

UNAPPROVED MINUTES

JUNE 13, 2011

KITTERY TOWN COUNCIL

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June 13, 2011

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 Gary Beers, Frank Dennett, Leo Guy, Jeffrey Pelletier and Jeffrey Thomson. Also present were Town Manager Jonathan Carter, Town Clerk Maryann Place, Recorder Ashley Rodier, members of the press and others.

5. Agenda Amendment and Adoption - None

6. Executive Session- None

7. ACCEPTANCE OF PREVIOUS MINUTES

The minutes of May 23, 2011 were accepted as amended.

8. Interviews for the Board of Appeals and Planning Board - None

9. PUBLIC HEARINGS –

a. (060111-1) The Kittery Town Council moves to hold a public hearing on the renewal application of Capital Video Corporation, 44 Bedson Road, Cranston, RI for a Viewing Booths License for Amazing.net, 92 Route 236.

Chairperson Spiller noted this issue was advertised in the Portsmouth Herald on 6/3/11. Chairperson Spiller then opened the public hearing and no response being heard closed the public hearing.

**COUNCILOR BEERS MOVED TO APPROVE THE RENEWAL APPLICATION OF CAPITAL VIDEO CORPORATION, 44 BEDSON ROAD, CRANSTON, RI FOR A**

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28 **VIEWINGS BOOTH LICENSE FOR AMAZING.NET, 92 ROUTE 236, SECONDED BY**  
29 **COUNCILOR DENNETT.**

30 **A ROLL CALL VOTE WAS TAKEN WITH COUNCILOR THOMSON**  
31 **OPPOSED. MOTION PASSES 6/1.**

32 b. (06011-2) The Kittery Town Council moves to hold a public hearing on the renewal  
33 application of North East Ice Cream, LLC, 438 Wadleigh Falls Road, Newmarket, NH for a  
34 Mobile Unit License for an ice cream truck.

35 Chairperson Spiller noted this hearing was advertised in the Portsmouth Herald on  
36 6/3/11. Chairperson Spiller then opened the public hearing and no response being heard, closed  
37 the public hearing.

38 **COUNCILOR THOMSON MOVED TO APPROVE THE RENEWAL**  
39 **APPLICATION OF NORTH EAST ICE CREAM, LLC, 438 WADLEIGH FALLS ROAD,**  
40 **NEWMARKET, NH FOR A MOBILE UNIT LICENSE FOR AN ICE CREAM TRUCK,**  
41 **SECONDED BY COUNCILOR DOW.**

42 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES**  
43 **7/0.**

44 c. (060111-3) The Kittery Town Council moves to hold a public hearing on an  
45 application from Rolling in the Mud, LLC, 460 Route 1, Kittery, ME, for a victualer's license for  
46 When Pigs Fly Pizzeria, 460 Route 1.

47 Chairperson Spiller noted this hearing was advertised in the Portsmouth Herald on  
48 6/3/11. Chairperson Spiller then opened the public hearing and no response being heard, closed  
49 the public hearing.

50 **COUNCILOR THOMSON MOVED TO APPROVE AN APPLICATION FROM**  
51 **ROLLING IN THE MUD, LLC, 460 ROUTE 1, KITTERY, ME FOR A VICTUALER'S**  
52 **LICENSE FOR WHEN PIGS FLY PIZZERIA, 460 ROUTE 1, SECONDED BY**  
53 **COUNCILOR GUY.**

54 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES**  
55 **7/0.**

56 d. (060111-4) The Kittery Town Council moves to hold a public hearing on an  
57 application from Kittery Trading Post Shops, LLC, 301 Route 1, Kittery, ME for a victualer's  
58 license for the Frappe Shack, 301 Route 1.

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59 Chairperson Spiller noted this hearing was advertised in the Portsmouth Herald on  
60 6/3/11. Chairperson Spiller then opened the public hearing and no response being heard, closed  
61 the public hearing.

62 **COUNCILOR THOMSON MOVED TO APPROVE AN APPLICATION FROM**  
63 **KITTERY TRADING POST SHOPS, LLC, 301 ROUTE 1, KITTERY, ME FOR A**  
64 **VICTUALER'S LICENSE FOR THE FRAPPE SHACK, 301 ROUTE 1, SECONDED BY**  
65 **COUNCILOR DOW.**

66 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES**  
67 **7/0.**

68 e. (060111-5) The Kittery Town Council moves to hold a public hearing on the  
69 submission of a Maine Community Development Block Grant application to obtain funds for  
70 downtown planning.

71 Chairperson Spiller indicated this public hearing was advertised in the Portsmouth Herald  
72 on 6/3/11. Town Manager Carter indicated this grant would allow the prior Foreside plan to  
73 begin again. He continued this grant would provide for planning funds for further planning of  
74 downtown and could lead to another TIF district being implemented. Chairperson Spiller then  
75 opened the public hearing and no response being heard, closed the public hearing.

76 **COUNCILOR BEERS MOVED TO APPROVE THE SUBMISSION OF A MAIN**  
77 **COMMUNITY DEVELOPMENT BLOCK GRANT APPLICATION IN THE AMOUNT**  
78 **OF \$10,000 WITH A LOCAL MATCH OF \$2,500, SECONDED BY COUNCILOR DOW.**

79 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES**  
80 **7/0.**

81 f. (060111-6) The Kittery Town Council moves to hold a public hearing on Articles 2  
82 through 6 for the June 14<sup>th</sup> Town Meeting Election.

83 Chairperson Spiller indicated notice of this public hearing was advertised in the  
84 Portsmouth Herald on 5/27. Chairperson Spiller then opened the public hearing and no response  
85 being heard, closed the public hearing.

86 Councilor Dennett noted this issue was already taken care of and the public hearing was  
87 only held to give residents a chance to speak.

88 10. DISCUSSION – NONE

89 11. UNFINISHED BUSINESS –

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90 a. (050211-4) The Kittery Town Council moves to amend the Kittery Educational  
91 Committee Scholarship Rules and Regulations to allow funding for national competitive events  
92 and to hear a presentation of the Scholarships awarded for FY'11.

93 **COUNCILOR DOW MOVED TO AMEND THE KITTELY EDUCATIONAL**  
94 **COMMITTEE SCHOLARSHIP RULES AND REGULATIONS AS PRESENTED,**  
95 **SECONDED BY COUNCILOR BEERS.**

96 Jeffrey Brake then came to the podium and read the scholarships awarded for FY '11.

97 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES**  
98 **7/0.**

99 b. (020111-11) The Kittery Town Council moves to reconsider the vote taken on May  
100 23<sup>rd</sup> ordaining an amendment to Title 8 of the Town Code.

101 **COUNCILOR BEERS MOVED TO RECONSIDER THE VOTE TAKEN ON**  
102 **MAY 23<sup>RD</sup> ORDAINING AN AMENDMENT TO TITLE 8 OF THE TOWN CODE,**  
103 **SECONDED BY COUNCILOR DOW.**

104 Councilor Beers stated this was at his request because after some review there were some  
105 flaws and errors found which might allow for misapplication and thought the document  
106 presented to Council that evening was clearer.

107 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES**  
108 **7/0.**

109 **COUNCILOR BEERS MOVED TO ORDAIN AN AMENDMENT TO TITLE 8,**  
110 **ARTICLE 7, CHAPTER 8.2 AS PRESENTED, SECONDED BY COUNCILOR DOW.**

111 **A ROLL CALL VOTE WAS TAKEN WITH COUNCILOR DENNETT**  
112 **OPPOSED. MOTION PASSES 6/1.**

113 **CHAIRPERSON SPILLER MOVED TO THE MAIN MOTION AS PREVIOUSLY**  
114 **PASSED AND AMENDED, SECONDED BY COUNCILOR BEERS.**

115 Councilor Dennett indicated he would be voting against this. He continued he thought  
116 the current version was much better but thought they should have the town manager check with  
117 the town attorney because they would be starting the 30 day clock again. Councilor Beers noted  
118 they could use the previous ordainment as a means to issue notice in the meantime.

119 **A ROLL CALL VOTE WAS TAKEN WITH COUNCILOR PELLETIER AND**  
120 **COUNCILOR DENNETT OPPOSED. MOTION PASSES 5/2.**

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121 c. other

122 Councilor Thomson thanked Town Manager Carter for the stop for pedestrians sign by  
123 the Beach Pea and asked if the placement was correct. Town Manager Carter indicated the sign  
124 was supposed to be in the middle of the street and would be moved back.

125 12. NEW BUSINESS

126 a. (060111-7) The Kittery Town Council moves to approve an application from Rolling  
127 in the Mud, LLC, 460 Route 1, for a Malt and Vinous Liquor License for When Pigs Fly  
128 Pizzeria, 460 Route 1.

129 **COUNCILOR GUY MOVED TO APPROVE AN APPLICATION FROM**  
130 **ROLLING IN THE MUD, LLC, 460 ROUTE 1 FOR A MALT AND VINOUS LIQUOR**  
131 **LICENSE FOR WHEN PIGS FLY PIZZERIA, 460 ROUTE 1, SECONDED BY**  
132 **COUNCILOR DOW.**

133 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES**  
134 **7/0.**

135 b (060111-8) The Kittery Town Council moves to approve a renewal application from  
136 Chios Pizza, Inc., 49 Griffin Road, Portsmouth, NH for a Malt Liquor License for Town Pizza  
137 Restaurant, 15 Wentworth Street.

138 **COUNCILOR DENNETT MOVED TO APPROVE A RENEWAL APPLICATION**  
139 **FROM CHIOS PIZZA, INC., 49 GRIFFIN ROAD, PORTSMOUTH, NH FOR A MALT**  
140 **LIQUOR LICENSE FOR TOWN PIZZA RESTAURANT, 15 WENTWORTH STREET,**  
141 **SECONDED BY COUNCILOR THOMSON.**

142 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES**  
143 **7/0.**

144 c. (060111-9) The Kittery Town Council moves to adopt the Frisbee Revitalization  
145 Committee's proposed Vision and Governance sections of the Community Center Development  
146 Plan.

147 **COUNCILOR THOMSON MOVED COUNCIL ENDORSEMENT OF THE**  
148 **FRISBEE REVITALIZATION COMMITTEE'S PROPOSED VISION AND**  
149 **GOVERNANCE SECTIONS OF THE COMMUNITY CENTER DEVELOPMENT**  
150 **PLAN, SECONDED BY COUNCILOR DOW.**

151 Councilor Beers indicated that he had no problem with the vision or concepts but if they  
152 were going to establish a board they needed to do it by ordinance. He continued he would be  
153 willing to sit down with the Committee and help them figure out which direction to head in.

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154 **A ROLL CALL VOTE WAS TAKEN WITH COUNCILOR DENNETT**  
155 **OPPOSED. MOTION PASSES 6/1.**

156 d. (060111-10) The Kittery Town Council moves to take action and grant guidance as  
157 necessary to the KPA for issues discussed at the June 13<sup>th</sup> workshop.

158 Chairperson Spiller indicated this item was not necessary.

159 e. (060111-11) The Kittery Town Council moves appoint a representative to meet with  
160 the Chair of the Conservation Commission to interview Herbert Kingsbury for his appointment  
161 to that board until 5/31/14 (replacing Peter McCloud)..

162 Chairperson Spiller indicated that Councilor Beers was next on the list.

163 **COUNCILOR DENNETT MOVED TO APPOINT COUNCILOR BEERS TO**  
164 **MEET WITH THE CHAIR OF THE CONSERVATION COMMISSION TO**  
165 **INTERVIEW HERBERT KINGSBURY FOR HIS APPOINTMENT TO THAT BOARD**  
166 **UNTIL 5/31/14, SECONDED BY COUNCILOR BEERS.**

167 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES**  
168 **7/0.**

169 f. (060111-12) The Kittery Town Council moves to approve the disbursement warrants.

170 Chairperson Spiller read the disbursement warrants which included Warrant No.  
171 C061411 for the Mitchell/Shapleigh construction in the amount of \$3,329, Warrant No. S061411  
172 for the School Accounts Payable in the amount of \$367,646.30, Warrant No. SW11-50 for Town  
173 Sewer Payables in the amount of \$5,102.00 and Warrant No. T11-50 for the Town Accounts  
174 Payable in the amount of \$90,979.08.

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

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

179 g. (060111-13) The Kittery Town Council moves to appoint Jeffrey Pelletier to the Wood  
180 Island Committee.

181 **COUNCILOR BEERS MOVED TO APPOINT JEFFREY PELLETIER TO THE**  
182 **WOOD ISLAND COMMITTEE, SECONDED BY COUNCILOR DOW.**

183 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES**  
184 **7/0.**

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185 h. (060111-14) The Kittery Town Council moves to receive a report from the Town  
186 Manager on the 2009 tax foreclosures.

187 Town Manager Carter stated there were 13 foreclosures in 2009 that had liens mature on  
188 them. He continued out of those 13, 2 properties had paid, 7 have made payment plans, 1 was  
189 making payments as they could, 1 had asked for more time to make payments and 2 had not  
190 responded at all. Town Manager Carter stated it was his recommendation to put forward the  
191 policy Council adopted to move forward with tax acquisition and they should go forward and  
192 send out demand letters to the two properties that have not responded.

193 **COUNCILOR BEERS MOVED TO USE COUNCIL POLICY AND SENT OUT**  
194 **DEMAND LETTERS TO THE THORPE AND WILSON PROPERTIES, SECONDED**  
195 **BY COUNCILOR DOW.**

196 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES**  
197 **7/0.**

198 i. (060111-15) The Kittery Town Council moves to approve the establishment of a one  
199 year trial, part time Shoreland Resource Officer and the job description associated with that  
200 position.

201 Town Manager Carter indicated this would be a one year contracted position and would  
202 be a pilot program to see if the town could centralize its environmental positions. He continued  
203 the individual would be responsible for the stormwater program, incorporation of 319 work and  
204 would work with the sewer department on programs. Town Manager Carter stated that \$20,000  
205 would come from the stormwater account and \$7,000 would come from the part time CEO  
206 position that was eliminated.

207 **COUNCILOR DOW MOVED TO APPROVE THE ESTABLISHMENT OF A**  
208 **ONE YEAR TRIAL, PART TIME SHORELAND RESOURCE OFFICER AS**  
209 **PRESENTED FOR DISCUSSION, SECONDED BY CHAIRPERSON SPILLER.**

210 Councilor Dow asked if it was the town's intent to keep the position longer than one year.  
211 Town Manager Carter responded that it would be if the person ended up making a difference.  
212 Councilor Thomson noted that Council had not received any notice of this proposal beforehand  
213 and thought it would have been easier if they had received notice that this was being explored.  
214 Councilor Dennett stated that he was going to vote against this issue and his problem was that he  
215 thought this would undoubtedly lead to a full time position. Councilor Beers indicated that he  
216 shared Councilor Dennett's concerns and was not comfortable approving it and would want to  
217 see the contract before moving forward. Town Manager Carter noted that the service agreement  
218 would be similar to the business manager's and they would not be seeking any additional tax  
219 money. He continued he thought the position was extremely necessary and that he had

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220 mentioned it in his budget message. Town Manager Carter noted Council could postpone the  
221 issue and discuss it further.

222 **COUNCILOR PELLETIER MOVED TO INDEFINITELY POSTPONE THE**  
223 **ITEM, SECONDED BY COUNCILOR DENNETT.**

224 **A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES**  
225 **7/0.**

226 j. other

227 Councilor Pelletier indicated he would like to schedule a workshop to discuss the  
228 Shoreland Resources Officer position.

229 Councilor Thomson noted the yard sale/for sale signs were out and that people were  
230 littering and should be cited for doing so.

231 13. COUNCILOR ISSUES OR COMMENT –

232 Councilor Dennett stated he would be interested to know how many yard sales actually  
233 go through the permitting process.

234 14. COMMITTEE AND OTHER REPORTS

235 a. Communications from the Chairperson – None

236 b. Town Manager's Report

237 Town Manager Carter stated the town block party was scheduled for that Saturday from  
238 10-4. He continued a lot of effort had been put in to organize the party and that over 70 vendors  
239 and participants were involved.

240 Town Manager Carter noted the Nina and Pinta replicas were in town and the tours  
241 would start the following day.

242 Town Manager Carter indicated the election was scheduled for the following day and the  
243 polls would be open from 8 A.M. to 8 P.M.

244 c. Committee Reports

245 Chairperson Spiller stated relative to the Frisbee Building Committee that bids were  
246 going to open on June 29<sup>th</sup>.

247 Chairperson Spiller indicated relative to the Wood Island Committee that there was a  
248 meeting on June 4<sup>th</sup> and they continued to be concerned about safety issues. She continued the

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249 town needed to make a decision soon about the life saving station. Chairperson Spiller noted  
250 they were currently looking at two proposals.

251 15. ADJOURNMENT

252 COUNCILOR BEERS MOVED TO ADJOURN, SECONDED BY COUNCILOR DOW  
253 WITH ALL IN FAVOR. MEETING ADJOURNED AT 8:34 P.M.