

**APPROVED MINUTES**  
**Approved on June 8, 2009**

**KITTERY TOWN COUNCIL**

**May 27, 2009**

**Council Chamber**

1. CALL TO ORDER

Chairperson Jeffrey Thomson called the meeting to order at 7:00 p.m.

2. INTRODUCTORY

Chairperson 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, and Chairperson Jeffrey Thomson. Also present were Town Manager Jonathan Carter, Town Clerk Maryann Place, Susan Emery, George Lombardi, Kathryn Davis, Carolyn Consaga, Recorder Chris Kudym, Guest Recorder Ashley Rodier, members of the press and others.

Chairperson Thomson noted that because of the Monday holiday, which moved their regular meeting to Wednesday, three Council members had work commitments. However, the Chair said, a quorum was present and they anticipated being able to handle all of the business before them that evening.

5. ACCEPTANCE OF MINUTES

The Minutes of the May 11, 2009 Regular Meeting were accepted, as amended.

6. PUBLIC HEARING

a. (050409-1) *THE KITTERY TOWN COUNCIL ORDAINS A PUBLIC HEARING ON THE PROPOSED AMENDMENT TO CHAPTER 16.12.070 OF THE LAND USE AND DEVELOPMENT CODE TO REPEAL THE 2006 AMENDMENT TO THE VILLAGE RESIDENTIAL – VR ZONING DISTRICT.*

Chairperson Thomson indicated that a request had been brought forward by area residents to the Planning Board to repeal the 2006 amendment to the Village Residential Zoning District, restoring the language that had previously been in place. The Planning Board had held their requisite Public Hearing on the changes and was recommending that the Town Council approve these changes. The Chair stated that notification of this Public Hearing appeared in the local printed media on Friday, May 15, 2009 and Friday, May 22, 2009. He then opened the Public Hearing, inviting those wishing to speak in favor of the changes to come to the podium.

Susan Emery of 5 School Lane in Kittery Point came to the podium saying she would like to speak in favor of these changes because she believed they reflected the purpose of the Village Zone as outlined in their Ordinance, as well as in their Comprehensive Plan and thanked the Council for considering them.

George Lombardi of 105 Manson Avenue came forward and stated he had been a Kittery resident for 35 years and lived in the Village since 1978. Mr. Lombardi said he thought the amendment should be repealed and stricken, as they wanted it.

Kathryn Davis of 44 Wood Lawn Avenue came to the podium requesting that the Council pass the proposed Amendment to Title 16 of the Land Use and Development Code Zoning Ordinance. Ms. Davis said citizens in Kittery, along with their group, said that the Village just wanted to change back the zoning so it would complete compliance with the Comprehensive Plan of their Town so the Code needed to go back to the way it was, consistent with the Comprehensive Plan.

After asking if there was anyone else who wanted to address this item and receiving no response, Chairperson Thomson closed the Public Hearing.

**COUNCILOR BEERS MOVED THAT THE KITTERY TOWN COUNCIL ORDAIN THE PROPOSED AMENDMENT TO CHAPTER 16.12.070 OF THE LAND USE AND DEVELOPMENT CODE, AS PRESENTED, SECONDED BY CHAIRPERSON THOMSON.**

Councilor Dennett noted he would have no problem going along with the motion but would just note that multi-unit residential dwellings would be eliminated as a special exception, making the multi-unit Naval housing non-conforming. He didn't think it was a big problem but just wanted to note that a number of units would be put into non-conforming status.

Chairperson Thomson wondered if this elimination had been an error and Town Manager Carter replied, no, the amendment had been brought forward as a petition and was thus a petition issue; the Planning Board did not add or subtract anything.

Councilor Beers said the original concept of the Village Residential Zone was to retain its appearance and integrity as originally built, with single and duplex family dwellings, whereas a provision to allow multi-unit housing would allow redevelopment with clustered larger units, as - it so happened - the new Navy housing facilities were, but the idea was to retain its original character and integrity.

**A ROLL CALL VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 4/0.**

7. DISCUSSION

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

Carolyn Consaga of 16 Goose Point came to the podium saying she read in the newspaper that day that Central Maine Power would like to put something up on Goose Point and she was wondering if the Council could let them know what that was and where it would be.

b. *CHAIRPERSON'S RESPONSE TO PUBLIC COMMENTS*

Chairperson Thomson explained that the Power Company did an application for a pole permit for one pole located starting at Pole 5, northerly 34 feet; the Manager added that it had already been installed.

Ms. Consaga said it also said something about some kind of a unit that would be put in and she was curious because it was the first time they had heard of it. The Manager replied that, no, it was just

a pole. Ms. Consaga then asked what the purpose of this pole was, noting that there had been a lot of problems with electricity on Goose Point and they themselves had installed a generator because they had been out for such long periods of time lately. Ms. Consaga said they had discovered they were on a grid with Lewis Road. As a result, even though they were right off Haley Road, which got its power much sooner, they didn't get their power back until Lewis Road got theirs back so she was curious how the new pole would affect them.

Town Manager Carter said it would not affect them at all; there was no new equipment, it was just an additional pole on the road to take some of the load off some of the other wires.

Councilor Beers made the following observations: firstly, the comment in the paper talked about "facilities and appurtenances" and that was standard Central Maine Power language for the stuff they hung off the pole and didn't have anything to do with buildings or anything else; and secondly, power for Lewis Road didn't come from Route 1, it came up Norton Road. Councilor Beers said he happened to be the next to the last house on that strand and during the 2008 ice storm, the lights were on from Route 1 to the house next door to them down Lewis Road but not all the rest so he was hoping the new pole would fix it in their direction as well.

#### 8. UNFINISHED BUSINESS

Councilor Beers wondered if there was an update on the possibility of flashing lights on the Route 1 Mall Road area.

Town Manager Carter explained that he had been working with the Department Heads, Public Works and the Police, as well as the contractor, and they believed the lights should be left on during the 24/7 period allowing the tripping mechanisms to take care of the traffic as it went. Normally, he said, late at night it should be green on Route 1 unless something tripped it. There was also some adjustment in timing and they would be looking at it on Haley Road.

#### 9. NEW BUSINESS

##### a. (050409-2) *THE KITTERY TOWN COUNCIL MOVES TO APPROVE THE DISBURSEMENT WARRANTS.*

Due to the absence of a document requiring Council signatures, Chairperson Thomson put this item on hold.

##### b. (050409-3) *THE KITTERY TOWN COUNCIL MOVES TO READ AND SIGN A PROCLAMATION OF CONGRATULATIONS AND ACKNOWLEDGEMENT OF KITTERY'S OLDEST RESIDENT, DORIS LITTLEFIELD, AS BEING NAMED THE RECIPIENT OF THE BOSTON POST CANE.*

Chairperson Thomson read the proclamation recognizing Doris Littlefield and Councilor Beers suggested, assuming approval of this proclamation, that it be held for signature of the full Council.

**COUNCILOR DENNETT MOVED TO SIGN A PROCLAMATION OF CONGRATULATIONS AND ACKNOWLEDGEMENT OF KITTERY'S OLDEST RESIDENT, DORIS LITTLEFIELD, AS BEING NAMED THE RECIPIENT OF THE BOSTON POST CANE, SECONDED BY COUNCILOR DOW.**

**A ROLL CALL VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 4/0.**

##### c. (050409-4) *THE KITTERY TOWN COUNCIL MOVES TO APPROVE THE ANNUAL RENEWAL LIST OF VICTUALERS LICENSES.*

Chairperson Thomson referred Council to the list of all Kittery establishments that possessed victualer's licenses.

**COUNCILOR DOW MOVED TO APPROVE THE 2009 ANNUAL RENEWAL LIST OF VICTUALERS LICENSES, SECONDED BY COUNCILOR BEERS.**

**A ROLL CALL VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 4/0.**

d. (050409-5) *THE KITTERY TOWN COUNCIL MOVES TO APPROVE THE ANNUAL RENEWAL LIST OF AMUSEMENT DEVICE LICENSES.*

Chairperson Thomson read the list of Kittery establishments that possessed amusement device licenses.

**COUNCILOR BEERS MOVED TO APPROVE THE 2009 ANNUAL RENEWAL LIST OF AMUSEMENT DEVICE LICENSES, SECONDED BY COUNCILOR DOW.**

**A ROLL CALL VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 4/0.**

e. (050409-6) *THE KITTERY TOWN COUNCIL MOVES TO AUTHORIZE THE TOWN MANAGER, IN ACCORDANCE WITH THE POLICY FOR THE DISPOSITION OF TAX-ACQUIRED PROPERTY, TO NOTIFY FORMER PROPERTY OWNERS THAT A FORECLOSURE HAS OCCURRED ON THEIR PROPERTY.*

Town Manager Carter referred Council to the listing of foreclosed properties as of 5:00 p.m. on May 18<sup>th</sup>. The Manager said he communicated by letter to all of them, giving them until June 10<sup>th</sup> to reply with how they were going to pay this off so he could report back to the Council. If replies were not received, the Council would then determine if they wished to have written communication forwarded to the owners giving them 30 days to pay or have the Town finalize foreclosure proceedings and setting a date for auction.

Councilor Beers noted that property listed as 60-21-66 had been purchased by S&D Mobile Home Sales Division and had been removed and demolished. He said that this would be the second instance where a representative of that Agency had appeared at this Office requesting the full and complete balance of all taxes due and made payment at the time of purchase. It was disturbing to him to see it appear on this list but he assured Council the issue would be appropriately dealt with by that Agency.

Referring to property listed as 60-21-8, Councilor Beers said it was in a state of abandonment and would be taken under possession at the direction of the Secretary of State by Park Ownership and those taxes would be paid at the time authorization was given.

Councilor Beers explained that when they purchased a home of someone in trouble, they came to terms on the total cost of payment, they then cut checks to pay all outstanding liens, taxes and home-related debts. Those checks were cut, paid to the individuals or agencies in question and the balance went to the homeowner. Then, this Sales Agency had to come up with additional funding not included or considered at the time of discussion because appropriate, accurate and complete information was not provided to the Agency by the Assessor's Office.

**COUNCILOR BEERS MOVED TO AUTHORIZE THE TOWN MANAGER, IN ACCORDANCE WITH THE POLICY FOR THE DISPOSITION OF TAX-ACQUIRED PROPERTY, TO NOTIFY FORMER PROPERTY OWNERS THAT A**

**FORECLOSURE HAS OCCURRED ON THEIR PROPERTY, SECONDED BY COUNCILOR DOW.**

**A VOICE VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 4/0.**

f. (050409-7) *THE KITTERY TOWN COUNCIL MOVES TO AUTHORIZE THE RELEASE OF FUNDS IN THE AMOUNT OF \$750 FROM THE CONNIE SAMUELS BEAUTIFICATION FUND FOR THE PURPOSE OF PLANTING FIVE EVERGREEN SPRUCE TREES BETWEEN THE HIGHWAY GARAGE AND KITTERY ESTATES.*

Town Manager Carter noted that this item came about from the pre-work they were doing with the Planning Board on the proposed construction of a couple of buildings. A Public Hearing had been held where the abutters spoke to the Planning Board and one abutter indicated he would very much like some shrubbery or a buffer to be extended in the back of the garage and asked if that could happen sooner rather than later. This was Commissioner Rossiter’s response to that request.

**COUNCILOR BEERS MOVED TO AUTHORIZE THE RELEASE OF FUNDS IN THE AMOUNT OF \$750 FROM THE CONNIE SAMUELS BEAUTIFICATION FUND FOR THE PURPOSE OF PLANTING FIVE EVERGREEN SPRUCE TREES BETWEEN THE HIGHWAY GARAGE AND KITTERY ESTATES, AS REQUESTED, SECONDED BY COUNCILOR DOW.**

**A ROLL CALL VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 4/0.**

a. [*Heard out of order*] (050409-2) *THE KITTERY TOWN COUNCIL MOVES TO APPROVE THE DISBURSEMENT WARRANTS.*

Chairperson Thomson noted he now had the appropriate paperwork in front of him for the signing of the disbursement warrants, listed as follows:

	School Nutrition Program	\$ 7,629.71
Warrant No. 22	School Accounts Payable	\$ 182,451.22
Warrant No. 94	Town Accounts Payable	\$ 258,767.34

**COUNCILOR DENNETT MOVED TO APPROVE THE DISBURSEMENT WARRANTS, SECONDED BY COUNCILOR BEERS.**

**A ROLL CALL VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 4/0.**

g. (050409-8) *THE KITTERY TOWN COUNCIL MOVES TO APPROVE AN APPLICATION FOR A POLE LOCATION PERMIT FROM CENTRAL MAINE POWER COMPANY TO CONSTRUCT AND MAINTAIN POLES, BURIED CABLES, CONDUITS AND TRANSFORMERS, TOGETHER WITH ATTACHED FACILITIES AND APPURTENANCES OVER, UNDER, ALONG OR ACROSS GOOSE POINT ROAD, FOR ONE POLE, TO BE LOCATED STARTING AT POLE 5 NORTHERLY 34 FEET.*

Chairperson Thomson noted they understood this pole was already in place and this was the application that, apparently, always came after the work was done.

**COUNCILOR DOW MOVED TO APPROVE AN APPLICATION FOR A POLE LOCATION PERMIT FROM CENTRAL MAINE POWER COMPANY TO**

**CONSTRUCT AND MAINTAIN POLES, BURIED CABLES, CONDUITS AND TRANSFORMERS, TOGETHER WITH ATTACHED FACILITIES AND APPURTENANCES OVER, UNDER, ALONG OR ACROSS GOOSE POINT ROAD, FOR ONE POLE, TO BE LOCATED STARTING AT POLE 5 NORTHERLY 34 FEET, SECONDED BY COUNCILOR BEERS.**

**A ROLL CALL VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 4/0.**

h. *OTHER*

10. COMMITTEE AND OTHER REPORTS

a. *COMMUNICATIONS FROM THE CHAIRPERSON*

Chairperson Thomson noted this was the last evening for the current Recorder, Chris Kudym. The Chair presented a Certificate of Appreciation to her along with a card containing a season pass to Ft. Foster and thanked her, on behalf of the present and past Councils, for four years of service.

b. *TOWN MANAGER'S REPORT*

Town Manager Carter noted he would also like to say how pleased he had been with the Recorder, wishing her good luck with whatever she was going to do with her grandkids and hoped she would come back to visit. The Manager then introduced Ashley Rodier, who would be taking the Recorder's place, starting next Monday with their Special Council Meeting.

The Manager reported that the Bridge activities were ongoing, with inspections happening on the Sarah Mildred Long Bridge and Memorial Bridge by DOT in NH. This was part of the Connectivity Study. There will be two weeks of intense engineering done on the two Bridges, the outcome of which would be known in the next few months.

Staying with the Bridges, the Manager said there would be a group of citizens from Kittery and Portsmouth traveling to Augusta on Friday morning to meet and greet Legislators to discuss the Bridges and to discuss the opportunity that prevails in collaborating with the State of New Hampshire in putting together a discretionary stimulus grant application for the rehabilitation or repair of both Bridges. They will meet with the Governor's Chief of Staff, as well as Commissioner Cole on that day. The Manager said it should be a full day of meet and greet with people and trying to tell them their story.

The Manager stated that many meetings were coming up and noted they had a very good Shared Services Committee meeting last night. He thought the Committee did a very good job presenting the update of the school reconfiguration plan, which could be seen on the Town's website under Community News.

The Special Council Meeting on June 1<sup>st</sup> will be the validation hearing for the School Budget.

A Town Meeting/Warrant Discussion will be held on Saturday, June 6<sup>th</sup>, at 10:00 a.m. in the Council Chambers and will be televised. This will provide an opportunity to discuss the municipal warrant articles that will be on the June 9<sup>th</sup> ballot.

On Monday, June 8<sup>th</sup>, there will be a regular Town Council meeting.

On Tuesday, June 9<sup>th</sup>, elections will be held from 8:00 a.m. to 8:00 p.m. at Shapleigh School.

The Manager noted that on Wednesday, June 10<sup>th</sup>, the Council, the Town Planner, the Planning Board and he were invited to the Southern Maine Regional Planning Commission's annual dinner in Sanford. If any member of the Council would like to go, please let him know.

The Town Manager noted the following dates:

June 14<sup>th</sup> - Traip's graduation;

June 17<sup>th</sup> - Adult Ed graduation;

June 19<sup>th</sup> - Shapleigh graduation;

June 22<sup>nd</sup> - adoption of the Municipal Budget presently scheduled.

The Manager stated that on a yearly basis the MMA always asked communities if there were any volunteers to be on their Executive Board. There was an opening on their Executive Committee and a job description for the position was available, which included traveling to Augusta once a month or every six weeks to attend meetings.

Concerning the FY-09 Budget update, the Manager said they were monitoring it each week. They were gaining in revenues but felt right now there would be a deficit. They had deferred up to 2½% of appropriations to cover that deficit. Presently, that was sufficient and, as the weeks went by, he would continue to give the Council updates.

Lastly, the Manager said he wanted to briefly acknowledge an incident over the weekend where their former Councilor, Steve Huntress, was injured in Portsmouth. He was still in the hospital and their best wishes went out to him for a speedy recovery.

Councilor Dennett asked the nature of the upcoming Executive Session and the Manager stated it was a contractual review with the Town Attorney.

Councilor Dow thought it was important for people to know how much the Manager had to curtail in the current fiscal year and asked what 2½% in appropriations came out to in a number. The Manager said it came to roughly \$600,000.

c. COMMITTEE REPORTS

11. ADJOURNMENT

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

***MEETING ADJOURNED: 7:45 P.M.***