Chair) could well lead that effort.

Councilor Dow suggested the committee be named the Frisbee Revitalization Committee and the name was favorably received.

Councilor Grinnell suggested maybe three Councilors, a School Committee member – though she wasn’t sure the School Committee wanted to be involved in this – and envisioned maybe people from the Rec Center, the Library or from Head Start, not as voting members of the Committee but people who went to the Committee and said they would like to be in that building and this was what they could bring to it. Councilor Grinnell said they didn’t know all the people that would be involved in being there and she wouldn’t want to see the Committee set up and all of a sudden XYZ was going to be in the building and they weren’t sitting on the Committee.

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Councilor Dennett said he would certainly have no objection to the Chair speaking with fellow Councilors, putting something together and bringing it forward at their next Council meeting for discussion.

The Chair said he would sit down with the Manager, communicate with the Council and that they would try to have a specific proposal for action at their meeting of the 26th.

10. NEW BUSINESS

a. (10109-3) *THE KITTERY TOWN COUNCIL MOVES TO APPROVE THE DISBURSEMENT WARRANTS.*

Chairman Thomson listed the following Warrant Articles:

Warrant No. 10	School Nutrition Program	\$ 25,628.62
Warrant No. 13	School Accounts Payable	\$ 288,935.14
Warrant No. 56	Town Accounts Payable	\$ 757,085.52

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

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

b. (10109-4) *THE KITTERY TOWN COUNCIL MOVES TO APPOINT A REPRESENTATIVE TO MEET WITH THE CHAIR OF THE PERSONNEL BOARD TO INTERVIEW DONNA STOBBS FOR HER RE-APPOINTMENT TO THAT BOARD UNTIL 11/28/11.*

COUNCILOR GRINNELL MOVED TO APPOINT COUNCILOR SHWAERY TO MEET WITH THE CHAIR OF THE PERSONNEL BOARD TO INTERVIEW DONNA STOBBS FOR HER RE-APPOINTMENT TO THAT BOARD UNTIL 11/28/11, SECONDED BY COUNCILOR DOW.

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

c. (10109-5) *THE KITTERY TOWN COUNCIL MOVES TO APPOINT _____ AS A REPRESENTATIVE FOR THE MAIN SERVICE CENTERS COALITION AND _____ AS AN ALTERNATE.*

Town Manager Carter asked that he and Councilor Grinnell be re-appointed, with Council’s approval.

VICE CHAIR SPILLER MOVED TO APPOINT TOWN MANAGER CARTER AS A REPRESENTATIVE FOR THE MAIN SERVICE CENTERS COALITION AND COUNCILOR GRINNELL AS AN ALTERNATE, SECONDED BY COUNCILOR BEERS.

Councilor Shwaery asked if they were required to be a part of this Coalition and wondered about its effectiveness, if there was any measure of their service to towns. The Manager said, no, they were not required to join. He thought that they were effective, being a voice up in Augusta for communities like themselves, such as Freeport, Lewiston, Auburn, large service centers that had different needs and concerns than the other 496 other communities in the State. Their dues went

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toward legislative initiatives looking at taxation issues and trying to bring more revenue back into the service centers because the impact of shopping or business districts were at a level that they should be getting more money back toward supporting those sorts of activities.

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

d. (10109-6) *THE KITTERY TOWN COUNCIL MOVES TO ACCEPT HILL CREEK DRIVE AS A TOWN ROAD, IN ACCORDANCE WITH SEC. 16.32.240 OF THE LAND USE AND DEVELOPMENT CODE.*

Chairman Thomson indicated that this application had been reviewed by the Planning Board, the Town Attorney and by Mr. Rossiter and his staff.

Councilor Dennett stated that when the motion was made, he would feel more comfortable if it was accepted as a Public Way rather than a Town Road, in keeping with the terminology of the Land Use and Development Code.

COUNCILOR BEERS MOVED TO ACCEPT HILL CREEK DRIVE AS A PUBLIC WAY, IN ACCORDANCE WITH SEC. 16.32.240 OF THE LAND USE AND DEVELOPMENT CODE, SECONDED BY COUNCILOR DOW.

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

e. (10109-7) *THE KITTERY TOWN COUNCIL MOVES TO ALLOW THE ALTERNATE PROCUREMENT METHOD TO ALLOW THE PURCHASING AGENT TO AWARD TO SHAW BROTHERS A CONTRACT TO INSTALL THE KITTERY ROTARY CIRCLE REPLACEMENT DRAINAGE PIPE AT A COST OF \$142,911.80.*

Town Manager Carter indicated the Town had the opportunity to utilize the contractor that was doing Route 1 South to do this work. The work involved replacing drainage pipes that had been failing and needed to be replaced for safety measures and would be done in the cross section of Rogers Road Extension onto the rotary. The Manager said they believed the price quoted by the Shaw Brothers was less than what the Town could do it for.

Responding to a concern expressed by Councilor Dow, DPW Commissioner Rick Rossiter said there was one local firm that had the capability of doing this work but confirmed his confidence that the price quoted by the Shaw Brothers would most likely be the only and lowest bid.

Councilor Beers supported the alternative procurement because he thought the pricing was outstanding and he offered his compliments to the Director of Public Works and the Town Manager for pursuing this opportunity.

Councilor Shwaery asked if they were talking about doing this in the spring and if there was any urgency to begin. Mr. Rossiter replied yes as to the timetable and added that he was concerned about one pipeline in particular that he felt needed to be done as soon as possible. Councilor Shwaery also questioned exclusions in the proposal and if the Town would be responsible for those items. Mr. Rossiter stated that that would not happen because the pipe would be going in the same place it was now.

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COUNCILOR BEERS MOVED TO ALLOW THE ALTERNATE PROCUREMENT METHOD TO ALLOW THE PURCHASING AGENT TO AWARD TO SHAW BROTHERS A CONTRACT TO INSTALL THE KITTELY ROTARY CIRCLE REPLACEMENT DRAINAGE PIPE AT A COST OF \$142,911.80, AS PRESENTED, SECONDED BY COUNCILOR GRINNELL.

Councilor Dennett stated that he could not support the motion. Although Councilor Beers indicated this was a very good price, he, himself, did not have the background or knowledge to be able to say that and since they were not in a time constraint situation and there were a number of firms in the greater area capable of doing this work, he just couldn't bring himself to give it away.

Councilor Shwaery asked Comm. Rossiter and the Manager if having this go out to bid would put it off longer than they wanted to wait?

Comm. Rossiter explained that one of the problems was they would have to have some engineering documentation, i.e., an engineering plan and specifications and although they would have time to get that ready, the available quoted price might change.

Chairman Thomson said that in a situation like this, he would trust the information Comm. Rossiter and the Manager brought forward. It sounded like they had performed sufficient verification of these prices based on other work that had been done and what was going on in the industry to make him feel comfortable enough to take advantage of the Shaw Brothers' presence and get this work done in conjunction with their other work.

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

f. (10109-8) *THE KITTELY TOWN COUNCIL MOVES TO AMEND AND ADOPT NEW CHARGES FOR PHOTOCOPIES AND PLANNING AND LEGAL SERVICES STAFF TIME TO THE PUBLIC.*

Town Manager Carter explained that he had sent a memo to all employees looking for cost savings and ways to bring greater efficiency into the local government. As a result, the Land Use Department had looked at these charges, which had been in place for years, researching what other communities were charging for photocopies, copying large map sheets and for different information that people might want. After doing this survey, they made some recommendations, which he endorsed because they needed to make that Department as self-sufficient as possible and they didn't want to give away things that cost more for them to do than necessary. The Manager then detailed the pricing schedule they were recommending to Council, which included both photocopying charges and research fees. The Manager also indicated that if a request was made or there was a requirement for Town Attorney review and/or clarification, that would be billed out to the applicant at the Town Attorney's fee.

Concerns were raised about the research portion of the proposed pricing schedule and Town Manager Carter noted that Council would be amazed at what people came in and asked for. Much of the requested information was readily accessible to them but if people wanted the Town staff to collect the information and put it together for them, there would be a little fee. There was also discussion about the need for more definitive guidelines attached to research fees.

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COUNCILOR GRINNELL MOVED TO AMEND AND ADOPT NEW CHARGES FOR PHOTOCOPIES, AS LISTED ON A DOCUMENT ATTACHED TO A MEMORANDUM FROM THE TOWN MANAGER DATED JANUARY 5, 2009 AND INCLUDING THEREWITH THE FEE FOR TOWN ATTORNEY REVIEW, TO TAKE EFFECT ON FEBRUARY 2, 2009, SECONDED BY VICE CHAIR SPILLER.

Chairman Thomson indicated that at the moment he was uncomfortable with the vagueness of the research fees and suggested that for the next four months the Planning Staff monitor the number and type of requests they got and bring that information back to Council in May or June. The Council could make a decision at that time using a little more data.

Councilor Beers pointed out that approval of this motion would require a change to Section 15 of the Council Rules.

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

g. (10109-9) THE KITTELY TOWN COUNCIL MOVES TO ACCEPT A DONATION FROM TANGER PROPERTIES LP IN THE AMOUNT OF \$500 FOR THE KITTELY FIRE DEPARTMENT TO BE USED TO BENEFIT THE DEPARTMENT OR A CHARITY OF THEIR CHOICE.

COUNCILOR GRINNELL MOVED TO ACCEPT A DONATION FROM TANGER PROPERTIES LP IN THE AMOUNT OF \$500 FOR THE KITTELY FIRE DEPARTMENT TO BE USED TO BENEFIT THE DEPARTMENT OR A CHARITY OF THEIR CHOICE, SECONDED BY COUNCILOR BEERS.

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

h. (10109-10) THE KITTELY TOWN COUNCIL MOVES TO ACCEPT A DONATION FROM PAUL GORMLEY AND KIMI E. IGUCHI IN THE AMOUNT OF \$250 FOR THE KITTELY FIRE DEPARTMENT.

COUNCILOR GRINNELL MOVED TO ACCEPT A DONATION FROM PAUL GORMLEY AND KIMI E. IGUCHI IN THE AMOUNT OF \$250 FOR THE KITTELY FIRE DEPARTMENT, SECONDED BY VICE CHAIR SPILLER.

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

i. (10109-11) THE KITTELY TOWN COUNCIL MOVES TO APPROVE FIVE REQUESTED DATES FOR THE 2009 SIDEWALK SALES EVENTS, AS REQUESTED BY THE KITTELY OUTLET ASSOCIATION.

Chairman Thomson indicated that these sidewalk sales were allowed by Town Ordinance Chapter 5.32. The Chair then listed the five dates.

VICE CHAIR SPILLER MOVED TO APPROVE FIVE REQUESTED DATES FOR THE 2009 SIDEWALK SALES EVENTS, AS REQUESTED BY THE KITTELY OUTLET ASSOCIATION, SECONDED BY COUNCILOR DOW.

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

Approved on 2/9/09

j. *OTHER*

Councilor Shwaery stated that the Town had done a good job clearing the roads in the recent snowstorms and he wondered how people dared to continue to drive on these roads with vehicles that were registered out of State and put the economic burden on others.

Councilor Dennett noted there was a bill in the Legislature in that regard of registered vehicles, boats and aircraft sponsored by a local representative that would make it mandatory that the municipalities enforce the State Law rather than the State. While that was good to a degree, Councilor Dennett thought that if it passed and they had to comply, it would cost them an awful lot of pain and money.

11. COMMITTEE AND OTHER REPORTS

a. *COMMUNICATIONS FROM THE CHAIRPERSON*

Chairman Thomson stated that he had received a call from a citizen with a couple of thoughts and questions regarding the recent ice storm and power outage. One dealt with the fact that he had been somewhere that had power and heard an emergency broadcast announcement made over Comcast that did not list a radio station that people could listen to. The Manager noted that since this was a State wide broadcast, he didn't think they would mention a specific radio station and Councilor Beers agreed.

The other issue this citizen raised was that he thought that tree branches were one of the causes of power outages. People planted little trees in spots where after growing into big trees, their branches interfered with power lines and he wondered if there was some way, i.e., through Town Ordinances or a Planning Board process, to have some sort of a setback from power lines. Town Manager Carter indicated that the CMP was going to move toward a higher degree of tree trimming in the future but, obviously, that was a two-way street because many people did not want to have their trees clipped.

The last item the Chair had was to inform Council that, based on the information that the Town Manager and the School Committee would bring forth regarding the FY-10 Budget, he had asked the Manager to establish a comment link or blog on the Town's website for folks to weigh in, as information became available, with comments, questions, etc. on the Budget.

b. *TOWN MANAGER'S REPORT*

Town Manager Carter reminded Council that the DOT would be re-surfacing Route 1 beginning at Lewis Road northerly one mile to the Kittery/York town line in the late spring/summer. The Manager said that as they got closer, people with utility issues, etc. should take note of it.

The Manager said that Council was invited to attend a luncheon the next day that the Governor was holding with the Community Energy Partners at which they would be recognizing communities that were promoting wind turbines. Comm. Rossiter, who has a residential wind turbine on his property up North and has been a promoter of the Town's wind turbine at the Transfer Station, would be attending.

The Manager reminded Council that the York County Municipal Officials dinner with State Legislators would be held Thursday night, for which 15 Legislators had signed up for.

Because of the snowstorm and meeting cancellation, the Manager indicated there was no update regarding the County Budget.

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The Manager said they were moving forward with the ice storm damage reports. The President had declared York and other counties Federal Disaster Areas and they would be merging their numbers together.

The Manager indicated that their Budget Calendar was in Council's packets and he had also given them the School Calendar. The Manager said these calendars pretty much coincided and that they were working very hard this year to integrate their Budget with the School's Budget and would be presenting one Budget on the same night to the Council. The Manager noted that the issues about Portsmouth may or may not be true for Kittery about how to achieve the goals he thought Council would like to see of no tax increase. He said they would do everything they possibly could to present a Budget without the heartache and problems that went along with reductions and would do it in the best interest of the community.

The Manager stated that former Councilor Brake had presented to them another check, in the amount of \$145, for the Scholarship Fund.

Referring back to the Budget, Councilor Dow wondered if Council members were comfortable with their first Budget meeting being held on March 16th. Town Manager Carter explained the process that was going on between the Town and the School to present a full overall Budget. The Manager indicated that once that was presented, they would suggest that the Council concentrate on the School so they could do what they had done this past year in certifying everything and getting that put to rest so it was prepared for the warrant in June and they wouldn't have to have any special elections for it. The Manager gave more detailed information about how they were trying to achieve the ultimate goal Council set of no new taxes increases for the year.

c. COMMITTEE REPORTS

12. ADJOURNMENT

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

MEETING ADJOURNED: 9:00 A.M.