

## APPROVED MINUTES

### KITTERY TOWN COUNCIL

December 12, 2005

Council Chamber

1. CALL TO ORDER

Chairperson Ann Grinnell called the meeting to order at 7:00 p.m.

2. INTRODUCTORY

Chairperson Grinnell read the Introductory.

3. PLEDGE OF ALLEGIANCE

Chairperson Grinnell led those present in the Pledge of Allegiance.

4. ROLL CALL

Answering the roll were Councilors Jeffrey Brake, Matt Brock, Frank Dennett, George Heilshorn, Judith Spiller, Glenn Shwaery and Chairperson Ann Grinnell. Also present were Town Manager Jon Carter, Town Clerk Maryann Place, Town Attorney Duncan McEachern, Public Works Commissioner Rick Rossiter, Parks Commission Co-Chairman Page Mead, Recorder Chris Kudym, Constance Ward, George Dow, Christie Salema, members of the press and others.

5. ACCEPTANCE OF PREVIOUS MINUTES

This item was moved to the end of the meeting, by unanimous voice vote.

6. INTERVIEWS FOR PLANNING BOARD, ZONING BOARD OF APPEALS AND/OR CABLE TELEVISION RATE REGULATION BOARD: None.

7. a. *THE KITTERY TOWN COUNCIL MOVES TO HEAR A PRESENTATION FROM CONSTANCE WARD REGARDING A DONATION FROM HER FATHER, VERN ROCKWELL, TO THE FRIENDS OF KITTERY RECREATION IN THE AMOUNT OF \$10,000 TO BE USED FOR THE PROPOSED COMMUNITY CENTER.*

Ms. Ward approached the podium and said it gave her great pleasure to present a check in the amount of \$10,000 on behalf of her father to the Friends of Kittery Recreation to help with the building of the proposed new Center. Vern Rockwell, a retired Naval Yard employee, who built their home in 1934, was now 97 and his late wife, Shirley, a schoolteacher for 40 years, were a "typical" Kittery family, she said. Her father had been very happy to hear about a possible new community center and she knew her mother would have been delighted to support programs for children. George Dow, as Treasurer and Board Member of Friends of Kittery Recreation, accepted the check thanking Ms. Ward for her family's kind donation. Chairperson Grinnell also thanked Ms. Ward.

b. *THE KITTERY TOWN COUNCIL MOVES TO REVIEW AND TAKE ACTION ON A CONSENT AGREEMENT, PRESENTED BY TOWN ATTORNEY DUNCAN McEACHERN REGARDING THE COMMUNICATION TOWERS CASE IN KITTERY.*

CHAIRPERSON GRINNELL MOVED TO ACCEPT THE DOCUMENT REGARDING THE COMMUNICATION TOWERS CASE, SECONDED BY COUNCILOR HEILSHORN.

Councilor Dennett suggested that the Town Attorney explain this item for the benefit of Council and the public.

Town Attorney McEachern came to the podium and explained that this was a case presently pending in the Federal District Court in Portland and had started as an application to the Zoning Board of Appeals for a Variance to construct a 150-foot telecommunications pole on property not zoned for it. The Town Attorney said that the Ordinance that regulated telecommunications equipment stated that such a pole should be located within 1,000 feet of either side of I-95 or some other location that provided adequate coverage and that the Zoning Board had denied the application because it did not meet the permitted 1,000-foot extension. The applicants, Nextel Communications and one other, appealed the Board's decision based on the Telecommunications Act of 1996, a Federal Statute that regulates location, placement, etc. Town Attorney McEachern said that, with certain provisions, the Federal Statute said a Town could not locate telecommunication towers where companies could not get adequate coverage and that this Statute "trumped" the Town's Ordinance. The Town Attorney said they had been dealing with the companies' attorneys trying to resolve the matter and had also brought in their own experts to determine if there were other locations that satisfied both the 1,000-foot setback and provided the needed coverage. He said that the Town's experts and the companies' experts agreed that the tower could not be located within the area allowed by the Zoning Ordinance and, as a result, the Federal Statute took precedence. The Town then entered into a Consent Agreement in order to resolve this case. Town Attorney McEachern said that, based on certain conditions, the principal tower would be outside the 1,000-foot setback and located on property owned by the McCloud Family. The companies, however, would still be required to go before the Planning Board, which retained jurisdiction under the Ordinance over aspects of construction/location that were not overseen by the Federal Statute.

Councilor Brock asked the Town Attorney who decided whether or not another company could use the tower, was it the Town's decision or Nextel's decision. Town Attorney McEachern said that, subject to approval by the Planning Board, it was Nextel's decision. Councilor Brock wondered if the Consent Agreement allowed the Town any leverage over Nextel if for some reason, perhaps seeking a monopoly on service, Nextel denied access to the tower by another company, thereby opening the Town up to lawsuits from other companies wanting to locate towers in other locations. Town Attorney McEachern said he believed that issue was provided for in related documents, that Nextel could not deny anyone else usage and the Town would be protected but he would look into it. The Town, he said, would also have access to the tower for public use but, ultimately, the Federal Statute controlled the placement of towers in order to provide full coverage.

Town Manager Carter said it was important to know that this would be going before the Planning Board for their normal public hearing, workshop and review process. Town Attorney McEachern agreed and stated that it was only the location that was at issue. The Zoning Board correctly denied the requested Variance, he said, but did not get into the Federal Statute and that was the basis of the whole matter they were trying to resolve in the least costly way without giving up anything.

Chairperson Grinnell noted with appreciation that the Agreement called for the Plaintiff to pay both attorneys and outside consultants' fees. Town Attorney McEachern addressed people

who might be concerned about why the Town was allowing this tower, explaining that they didn't have a lot of choice and if they decided to fight the Federal Statute, they would only be spending a lot of money and Councilor Dennett said he thought they had made the best deal possible given the circumstances.

A ROLL CALL VOTE WAS TAKEN TO ACCEPT THE CONSENT AGREEMENT, WITH ALL IN FAVOR. MOTION PASSES 7/0.

*c. THE KITTELY TOWN COUNCIL MOVES TO APPROVE THE RENTAL LEASE BETWEEN THE TOWN OF KITTELY AND THE SUPERINTENDENT OF SCHOOLS FOR THE CENTRAL OFFICES OF THE SCHOOL DEPARTMENT AT THE MUNICIPAL OFFICE COMPLEX, 200 ROGERS ROAD EXT.*

CHAIRPERSON GRINNELL MOVED TO APPROVE THE RENTAL LEASE AGREEMENT BETWEEN THE TOWN AND THE SUPERINTENDENT OF SCHOOLS FOR OFFICES AT 200 ROGERS ROAD EXT., SECONDED BY COUNCILOR SHWAERY.

After consulting with the Town Attorney and the Town Manager, Councilor Dennett suggested the following amendments/corrections to the Rental Lease Agreement. (Council agreed to a date of March 1 by voice vote as the date parties would meet to discuss rent.)

(1) Page 3, item 3, 4<sup>th</sup> line down, change "annual" to "annually;"

(2) Next line down, strike "the beginning of the annual municipal budget negotiations" and add "March 1" so it would read – "The parties shall meet annually, at least 30 days prior to March 1, to determine the amount of rent to be paid," etc.;

(3) On Page 5, paragraph 10, second line, change "interest," single, to "interests," plural;

(4) Next line down, strike word "comprehensive" and insert words "commercial general."

Councilor Shwaery pointed out that on that same line, the apostrophe in the word "it's" should be taken out.

COUNCILOR DENNETT MOVED TO MAKE CORRECTIONS TO THE RENTAL LEASE, AS LISTED ABOVE, SECONDED BY COUNCILOR SHWAERY.

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

Chairperson Grinnell directed Council back to the main Motion and Councilor Dennett said he had no problem with the Motion, as Amended, but that it should be noted it was understood the Town Manager was being given authorization to execute this Lease Agreement.

A ROLL CALL VOTE ON THE MOTION TO APPROVE THE RENTAL LEASE AGREEMENT BETWEEN THE TOWN AND THE SUPERINTENDENT OF SCHOOLS, AS AMENDED, WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES, AS AMENDED 7/0.

8. PUBLIC HEARINGS

a. (120105-1) *THE KITTERY TOWN COUNCIL MOVES TO HOLD A PUBLIC HEARING OPENING THE CLAM FLATS IN BRAVE BOAT HARBOR, AS RECOMMENDED BY THE SHELLFISH CONSERVATION COMMITTEE.*

Chairperson Grinnell said that this item had been advertised in the Portsmouth Herald on December 2, 2005 and opened the Public Hearing. Hearing no response, the Public Hearing was closed. The Chair pointed out an incorrect date that was noted on the map submitted and Town Manager Carter said that date would be corrected.

COUNCILOR SHWAERY MOVED TO APPROVE THE OPENING OF THE CLAM FLATS IN BRAVE BOAT HARBOR AND THE CONDITIONAL OPENING OF THE CLAM FLATS IN SPRUCE CREEK, AS RECOMMENDED BY THE SHELLFISH CONSERVATION COMMISSION, SECONDED BY CHAIRPERSON GRINNELL.

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

b. (120105-2) *THE KITTERY TOWN COUNCIL MOVES TO HOLD A PUBLIC HEARING ON THE APPLICATION FROM TIMOTHY ZIMMERMAN OF 122 HALEY ROAD, KITTERY FOR A TAXICAB BUSINESS LICENSE FOR KITTERY CAB COMPANY, 122 HALEY ROAD.*

Chairperson Grinnell said this item had been advertised in the Portsmouth Herald on December 2 and opened the Public Hearing. Hearing no response, the Public Hearing was closed.

COUNCILOR DENNETT MOVED TO APPROVE THE APPLICATION OF TIMOTHY ZIMMERMAN FOR A TAXICAB BUSINESS LICENSE FOR KITTERY CAB COMPANY AT 122 HALEY ROAD, SECONDED BY COUNCILOR SHWAERY.

Councilor Dennett asked Town Clerk Place if the applicant was aware that this item concerned the business license and the vehicle and operator's licenses were to follow and the Town Clerk said that was correct.

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

9. DISCUSSION

- a. *DISCUSSION BY MEMBERS OF THE PUBLIC (three minutes per person):* None
- b. *CHAIRPERSON'S RESPONSE TO PUBLIC COMMENTS:* None

10. UNFINISHED BUSINESS

a. *THE KITTERY TOWN COUNCIL MOVES TO RE-APPOINT AARON HENDERSON TO THE PARKS COMMISSION UNTIL 5/3/08.*

Chairperson Grinnell said that, as one of Councilor Guy's last duties on the Council, he interviewed Mr. Henderson and had recommended his reappointment.

CHAIRPERSON GRINNELL MOVED TO APPOINT AARON HENDERSON TO THE PARKS COMMISSION UNTIL 5/3/08, SECONDED BY COUNCILOR BRAKE.

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

b. *THE KITTERY TOWN COUNCIL MOVES TO APPROVE THE FORESIDE DESIGN REVIEW COMMITTEE CHARGE AND TO APPOINT THE FOLLOWING MEMBERS TO THE FORESIDE DESIGN REVIEW COMMITTEE: GAVIN BARBOUR, CHARLES BOLD, PAMELA BOLD, SANDY DOMINA, BENJAMIN PORTERS, JACQUELYN NOONEY AND DEANE RYKERSON.*

Chairperson Grinnell opened discussion and Town Manager Carter said this item came about in a spirit of cooperation with the Planning Board to put together a charge like ones previously developed for other committees and ad hoc boards and doing it as quickly as they could but that the Board had not had the adequate time to totally review it. A problem, he said, was that one of the proposed members had an application with the CEO concerning a new house in the Foreside District that would come under the zoning requirement of a review. As a result, the Manager said, there was a 45-day window review time, which may or may not be met if this charge was not put in place tonight. Chairperson Grinnell said she would like to divide the Motion in two where she would like to move the approval of the charge for the committee, asking Council if they had any problem with that, then they could discuss and vote on that and then move to appoint the members.

Councilor Brock said he agreed it might be appropriate to break out the issues and wanted to confirm his understanding that this drafted proposed charge came from the Manager's office without input from the Planning Board. Town Manager Carter said that was correct, that he had not been present at their meeting, but understood the Board had questions as to why this was necessary and wanted to discuss it more. Councilor Brock said in light of the fact the Planning Board hadn't commented on the charge of this committee and they apparently had some concerns about it, he wondered if Council could consider appointing the committee and then deferring the issue of the charge until after they received comment from the Planning Board.

Councilor Shwaery said he might suggest it would not be a complete disaster if this didn't all get approved and asked the Town Manager if this particular home had to go before the Planning Board, would it require a public hearing? Town Manager Carter said he was not sure it had to go before the Planning Board and that it was just a house on a house lot. Councilor Shwaery wondered how this advisory committee would be able to help the Planning Board on a piece of property that wasn't even going before the Board? Town Manager Carter replied that, as he understood it, the committee would also advise the staff. Councilor Shwaery said he was a little confused by the charge due to the fact there seemed to be no chance for public input, yet this committee could still weigh in on their thoughts with the Planner. Chairperson Grinnell asked the Manager to clarify if this was an individual home that was not coming before the Planning Board and Town Manager Carter said he couldn't 100% guarantee, but it was a single family home on a house lot and shouldn't have to come before the Planning Board. Chairperson Grinnell said but the purpose of the committee was to act in an advisory capacity and review applications that came before the Board. Councilor Shwaery said they either needed to expand that purpose to include the entire Planning Department or those particular applications would not be seen. The Manager said the Planning Board would not normally get involved in a building application for a house, it was a code enforcement issue. At a minimum, he said, the Zoning Board of Appeals would get involved. The Manager said the Ordinance may have to be revisited at some time down the road but perhaps other Councilors who had participated in the workshops with the Planning Board might have other comments.

Chairperson Grinnell asked the pleasure of the Council and Councilor Brock asked Town Manager Carter if, in light of these discussions, he still felt there was an urgency for a decision to have the committee constituted so they could perform a function because if they were not advising the Planning Board, they would be advising the Department or, Councilor Brock asked, was there no longer a concern or urgency about this? The Manager said if he read the ordinance correctly, he believed it said for any new building and so the committee would be advising the CEO on that, but if he was not reading it right, then he stood corrected.

Councilor Heilshorn said basically, what they had as a purpose and what they had outlined as No. 1 were somewhat at odds and the other thing was if such a project wasn't coming before the Planning Board, what would be the mechanism by which the Kittery Foreside Design Review Committee would have the project on their agenda? The Manager said he thought the Planning Board and those involved in the Foreside District were envisioning this new advisory committee reviewing new building applications or the enlargement or modification of existing buildings, etc. for compliance with the Design Handbook and how it naturally fit into the community environment. Councilor Heilshorn asked how would that information get to that Committee and the Manager said the building application would be sent in and then the CEO would set up a meeting with this advisory board. Councilor Heilshorn said at that point this group is not advising the Planning Board, they are advising the CEO. The Manager said they would make their comments to the CEO and to the property owner in an advisory capacity. The Chair asked Councilor Heilshorn if he had ideas about reworking the purpose. Councilor Heilshorn suggested an insert within the purpose stating that the committee's purpose was to act in an advisory capacity to the Planning Board and/or Town CEO because in a situation where the Planning Board wasn't involved, the CEO would certainly be involved. Councilor Heilshorn said that brought the purpose and No. 1 in line but raised the question did the CEO need to be advised on this?

Councilor Spiller said not all of them thought this charge was needed but now, the Planning Board needed to finish their discussions on it. Town Manager Carter said he did agree there needed to be some spelled-out method of appointing these people and suggested a one-year trial but, in his mind, this ordinance, in creating this advisory committee, which, although it may be good in nature, may not be totally necessary when they already had a handbook for design purposes and everything that was newly put in place but not tested yet.

The Chair said maybe they should try it one more time at a meeting. Councilor Brock said he agreed with Councilor Spiller that whether this draft is exactly the way it should be or not, and it sounded as though it should be amended, as a procedural matter, this was an advisory committee to the Planning Board and they should hear from the Planning Board first before they enacted a charge, so he would not be in favor of going forward on the draft at this point. Councilor Brock said that was one issue; the other issue he directed to the Town Manager, asking him if Council's taking no action meant that an opportunity was lost? Did the CEO need this committee's input? Could they just defer this matter and wait to hear from the Planning Board on the charge or was there some problem with that? The Manager said that Council could certainly defer it and wait for comments from the Planning Board.

Councilor Shwaery said he was completely comfortable with deferring the matter since they had the Foreside Zone Ordinance in place and there was a Design Standards Handbook, so he thought there were checks and balances for this particular property that was in question right now; he didn't think it would fall through the cracks so he would rather do it right than rush through it. Councilor Brock asked how soon they could have the Planning Board's input and the Manager said time-wise they would not be able to take it up next week as far as he knew, they had several big public hearings facing them so it would probably be the first meeting in January. Councilor

Shwaery said to make things worse, if they were going to expand the purpose to include the Town Planner and CEO, they needed Planning Department input not just Planning Board.

Chairperson Grinnell asked for further discussion and Councilor Dennett said that, from the ordinance itself, the design review must be completed before the approval of a plan – that was Planning Board – or the issuance of a Building Permit if development review is not required – that was the CEO – it also said that the findings of the review must be provided to the Planning Board and/or CEO for their consideration and actions relative to the project. The Design Review Committee was only advisory to the CEO when a simple Building Permit was needed. When review was required, then the design review went to the Planning Board. This was a dual advisory committee, one to the Planning Board or to the CEO, depending upon the size of the project. The Manager said the 45-day window was unique on this one application. Councilor Dennett said presuming this application was CEO only, and that was a presumption, if the report didn't come forward, the CEO would have to use the requirements and apply the same standards. Slightly off the subject, but still on the subject, Councilor Dennett said this was a very sticky situation, and listed specific requirements that the Design Review Committee would have to enforce, because, he said, these items were so subjective and he could see a battle royal going on with seven people on a committee arguing about what was and what was not a preserved vista. He said he agreed with Councilors Spiller and Brock and others that this was something, in all fairness, that should wait for Planning Board input and wondered why the Planning Board didn't appoint its own advisory committee.

Chairperson Grinnell said they would move on to another item and leave that one.

c. Other

Councilor Shwaery asked Town Manager Carter about the required notices for the second public hearing on the zoning change involving Admiralty Village, which they had scheduled for the 28<sup>th</sup> of December and the Manager said he was pretty sure his secretary, Barbara, had taken care of that. There was no other unfinished business.

11. NEW BUSINESS

a. (120105-3) *THE KITTERY TOWN COUNCIL MOVES TO APPROVE THE DISBURSEMENT WARRANTS.*

Councilor Dennett said the Town Warrant was acceptable and Councilor Heilshorn said the same was true for the School Warrant. Chairperson Grinnell said she had School Warrant No. 8, School Nutrition Program, in the amount of \$17,269.33 and School Account, Warrant No. 11, in the amount of \$246,705.85. The Chair also had Town Warrant No. 46, Accounts Payable, in the amount of \$485,646.07.

COUNCILOR HEILSHORN MOVED TO APPROVE THE DISBURSEMENT WARRANTS, SECONDED BY COUNCILOR BRAKE.

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

b. (120205-4) *THE KITTERY TOWN COUNCIL MOVES TO APPROVE THE REQUEST OF CHRISTIE SALEMA OF 18 DEBRA LANE TO EITHER WAIVE THE PER CAR ENTRANCE FEE OR ALLOW PARTICIPANTS OF TEAM TREVOR TO ENTER FORT FOSTER AT A REDUCED RATE FOR THE GREAT STRIDES WALK TO CURE CYSTIC FIBROSIS ON*

*MAY 20, 2006 (under Special Events of the Fort Foster Management Plan Sec. 2.09).*

Chairperson Grinnell asked Ms. Salema to come to the podium and Town Manager Carter said reports from different committees, including the Park Commission and a report from the Public Works Commissioner were in the Council's packets. His own report, which was required, was not included in the packet and, apologizing for its lateness, he said he would read it to them. Requests for events of this type were becoming more prevalent at Fort Foster and although this might not be directly a Kittery organization, the person for whom the event was being held was a Kittery resident. Cystic Fibrosis is a national nonprofit organization and he would recommend allowing the event to occur.

Chairperson Grinnell thanked the Town Manager and asked the pleasure of the Council. Councilor Dennett said he thought the request was to waive the per-car entrance fee or to allow participants a reduced entrance rate and he only heard the Manager speak about allowing the event; he had hoped to receive a more concise report to deliberate on.

Councilor Heilshorn said he would like to move the request to waive the per-car entrance fee. Chairperson Grinnell said she would second that for discussion.

COUNCILOR HEILSHORN MOVED TO APPROVE THE REQUEST OF CHRISTIE SALEMA TO WAIVE THE PER CAR ENTRANCE FEE FOR THE GREAT STRIDES WALK TO CURE CYSTIC FIBROSIS ON MAY 20, 2006, SECONDED BY CHAIRPERSON GRINNELL.

Chairperson Grinnell asked Ms. Salema if she was expecting 100 or 150 people and Ms. Salema said it depended on the weather but typically the event would draw about 100 people. Chairperson Grinnell asked her if they were going to be using the Pavilion and if there was a fee for its use and Ms. Salema said yes, they would be using it and there was a fee. Chairperson Grinnell asked Public Works Commissioner Rossiter if there was a fee to clean up the park after an event such as this; Mr. Rossiter said no and Ms. Salema said they would do that anyway.

Town Manager Carter referred to Councilor Dennett's wanting a recommendation from him and he would follow what the Public Works Commissioner recommended, that the event be treated like a school event and charged appropriately. Chairperson Grinnell asked how the Town charged a school event and Mr. Rossiter said he didn't think they charged a school event, they didn't charge the cub scouts and this was as much a local charity, so he thought it shouldn't be discussed, it should be okayed. Chairperson Grinnell said that was good enough for her and asked if there was any further discussion. Town Manager Carter said one of the things they were concerned about was having a great number of vehicles that would take up spaces from the public coming in to the Park that day, that perhaps some sort of donation could be made to the Town, or some arrangements made to car pool. Ms. Salema said perhaps they could park in the big open space in the middle to the left of the Pavilion where nobody parked and walk from there.

Chairperson Grinnell said the motion before them, made by Councilor Heilshorn, was that they waive the entrance fee to the Park. She said they would need a list of cars and asked if there was further discussion on waiving the fee.

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

*c. (120105-5) THE KITTERY TOWN COUNCIL MOVES TO SCHEDULE A PUBLIC HEARING ON THE RELEASE OF FUNDS FROM THE TOWN GRANT MATCH ACCOUNT TO THE GALEN COLE FAMILY FOUNDATION GRANT IN THE AMOUNT OF \$5,937 FOR THE*

*FIRE DEPARTMENT'S THERMAL IMAGING EQUIPMENT FOR A TOTAL COST OF THE EQUIPMENT OF \$9,937, AS APPROVED BY THE VOTERS ON THE JUNE 14, 2005 SECRET BALLOT VOTE AS ARTICLE 11.*

COUNCILOR DENNETT MOVED THE DATE OF DECEMBER 28, 2005 TO HOLD A PUBLIC HEARING ON THE RELEASE OF FUNDS FROM THE TOWN GRANT MATCH ACCOUNT TO THE GALEN COLE FAMILY FOUNDATION GRANT IN THE AMOUNT OF \$5,937 FOR THE FIRE DEPARTMENT'S THERMAL IMAGING EQUIPMENT FOR A TOTAL COST OF THE EQUIPMENT OF \$9,937, AS APPROVED BY THE VOTERS ON THE JUNE 14, 2005 SECRET BALLOT VOTE AS ARTICLE 11, SECONDED BY CHAIRPERSON GRINNELL.

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

d. (120105-6) *THE KITTERY TOWN COUNCIL MOVES TO SCHEDULE A PUBLIC HEARING ON THE RELEASE OF FUNDS FROM THE TOWN GRANT MATCH ACCOUNT TO THE STATE OF MAINE GOVERNOR'S GRANT OF \$12,000 IN THE AMOUNT OF \$12,000 FOR THE CONTINUATION OF KCAP UNTIL JUNE 30, 2006 FOR A TOTAL OF \$24,000, AS APPROVED BY THE VOTERS ON THE JUNE 14, 2005 SECRET BALLOT VOTE AS ARTICLE 11.*

CHAIRPERSON GRINNELL MOVED THE DATE OF DECEMBER 28, 2005 TO HOLD A PUBLIC HEARING ON THE RELEASE OF FUNDS FROM THE TOWN GRANT MATCH ACCOUNT TO THE STATE OF MAINE GOVERNOR'S GRANT OF \$12,000 IN THE AMOUNT OF \$12,000 FOR THE CONTINUATION OF KCAP UNTIL JUNE 30, 2006 FOR A TOTAL OF \$24,000, AS APPROVED BY THE VOTERS ON THE JUNE 14, 2005 SECRET BALLOT VOTE AS ARTICLE 11, SECONDED BY COUNCILOR SHWAERY.

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

e. (120105-7) *THE KITTERY TOWN COUNCIL MOVES TO APPOINT JOYCE TOBEY AS WARDEN AND SANDRA LUTTS AS DEPUTY WARDEN AND THE OPENING OF THE POLLS AT 8:00 A.M., AS RECOMMENDED BY THE TOWN CLERK FOR THE JANUARY 24, 2006 SPECIAL MUNICIPAL ELECTION.*

CHAIRPERSON GRINNELL MOVED TO APPOINT JOYCE TOBEY AS WARDEN AND SANDRA LUTTS AS DEPUTY WARDEN AND THE OPENING OF THE POLLS AT 8:00 A.M., AS RECOMMENDED BY THE TOWN CLERK FOR THE JANUARY 24, 2006 SPECIAL MUNICIPAL ELECTION, SECONDED BY COUNCILOR HEILSHORN.

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

f. (120105-8) *THE KITTERY TOWN COUNCIL MOVES TO SIGN THE MUNICIPAL WARRANTS FOR THE SPECIAL MUNICIPAL ELECTION ON JANUARY 24, 2006.*

CHAIRPERSON GRINNELL MOVED TO SIGN THE MUNICIPAL WARRANTS FOR THE SPECIAL MUNICIPAL ELECTION ON JANUARY 24, 2006, SECONDED BY COUNCILOR SPILLER.

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

g. *OTHER*

Chairperson Grinnell said her only item was that they wouldn't be meeting again until after Christmas so she wanted to wish everybody watching and everybody in the room a happy holiday, enjoying family and friends, driving safety and they would be back on the 28<sup>th</sup>.

*(Item taken out of order)*

5. ACCEPTANCE OF MINUTES

Chairperson Grinnell referred to the Minutes of November 28, 2005 and Councilor Dennett said he had several corrections and requests, as follows:

Page 4, Line 170, Planning Board member should be Ledgett;

Page 6, Lines 272-273, Meeting called back to order 7:50 p.m.;

Page 11, Line 483, Absent and tee should be all one word;

Page 11, Lines 509-512, There had been one abstention and Councilor Dennett requested that the names of opposing or abstaining Councilors be listed in order to become part of the record and asked for Council's input. The Chair asked for opinions from Council, all were in agreement and Chairperson Grinnell said she had been the abstaining vote.

Page 13, Line 587, doable is one word and not hyphenated;

Page 15, Line 678, Traip has one "p;"

Page 23, Line 1061, dissenting vote should be listed (Chairperson Grinnell);

Page 26, Line 1198, dissenting votes should be listed (Councilors Brake, Dennett and Shwaery).

Councilor Shwaery requested the following changes:

Page 4, Line 170, Mr. Evancic's name should be Ernest;

Page 11, Line 475, strike "they" and put "this."

Councilor Brock commented on the length of the Minutes and Councilor Shwaery noted that the bulk of it was the Public Hearing.

Chairperson Grinnell said the Minutes of November 28, 2005 were accepted, as amended.

12. COMMITTEE AND OTHER REPORTS

a. *COMMUNICATIONS FROM THE CHAIRPERSON*

b. *TOWN MANAGER'S REPORT*

1) *Fort Foster Restroom Facility*

Town Manager Carter said his first item was to update Council on the rest room facility at Fort Foster. There had been a referendum vote in 2003 that appropriated \$30,000 toward a new rest room facility and when he had come on board, they met with the Parks Commission and Public Works Commissioner to look at how best to proceed. During those discussions, it was determined that \$30,000 would not build a new rest room facility out there and so they looked to renovate and make the existing bunker/rest room facility handicapped accessible.

In order to do that, they had a structural engineer look at it and then had a design of new equipment in that rest room made in order to make sure that it would fit appropriately and that design was in Council's packets. They looked at how they could make the approaches to the facility handicapped accessible and determined that the grade was such that they could develop a pathway from the parking lot to the facility, making it accessible grade-wise and that the cost for doing all of that was less than the \$30,000. In addition, they had the opportunity to make the bunker lightening proof with lightening arrestors on the facility. The Manager said they were moving forward with that. He said they were taking funds from the ADA account, a reserve that had been put aside for buildings such as this.

2) *Fuel and More Update*

The Manager said he would like to report on the Fuel and More Program that had been started in cooperation with area churches and nonprofits to develop that safety net for folks in need of help. He said they reached the mark of \$4,237 in donations out of their \$10,000 goal and they wanted to thank all those who had donated towards the program and hoped others over the next few months would find it within their abilities to also donate. Councilor Spiller asked whom donations would go to and how checks should be made out? The Manager said Town of Kittery, P.O. Box 808, Kittery, ME 03904 and if in the memo field people could put Fuel and More. Councilor Brock asked how residents who may need that assistance would go about applying for it? The Manager said they should call the General Assistance Coordinator, Kathy Pridham, at the Town Hall and she would set up an appointment to review their needs. The idea of this program, the Manager said, was to move on into others things once the heating season was over but, clearly, by pulling resources such as churches, the community action program, the food pantry and Fair Tides Clothing together, they were bringing into focus other resources that could help with this type of program in a central case management type of way.

3) The Manager said that lastly and too late to put on the agenda, they received a hardship abatement application that needed to be heard within 30 days and if Council was inclined, he would like to set it up at 6:15 p.m. on December 28. Chairperson Grinnell said that would be fine and received consensus from the Council.

Chairperson Grinnell said that the next item said Happy Holidays!

4) Happy Holidays!

c. *COMMITTEE REPORTS*

13. ADJOURNMENT

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

*MEETING WAS ADJOURNED AT 8:29 P.M.*