

APPROVED MINUTES

KITTERY TOWN COUNCIL

September 10, 2012

COUNCIL CHAMBERS

1. Call to Order

Chairperson Spiller called the meeting to order at 7:00 P.M.

2. Introductory

Chairperson Spiller read the introductory.

3. Pledge of Allegiance

Chairperson Spiller led those present in the Pledge of Allegiance.

4. Roll Call

Answering the roll were Chairperson Judith Spiller, Vice Chairperson George Dow, Councilors Frank Dennett, Jeffrey Pelletier, Jeffrey Thomson and Leo Guy.

5. Agenda Amendment and Adoption -

The agenda was accepted as presented.

6. Acceptance of Previous Minutes – 8/13/12 & 8/27/12

The minutes of 8/13/12 & 8/27/12 were accepted as amended.

7. Interviews for the Board of Appeals – None

8. PUBLIC HEARINGS -

a. (090112-1) The Kittery Town Council moves to hold a public hearing on a renewal application from Delta Amusement, Inc., 182 State Road, for a Special Activity Amusement Permit for Navy Yard Bar & Billiards, 182 State Road.

Chairperson Spiller stated that notice of this public hearing was advertised in the Portsmouth Herald. Chairperson Spiller then opened the public hearing, and no response being heard, closed the public hearing.

COUNCILOR DOW MOVED TO APPROVE A RENEWAL APPLICATION FROM DELTA AMUSEMENT, INC., 182 STATE ROAD, FOR A SPECIAL ACTIVITY AMUSEMENT PERMIT FOR NAVY YARD BAR & BILLIARDS, 182 STATE ROAD, SECONDED BY COUNCILOR THOMSON.

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A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES

6/0.

9. DISCUSSION

- a. Discussion by members of the public (three minutes per person) –

Richard Maynard came to the podium and stated that he had emailed CEO Ross about a property on Bartlett Road. He continued he did not know if the property was occupied but that it was not fit for habitation. Mr. Maynard continued that CEO Ross had responded that the property was in compliance with the ordinance. Mr. Maynard noted that if that was the case, than the ordinance was not good enough and needed more teeth.

- b. Chairperson's response to public –

Chairperson Spiller responded to Mr. Maynard indicating that she went by the property on Bartlett regularly and agreed that something needed to be done about the property. She encouraged Town Manager Markel to tell the CEO to go out to the property and re-evaluate it. Town Manager Markel said that he would go out to the property with the CEO and have another look at it.

10. UNFINISHED BUSINESS –

- a. (080112-3) The Kittery Town Council moves to ordain an ordinance to authorize the execution of a multi-year contract, "Solids Disposal Hauling Contract" between Soil Preparation, Inc. and Town of Kittery Sewer Department, in accordance with Section 6.11(2) of the Kittery Town Charter.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES

6/0.

- b. (080112-4) The Kittery Town Council moves to ordain an ordinance to authorize the purchase of a new Two Ram Baler, American Baler Model 4020XP-75 for the Solid Waste Facility using a five year lease agreement in accordance with Section 6.11(2) of the Kittery Town Charter and an alternative procurement method.

Town Manager Markel indicated that they were not able to get a new agreement in time. He continued the DPW Director wanted to postpone the issue and put it in the CIP budget for the following year.

COUNCILOR DENNETT MOVED TO POSTPONE THE ITEM INDEFINITELY, SECONDED BY CHAIRPERSON SPILLER.

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A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 6/0.

11. NEW BUSINESS

a. (090112-2) The Kittery Town Council moves to receive a report from the Code Enforcement Officer on seven properties considered as dangerous buildings.

Heather Ross, CEO, came to the podium and stated that there were seven properties she suggested that Council review which could be in violation of the Maine Dangerous Building Statute. She continued that she had spoken with the town attorney who suggested that they schedule public hearings on the properties in the next four to six weeks. CEO Ross indicated after the public hearings were held, Council could decide what to do with them.

COUNCILOR DENNETT MOVED THAT A PUBLIC HEARING BE SCHEDULED TO BE HELD UNDER THE MAINE DANGEROUS BUILDING STATUTE FOR THE PROPERTIES LOCATED AT 35 STERLING ROAD AND 120 ROUTE 1 BYPASS ON NOVEMBER 12, 2012, SECONDED BY COUNCILOR DOW.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 6/0.

COUNCILOR DOW MOVED THAT A PUBLIC HEARING BE SCHEDULED TO BE HELD UNDER THE DANGEROUS BUILDING STATUTE FOR THE PROPERTIES LOCATED AT 459 ROUTE 1 AND 68 CHAUNCEY CREEK ROAD ON NOVEMBER 26, 2012, SECONDED BY CHAIRPERSON SPILLER.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 6/0.

COUNCILOR DOW MOVED THAT A PUBLIC HEARING BE SCHEDULED TO BE HELD UNDER THE DANGEROUS BUILDING STATUTE FOR THE PROPERTIES LOCATED AT 9 SUNSET DRIVE (AKA 9 SUNSET ROAD) AND 88 PICOTT ROAD, ON DECEMBER 10, 2012, SECONDED BY CHAIRPERSON SPILLER.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 6/0.

COUNCILOR THOMSON MOVED THAT A PUBLIC HEARING BE SCHEDULED TO BE HELD UNDER THE DANGEROUS BUILDING STATUTE FOR THE PROPERTY LOCATED AT 30 PHILBROOK ROAD, ON DECEMBER 10, 2012, SECONDED BY COUNCILOR DOW.

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A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 6/0.

b. (090112-3) The Kittery Town Council moves to receive a quarterly report from the Town Manager on the FY '13 revenues and expenditures and the YTD budget.

Town Manager Markel stated that they were only two months into the fiscal year and handed out a draft of the revenues and expenditures and YTD budget. He continued he wanted Council to make any changes they thought necessary and he went over some of the notable items. Town Manager Markel noted that he was looking for comments on the format and that he would come back at the end of the month and give the formal quarterly report.

c. (090112-4) The Kittery Town Council moves to approve the disbursement warrants.

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

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 6/0.

d. (090112-5) The Kittery Town Council moves to amend Council Rules, Section Twelve, Agenda to add item 13 a. Donations/gifts received for Council disposition, under New Business.

COUNCILOR DENNETT MOVED TO AMEND COUNCIL RULES, SECTION TWELVE, AGENDA TO ADD ITEM 13 A. DONATIONS/GIFTS RECEIVED FOR COUNCIL DISPOSITION, UNDER NEW BUSINESS, SECONDED BY COUNCILOR THOMSON.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 6/0.

e. (090112-6) The Kittery Town Council moves to authorize the Finance Director to create a new fund account titled "Special Events" to capture donations as revenue and to charge any associated expenses.

Council indicated they had no problem with leaving it up to the finance director to create new fund accounts and did not think they needed to get involved. No action was taken.

f. (090112-10) The Kittery Town Council moves to accept donations for the Kittery Community Center/Recreation Department in the amount of \$2,300 to be deposited in fund account #5003 and \$4,800 to be deposited into revenue account #1111-43320.

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COUNCILOR THOMSON MOVED THAT \$9,250 FOR SCHOLARSHIPS, \$975 FOR TEAM SPONSORSHIP AND \$200 FOR TEAM SPONSORSHIP, TOTALING \$9,825, BE DEPOSITED INTO ACCOUNT #5003, SECONDED BY COUNCILOR DOW.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 6/0.

g. (090112-11) The Kittery Town Council moves to approve a renewal application from Captain & Patty's LLC, 153 Pepperrell Road, Kittery Point for a Malt, Spirituous and Vinous Liquor License for Captain & Patty's, 90 Pepperrell Road.

COUNCILOR THOMSON MOVED TO APPROVE A RENEWAL APPLICATION FROM CAPTAIN & PATTY'S LLC, 153 PEPPERRELL ROAD, KITTERY POINT FOR A MALT, SPIRITUOUS AND VINOUS LIQUOR LICENSE FOR CAPTAIN & PATTY'S, 90 PEPPERRELL ROAD, SECONDED BY COUNCILOR GUY.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 6/0.

h. (090112-12) The Kittery Town Council moves to schedule a public hearing to ordain amendments Title 16 Part 1 – Article Cluster Residential and Cluster Mixed-Use Development and Part 2 – Chapter 16.2 Definitions and Article II, Zone Definitions, Uses of the Kittery Town Code.

COUNCILOR DOW MOVED TO SCHEDULE A PUBLIC HEARING TO ORDAIN AMENDMENTS TO TITLE 16 PART 1 – ARTICLE CLUSTER RESIDENTIAL AND CLUSTER MIXED-USE DEVELOPMENT AND PART 2 – CHAPTER 16.2 DEFINITIONS AND ARTICLE II, ZONE DEFINITIONS, USES OF THE KITTERY TOWN CODE ON SEPTEMBER 24, 2012, SECONDED BY COUNCILOR GUY.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 6/0.

i. (090112-13) The Kittery Town Council moves to schedule a public hearing to ordain amendments to Title 16 of the Kittery Town Code to address miscellaneous corrections and updates.

COUNCILOR DOW MOVED TO SCHEDULE A PUBLIC HEARING TO ORDAIN AMENDMENTS TO TITLE 16 OF THE KITTERY TOWN CODE TO ADDRESS MISCELLANEOUS CORRECTIONS AND UPDATES ON SEPTEMBER 24, 2012, SECONDED BY COUNCILOR THOMSON.

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**A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES
6/0.**

j. (090112-14) The Kittery Town Council moves to schedule a special election for November 6, 2012, to fill the unexpired term of Deborah McCluskey on the School Committee, and to shorten the availability of nomination papers to be available at 8:00 A.M. on September 11, 2012 and the deadline at 6:00 P.M. on September 24, 2012.

COUNCILOR DENNETT MOVED TO SCHEDULE A SPECIAL ELECTION FOR NOVEMBER 6, 2012, TO FILL THE UNEXPIRED TERM OF DEBORAH MCCLUSKEY ON THE SCHOOL COMMITTEE, AND TO SHORTEN THE AVAILABILITY OF NOMINATION PAPERS TO BE AVAILABLE AT 8:00 A.M. ON SEPTEMBER 11, 2012 AND THE DEADLINE AT 6:00 P.M. ON SEPTEMBER 24, 2012, SECONDED BY COUNCILOR THOMSON.

**A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES
6/0.**

12. COUNCILOR ISSUES OR COMMENT

Councilor Guy indicated that in the past few months a lot of issues had been brought up regarding problems at the police department. He stated he thought they needed to discuss the issues in an executive session. Town Manager Markel responded that it was on the executive session agenda for that evening.

Councilor Thomson indicated that he had seen an ambulance pulled over in the breakdown lane on 236 because they were looking for a house they could not find. He stated he was not sure if there was appropriate signage and asked that the fire chief note the properties in town that were not in compliance with the numbering signage.

Councilor Thomson noted that the new curbage at Martin Road and Stevenson Road made it impossible for vehicles to make the turn without going into the other lane and that it needed to be moved.

Councilor Thomson stated that people were not stopping at the stop sign when entering the circle from the bypass and asked that there be more police coverage in the area.

13. COMMITTEE AND OTHER REPORTS

- a. Communications from the Chairperson - none
- b. Town Manager's Report

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Town Manager Markel indicated the town would be switching to live broadcasts within the next two months and would be testing it out over the next couple of weeks.

Town Manager Markel stated that the Coast bus would be operating from Pease to the Shipyard which would alleviate traffic going in and out of the area. He noted that the bus would be federally funded.

Town Manager Markel noted they were moving ahead with the upgrade of the town website.

Town Manager Markel indicated he had discussed with South Berwick the possibility of combining dispatch services. He continued both communities prospected six figure savings. Town Manager Markel stated they would have a decision for FY '14 by Thanksgiving.

c. Committee Reports – none

14. EXECUTIVE SESSION

a. (090112-12) The Kittery Town Council moves to go into executive session with the Town Manager in accordance with 1 MRS 405(6)(A) to discuss personnel matters.

CHAIRPERSON SPILLER MOVED TO GO INTO EXECUTIVE SESSION WITH THE TOWN MANAGER AND POLICE CHIEF IN ACCORDANCE WITH 1 MRS 405(6)(A) TO DISCUSS PERSONNEL MATTERS, SECONDED BY COUNCILOR DOW.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 6/0.

b. (090112-13) The Kittery Town Council moves to go into executive session with the Town Manager in accordance with 1 MRS 405(6)(D) to discuss labor negotiations.

CHAIRPERSON SPILLER MOVED TO GO INTO EXECUTIVE SESSION WITH THE TOWN MANAGER IN ACCORDANCE WITH 1 MRS 405(6)(D) TO DISCUSS LABOR NEGOTIATIONS, SECONDED BY COUNCILOR THOMSON.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 6/0.

c. (090112-14) The Kittery Town Council moves to go into executive session with the Town Manager in accordance with 1 MRS 405(6)(A) to discuss personnel matters.

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COUNCILOR THOMSON MOVED TO GO INTO EXECUTIVE SESSION WITH THE TOWN MANAGER IN ACCORDANCE WITH 1 MRS 405(6)(A) TO DISCUSS PERSONNEL MATTERS, SECONDED BY COUNCILOR DOW.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 6/0. THE THREE EXECUTIVE SESSIONS OPENED AT 8:04 P.M.

CHAIRPERSON SPILLER MOVED TO COME OUT OF EXECUTIVE SESSION WITH THE TOWN MANAGER AND POLICE CHIEF TO DISCUSS PERSONNEL MATTERS, SECONDED BY COUNCILOR DOW.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 6/0. EXECUTIVE SESSION CLOSED AT 9:09 P.M.

CHAIRPERSON SPILLER MOVED TO COME OUT OF EXECUTIVE SESSION WITH THE TOWN MANAGER TO DISCUSS LABOR NEGOTIATIONS, SECONDED BY COUNCILOR DOW.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 6/0. EXECUTIVE SESSION CLOSED AT 9:09 P.M.

CHAIRPERSON SPILLER MOVED TO COME OUT OF EXECUTIVE SESSION WITH THE TOWN MANAGER TO DISCUSS PERSONNEL MATTERS, SECONDED BY COUNCILOR DOW.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 6/0. EXECUTIVE SESSION CLOSED AT 9:09 P.M.

15. ADJOURNMENT

CHAIRPERSON SPILLER MOVED TO ADJOURN, SECONDED BY COUNCILOR DOW WITH ALL IN FAVOR. MEETING ADJOURNED AT 9:10 P.M.