

**APPROVED**

**KITTERY TOWN COUNCIL**

**September 26, 2005**

**Council Chamber**

1. **CALL TO ORDER**

The meeting was called to order at 7:00 p.m. by Chairperson Ann Grinnell.

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 Frank Dennett, Matt Brock, Rich Balano, George Heilshorn and Chairperson Ann Grinnell. Also present were Town Manager Jon Carter, Town Clerk Maryann Place, Police Chief Edward Strong, Co-Chair of Parks Commission Page Mead, Commissioner of Public Works Richard Rossiter, Recorder Chris Kudym, Niles Pinkham, Murray Hoyt, Heather Thibideau, members of the press and others.

5. **ACCEPTANCE OF PREVIOUS MINUTES**

Per request of Chairperson Grinnell, this item was moved to the end.

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 DISCUSS AMENDMENTS TO SEC. 9.04.020 FIREARMS – UNLAWFUL DISCHARGE, CONCERNING SHOOTING RANGES, AS RECOMMENDED BY THE POLICE CHIEF.**

Chairperson Grinnell thanked the Chief for coming. Police Chief Edward Strong greeted the Council and said that, as they might remember, at the last Council Meeting he had been instructed to go back and draft any recommended changes to the ordinance and he believed everyone had a copy of it. The Chief said he was recommending three major changes: the first concerned zone changes; the second concerned ranges that existed prior to 1995; and the third concerned his recommendation for no new ranges.

Chief Strong explained to the Council that he wanted the Town to have stricter regulations on the use of firearms and to have the Town divided into two zones rather than three. Referencing the map attached to the Firearms Ordinance, the Chief said he wanted the area in C Zone to be encompassed by his recommended B Zone because of the encroachment of residential properties in the C Zone and his feeling that the vicinity was no longer safe for hunting. He asked the Council to remember that what he presented were only recommendations and that they had been made after consultation with Steve Park, the ex-game warden and Gary Eaton, the Chief's range instructor.

Chief Strong said that the second major change he was recommending concerned the regulation of existing ranges. The Chief said that the Council was aware that any range built prior to 1995 could not be restricted as to noise level and he was pleased to tell them that the

Town had no more of those “grandfathered” ranges. The Chief explained that there had been one on Brave Boat Harbor Road but the person who had been issued that permit had died; the one on Miller Road had not been used for years because of development in the area; the person who had been issued a permit for a range on Norton Road had moved; and there was one on Wilson Road. The Chief said he believed that the individual who owned that range might want to appeal what they told her yesterday. She had a permanent range in 1995 but moved it and never had it reinspected. She was told she could no longer use that range. So, as far as the police were concerned, they no longer had “grandfathered” ranges. The Chief said ranges that had been issued permits after 1995 were subject to regulation by ordinances.

Chief Strong said that the changes being presented were those that had been recommended to him by citizens of the Town over the years. He said that complaints were numerous and when he had to tell people there was nothing he could do, people got perturbed at him. Councilor Brock asked how many ranges had been permitted since 1995 and where they were located. The Chief answered that there were nine. Councilor Brock asked the Chief if he was saying that the Town could now regulate them as a new range because they weren’t built until after 1995 and the Chief said yes. Councilor Heilshorn asked the Chief if the ranges he just spoke about - he thought it had been a total of four that couldn’t function - could they subtract those four from the list he had given them? The Chief said yes. We have two on Charles Hill Road, one on Remick’s Lane. We have one on Picott Road, one on State Road and one on Wilson Road - a different one - and one on Brave Boat Harbor Road. Councilor Dennett asked the Chief about the Wilson Road range off of Route 1 and who owned it. The Chief answered that it was Rick Rossiter and said those ranges were ones that could be regulated and that his recommendations would be: (i) no shooting on Sundays - you can’t hunt on Sunday; (ii) shooting Monday through Saturday must cease at sunset, that means no night hunting, no turning the lights on and shooting; (iii) warnings should be posted every 30 feet around the entire perimeter of the area; (iv) shooting may not commence before 9:00 in the morning; (v) shooting ranges must be yearly inspected by the Police Department with the requirement that people request a reinspection within 30 days of the expiration date of their current permit. The Chief said he left in the normal exceptions, such as police officers in the performance of their duties. He also excluded the discharge of guns for self-protection and for protection of property from wild animals.

Chief Strong said he was not saying the Council had to approve all of his recommended changes but he felt that the Town had changed and it was time for their policy on the use of firearms to change. He said the Council would hear from the other side and that they would be very vocal, but the Police Department had gotten so many complaints, he really thought it was time for some changes. The Chief said he did not want to permit any new ranges after this ordinance passed because he simply did not feel comfortable doing it; he felt it was a liability for the Town of Kittery and that the issue should be given to the Planning Board to make a decision concerning zones, minimum standards, etc.

Councilor Brock asked the Chief if he was saying there should be a moratorium while they discussed the ordinance or that they should stop issuing permits totally and the Chief said, however they wanted to do it. Councilor Brock also questioned the Chief concerning what areas of concern the Town could presently regulate. Chief Strong said that the Town had the authority to regulate ranges built after 1995. Councilor Dennett asked the Chief to cite the law he was referring to and the Chief cited 30-A MRSA 3011. Councilor Dennett said they might have a difference of opinion on the enactment of that ordinance.

Town Manager Carter addressed the Chair, saying that what they were trying to do was present the information to Council and ask them when they would like to set up a workshop. Chairperson Grinnell suggested October 3, right after the sewer betterment workshop the Manager had requested and asked what time would work best, scheduling it before or after the sewer betterment workshop? Town Manager Carter said it could probably start about 7:30 p.m., that he would like to do the sewer betterment first since that should not take very long. Councilor Brock said that was okay if it worked for others and asked when the next council meeting was. Town Manager Carter said October 10 and Councilor Brock wondered if they had anything before the meeting on that date. Town Manager Carter said they had a meeting with the School Department and Councilor Brock said okay, it's October 3. Chairperson Grinnell said okay - at that workshop, the Chief would be there, the Council would be there, as well as the public and we will be sitting around a table and looking over what the Chief has given us and go over ideas. Councilor Brock said, and just so I understand the process - after the workshop, there would be a public hearing after that date? Town Manager Carter said if the Council felt confident with what came out of the workshop, they could set up a public hearing for a future date, perhaps for October 24.

**b. THE KITTERY TOWN COUNCIL MOVES TO APPROVE AND AUTHORIZE THE TOWN MANAGER TO SIGN A MEMORANDUM OF UNDERSTANDING FOR TRAFFIC CONTROL BETWEEN THE PORTSMOUTH NAVAL SHIPYARD AND THE TOWN OF KITTERY POLICE DEPARTMENT AND TO APPROVE THE COST OF THE INCREASED PREMIUM FOR THE PATROL OFFICERS' LIABILITY INSURANCE TO BE DEDUCTED FROM THE GMH PUBLIC SAFETY RESERVE FUND ACCOUNT.**

Councilor Dennett requested permission to ask a question of the Manager before the motion was made. Receiving permission from the Chair, he then asked Town Manager Carter if the change to the revised agreement in front of them had to do with the section specifically set up for traffic control officers, such as eliminating the equal opportunity section and Town Manager Carter replied yes.

**CHAIRPERSON GRINNELL MOVED TO APPROVE AND AUTHORIZE THE TOWN MANAGER TO SIGN A MEMORANDUM OF UNDERSTANDING FOR TRAFFIC CONTROL BETWEEN THE PORTSMOUTH NAVAL SHIPYARD AND THE TOWN OF KITTERY POLICE DEPARTMENT AND TO APPROVE THE COST OF THE INCREASED PREMIUM FOR THE PATROL OFFICERS' LIABILITY INSURANCE TO BE DEDUCTED FROM THE GMH PUBLIC SAFETY RESERVE FUND ACCOUNT, SECONDED BY COUNCILOR BALANO.**

Councilor Dennett asked the Town Manager to give the audience an overview. Town Manager Carter said he would be happy to and explained that the Navy had approached them about a month ago explaining that they would no longer be able to provide naval officers outside the gate to do traffic control at shift changes because of a recent review of their jurisdictions and liability issues. The Navy asked if there was some method that could be employed by which the Town could provide that service. Town Manager Carter said he had replied that it would be too costly for the Town and told them no; however, he said, through the efforts of Chief Strong in researching the issue, the Chief found a section that would allow the Town to appoint traffic officers and that, through a memorandum of understanding, the Town could agree to appoint

civilian naval employees working at the Naval Yard to be Kittery Traffic Control Officers. Through a subsequent agreement, the Navy would pick up all insurances except liability. Town Manager Carter said he had the opportunity to consult with Mr. Dennett and that Mr. Dennett certainly consulted with him, which resulted in the addition of some language in the revised document for which he was grateful. As a result, the Town would be liable for an officer who, through negligence, caused an auto accident but if an individual directing traffic were injured, that additional language would buffer the Town from the liability to some extent, although it might not protect the Town totally.

Town Manager Carter said this was a joint venture that, if passed tonight, might well lead to other joint ventures with the Navy. The Manager said it would save quite a bit of money; that it would cost the Town some money but would protect citizens during shift changes. The Town would be working closely with the Navy on this since these officers would be responding to the Chief when outside the gate. Town Manager Carter thought it was a system that could expand over time to other items.

Chairperson Grinnell thanked the Manager and asked if there were any other questions from Council. She then thanked the Manager for working that out.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 5/0.

8. DISCUSSION

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

Chairperson Grinnell asked if there was anyone who would like to address the Council.

Mr. Murray Hoyt said he wanted to have something corrected in the Minutes of September 12 on Page 16. He said, it says that Mrs. Thibideau lived in this neighborhood and that a couple of nights before her kids counted 24 shots. She said she had four kids and that it was 120 feet, not yards, from her kitchen where the shooting was. We have since remeasured that and it was 375 feet, which is 100 yards or more, and because this is mentioned here, I wanted to have it on the record. Chairperson Grinnell said, it's in the Minutes. Mr. Hoyt then said, another thing was he went to Sgt. Eaton to inquire about shooting in his back yard; that he did not apply for a permit for a shooting range. Chairperson Grinnell told him she hadn't gotten that idea that he had, and Mr. Hoyt said he simply wanted that to be clear. Chairperson Grinnell thanked him.

Niles Pinkham asked the Council to consider putting something in the law allowing the use of small guns, explaining that he and his daughters have had a lot of fun using 22's for target shooting since 1973 and he would hate to see that taken away from them. Chairperson Grinnell said she hoped he would come to the workshop on October 3 and bring his daughters.

Heather Thibideau said she wanted to concur with Mr. Hoyt; that they (the Thibideaus) also had remeasured the distance and that, for some reason, their calculations had been off by a few hundred feet, that the shots they heard had actually been discharged around 300 feet away and she said she wanted to clarify that. Ms. Thibideau said she did have two other questions. She said that in going through the zone area in Rural Residential under 16.12.040, it listed different uses for property in that zone and it did not list anything about shooting ranges, so, if it was not listed, why would it be permitted? Chairperson Grinnell said she did not have an answer

for her right then but she would find out. Ms. Thibideau said their issue was not with hunters but with shooting ranges. In her opinion a shooting range in a residential neighborhood and for which there were no controls raised an issue of safety but when you were talking about hunting in a controlled area, you were talking about two different issues. Thank you.

b. *CHAIRPERSON'S RESPONSE TO PUBLIC COMMENTS.*

Chairperson Grinnell said that hopefully Mr. Pinkham would come on October 3 and asked Town Manager Carter to look into the issue of if it was not listed under permitted use, how did you give a permit to a firing range?

9. UNFINISHED BUSINESS

a. *THE KITTERY TOWN COUNCIL MOVES TO INCREASE THE FEES AT FORT FOSTER AS RECOMMENDED BY THE PARKS COMMISSION.*

Chairperson Grinnell said that Council had received a memo in their packets on this and that they had a discussion two weeks ago.

**CHAIRPERSON GRINNELL MADE A MOTION TO INCREASE FEES AT FORT FOSTER AS RECOMMENDED BY THE PARKS COMMISSION, SECONDED BY COUNCILOR BALANO.**

Councilor Dennett said that relevant to the discussion they had been having, going through the Fort Foster regulations, he noticed no hunting and no firearms were allowed in Fort Foster Park. Councilor Dennett said that this would seem to be different than the zoning it was in now. Chief Strong said that any individual who owned property where shooting was allowed could post that no hunting was allowed and the Town owned that property so it was legal. Councilor Dennett said he was not aware that any such information was posted and asked if Mr. Mead could tell him if, to his knowledge, signs had ever been posted that no firearms were allowed and Mr. Mead answered no. Chief Strong said his recommendation was that the Council make the rules an ordinance since that was what they did at Seapoint Beach. The Chief said that the only ordinance was that your dog must be leashed.

Chairperson Grinnell said she had one issue on the first page, item 2, where it said change "shall be issued" to "may be issued" at \$.50 each pass card, and asked if that was in the regulations or was is going to be added to the regulation? Mr. Rossiter said that in the regulations now the words read "shall be issued" so the Clerk had to issue pass cards according to the regulation and now that would be changed so that it was optional.

Chairperson Grinnell said, there was also a section – if you go to Page 4, item 5, of the regulations - in reading it, it sounds like we were supposed to be able to charge, now we "may" charge? She said her issue with it was she wanted to charge \$1.00. Mr. Rossiter said he would like to step back a bit if he could and explained to the Council that he, Page Mead, Maryann Place and Jon Carter met and went over all the issues and came to a consensus and that they were hoping the consensus could be followed and that other changes could be pursued next year. Chairperson Grinnell said she would go along with him. Councilor Dennett said if the wording changed to "may be issued," I could construe that as the Town having the option of whether to issue a card or not. Chairperson Grinnell said she would like it to say may be purchased at \$.50, they would take out issued and make it purchased. Town Manager Carter said how about "are available?" Councilor Dennett said that regardless of how it was worded he didn't think it

should be optional to the Town. Chairperson Grinnell said if they changed the wording to purchased, then it wasn't an option and Councilor Dennett said that would be fine.

CHAIRPERSON GRINNELL MOVED TO AMEND THE MOTION TO INCREASE FEES AT FORT FOSTER AS RECOMMENDED BY THE PARKS COMMISSION BY CHANGING THE LANGUAGE CONCERNING THE ISSUANCE OF PASS CARDS TO: PASS CARDS "MAY BE PURCHASED" AT \$.50, SECONDED BY COUNCILOR BALANO.

Councilor Dennett said he had a couple of more questions. On Page 4, he questioned Item 7 and the need to have stickers affixed no higher than 4 inches from the bottom line of the windshield and not on the side window. The Chief explained that problems arose when people rolled down the windows of their cars and the police were unable to see their stickers. Councilor Balano suggested changing the wording from "must" to "should." Councilor Dennett said the only other thing was that he wanted to ask Mr. Rossiter about the pavilion charges and wondered if perhaps people might tend to book the smaller pavilion in order to save money. Mr. Rossiter said that the small pavilion did not have the services that the big one offered, that he had not seen a big rush to rent the small one and did not foresee a problem in the future.

ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 5/0.

Chairperson Grinnell thanked Mr. Rossiter and said they would see him next year.

*b. IN ACCORDANCE WITH SEC. 3.04.070 OF THE PURCHASING ORDINANCE, THE KITTERY TOWN COUNCIL MOVES TO AUTHORIZE THE TOWN MANAGER TO USE AN ALTERNATE PROCUREMENT METHOD IN THE AMOUNT OF \$28,000 FOR THE PURPOSE OF REPLACING PIPING, PUMPS AND DISPENSERS FOR GAS AND DIESEL FUEL AT THE PUBLIC WORKS DEPARTMENT FUEL DEPOT, AS APPROVED IN ARTICLE 7 FROM THE JUNE TOWN MEETING WARRANT, AND TO TRANSFER FROM UNENCUMBERED SURPLUS \$28,000 AND TO APPROPRIATE AND AUTHORIZE THE TOWN MANAGER TO EXPEND IT FOR THE ABOVE PURPOSE.*

Town Manager Carter told the Council that the Town did a bid for the work and only one came in for \$78,945.00. Following a very brief discussion with Mr. Rossiter, they went out to seek an alternative way to get the work done and he would leave it to him to explain. Mr. Rossiter said that Mike Lewis, the individual who inspected their fuel tanks was hired to prepare bid specifications and he came back with two quotes, one of which met their requirement of \$28,000 and that price would also include the cost of labor. Chairperson Grinnell said that was great and she would move the motion.

COUNCILPERSON GRINNELL MOVED TO AUTHORIZE THE TOWN MANAGER TO USE AN ALTERNATIVE PROCUREMENT METHOD IN THE AMOUNT OF \$28,000 FOR THE PURPOSE OF REPLACING PIPING, PUMPS AND DISPENSERS FOR GAS AND DIESEL FUEL AT THE PUBLIC WORKS DEPARTMENT FUEL DEPOT, AS APPROVED IN ARTICLE 7 FROM THE JUNE TOWN MEETING WARRANT, AND TO TRANSFER FROM UNENCUMBERED SURPLUS \$28,000 AND TO APPROPRIATE AND AUTHORIZE THE TOWN MANAGER TO EXPEND

IT FOR THE ABOVE PURPOSE, SECONDED BY COUNCILOR HEILSHORN.  
ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 5/0.

*c. THE KITTERY TOWN COUNCIL MOVES TO TRANSFER THE FUNDS FROM UNENCUMBERED SURPLUS AUTHORIZED IN ARTICLE 9 (RETIREMENT BENEFIT REIMBURSEMENT) IN THE AMOUNT OF \$40,000 TO THE EXISTING DEDICATED COMPENSATED ABSENCE RESERVE FUND AND TO TRANSFER UP TO \$25,000 FROM UNENCUMBERED SURPLUS INTO AN INSURANCE DEDUCTIBLE ACCOUNT AND AUTHORIZE THE TOWN MANAGER TO PROCESS PAYMENTS ON INSURANCE CLAIMS, WHEN NECESSARY, AS APPROVED IN ARTICLE 10 (SELF INSURANCE CLAIMS COVERAGE) AS PASSED IN THE JUNE 14, 2005 TOWN MEETING BALLOT VOTE.*

Councilor Dennett requested that this article be split into two separate questions, one to deal with the retirement and the other to deal with the self coverage. Chairperson Grinnell said that would be fine with her and asked Councilor Dennett to please state what his finished motion would be.

COUNCILOR DENNETT MOVED TO TRANSFER THE FUNDS FROM UNENCUMBERED SURPLUS AUTHORIZED IN ARTICLE 9 (RETIREMENT BENEFIT REIMBURSEMENT) IN THE AMOUNT OF \$40,000 TO THE EXISTING DEDICATED COMPENSATED ABSENCE RESERVE FUND, SECONDED BY COUNCILOR BALANO. ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 5/0.

Chairperson Grinnell asked Councilor Dennett to continue.

COUNCILOR DENNETT MOVED TO TRANSFER UP TO \$25,000 FROM UNENCUMBERED SURPLUS INTO AN INSURANCE DEDUCTIBLE ACCOUNT AND AUTHORIZE THE TOWN MANAGER TO PROCESS PAYMENTS ON INSURANCE CLAIMS, WHEN NECESSARY, AS APPROVED IN ARTICLE 10 (SELF INSURANCE CLAIMS COVERAGE) AS PASSED IN THE JUNE 14, 2005 TOWN MEETING BALLOT VOTE, SECONDED BY COUNCILOR BALANO.

Councilor Dennett said that he had two questions regarding this motion: how much was required and why was it necessary since the vote of the people in June on this authorized the Council to transfer up to \$25,000 when necessary. Town Manager Carter said that basically it was meant to be a housekeeping issue. Since it had been passed on the ballot, they didn't want to come back to the Council every time a deductible claim had to be paid or a payment to the insurance company for the deductible had to be made, so there were a number of ways to do this and, obviously, it was up to Council's discretion. The Manager said they could either take this out of the premium account and at the end of the year, when they did their normal transfers, they could make the transfer from that insurance deductible; or the other way, which was how he was trying to do it, was if the money was not spent, it would go back. Councilor Dennett said he thought the Town Manager had an excellent idea - the Manager could come before the Council once a year with an itemization or breakdown.; this was absolutely in keeping with what the people voted, so if we expended \$18,000, we would have to cover it at the end of the fiscal year. Councilor Brock asked if the proposal that Councilor Dennett put forward was what the Manager had in mind and was there any advantage or disadvantage over the one the he brought forward.

Town Manager Carter said he treated it as a housekeeping issue; it didn't matter, it saved them from setting up another account. Chairperson Grinnell suggested that this item be postponed indefinitely.

COUNCILOR DENNETT MOVED THAT THE MOTION TO TRANSFER UP TO \$25,000 FROM UNENCUMBERED SURPLUS INTO AN INSURANCE DEDUCTIBLE ACCOUNT BE POSTPONED INDEFINITELY, SECONDED BY COUNCILOR BALANO. ROLL CALL VOTE TAKEN WITH ALL IN FAVOR. MOTION PASSES 5/0.

d. *OTHER*

Chairperson Grinnell said she had one item. A resident called her and said they wanted to thank the Town for the cleaning up the property at Brave Boat Road and Chairperson Grinnell asked if someone knew who had done that. Chief Strong said that was accomplished through a code enforcement matter with the Police Department and Chairperson Grinnell thanked him.

10. NEW BUSINESS

a. (090205-2) *THE KITTERY TOWN COUNCIL MOVES TO APPROVE THE DISBURSEMENT WARRANTS.*

Chairperson Grinnell said she had the warrants before her and that Councilor Dennett had told her the warrants were okay. Councilor Dennett said the Town is okay. Chairperson Grinnell asked about the School warrant. Councilor Heilshorn said the school one would be all right tomorrow. Chairperson Grinnell said thank you.

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

Councilor Balano asked if they could get a clarification on the school warrant and Councilor Heilshorn said it was just a discrepancy between a receipt and the amount on the record. Councilor Balano asked if what they were approving was the correct amount? Councilor Heilshorn said they were verifying the amount tomorrow and it should be the right amount. Councilor Balano asked how they could correct it if they approved it, did they have to wait until the next meeting? Councilor Heilshorn said if there was a discrepancy, it could be added.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 5/0.

b. (090205-3) *THE KITTERY TOWN COUNCIL MOVES TO DISBAND THE FORESIDE COMMITTEE.*

Chairperson Grinnell said they received a letter from the Foreside Committee. She said that they had done their job admirably and they would like us to close out the Committee.

CHAIRPERSON GRINNELL MOVED TO DISBAND THE FORESIDE COMMITTEE, SECONDED BY COUNCILOR BALANO. ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 5/0.

Chairperson Grinnell said she would like to thank everyone on the Foreside Committee for all the work that had been done since February of 1995.

c. (090205-4) *THE KITTERY TOWN COUNCIL MOVES TO APPOINT STEPHEN F. HALL TO THE CONSERVATION COMMISSION AS AN ASSOCIATE MEMBER UNTIL 8/26/08 (replacing Janet Gourley, who did not re-apply).*

Councilor Balano said he interviewed Stephen Hall and thought he was an excellent addition and he highly recommended his appointment.

COUNCILOR BALANO MOVED TO APPOINT STEPHEN F. HALL TO THE CONSERVATION COMMISSION AS AN ASSOCIATE MEMBER UNTIL 8/26/08 (REPLACING JANET GOURLEY, WHO DID NOT RE-APPLY), SECONDED BY CHAIRPERSON GRINNELL. ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 5/0.

d. (090205-5) *THE KITTERY TOWN COUNCIL MOVES TO RECEIVE AN UPDATE ON THE KITTERY KOREAN VIETNAM VETERANS MONUMENT WITH PLACEMENT ON THE 27 FOOT TRIANGULAR PIECE OF LAND IN FRONT OF THE HISTORICAL AND NAVAL MUSEUM AT THE KITTERY MUNICIPAL COMPLEX.*

Town Manager Carter said that in the Council's packet was the update by the Co-Chair of the Historical Naval Society as well as a diagram of the monument and the location in which it would be placed, which was in front of the Naval Museum here. The Manager said it was a project that has taken some time but Mr. Longcrier had assured him that the project team was moving forward and we should be seeing something in late fall over there, with some assistance from our Highway Department. Town Manager Carter said that Mr. Longcrier had asked for release of the \$200.00 the Council gave him several years ago and that he was in the process of doing that, and Mr. Longcrier wanted to thank the Council for their patience and they should have some sort of ceremony in the not too distant future. Chairperson Grinnell said their agenda said we had to move to receive the update. Town Manager Carter said, I guess if you liked what you've heard.

CHAIRPERSON GRINNELL MOVED TO RECEIVE THE UPDATE ON THE KITTERY KOREAN VIETNAM VETERANS MONUMENT, SECONDED BY COUNCILOR BALANO. ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 5/0.

e. (090205-6) *THE KITTERY TOWN COUNCIL MOVES TO SCHEDULE A PUBLIC HEARING FOR OCTOBER 12 TO AMEND CHAPTER 2.24 PERSONNEL CLASSIFICATION PLAN, SEC. 2.24.250 BOOKKEEPER, 2.24.040 DEPUTY TREASURER AND TO ADD SECTION 2.24.035, ASSISTANT TOWN CLERK.*

Town Manager Carter told the Chair that besides the notes being a little skewed, basically what was being presented was following through on their budget process and the changes that were being made were in the finance office where the bookkeeper and accountant would now be reporting to the Deputy Treasurer. The bookkeeper job would be changed so that she would report to the Deputy Treasurer and the Deputy Treasurer's job description was changed, again, by one sentence that allowed for her to be the supervisor of the accountant and the bookkeeper. The new position that was introduced was Assistant Town Clerk, which would be a person who

would be in charge if the Town Clerk or Deputy Clerk were not in the building or for some reason off duty at the same time. It would be like having a head assistant out there on the floor who could make decisions in the absence of the Deputy Town Clerk or Town Clerk and that it was budgeted with a stipend figure. Councilor Dennett asked if he had missed that discussion and Town Manager Carter said he didn't think so; that it was an existing position with a small stipend. Councilor Dennett asked, it's not a new position per se, it's an individual that will assume further duties? Town Manager Carter said that was correct and in the Personnel Classification System, they would be adding a new job description to reflect this. Councilor Dennett said, as long as we're not adding more bodies, and they would certainly discuss it in detail at a public hearing. Chairperson Grinnell said that October 12 would be the public hearing.

COUNCILOR DENNETT MOVED THAT THE COUNCIL SCHEDULE A PUBLIC HEARING FOR OCTOBER 12 TO AMEND SECTIONS OF THE PERSONNEL CLASSIFICATION PLAN, SECONDED BY COUNCILOR BALANO. ROLL CALL VOTE TAKEN WITH ALL IN FAVOR. MOTION PASSES 5/0.

f. (090205-7) *THE KITTERY TOWN COUNCIL MOVES TO SCHEDULE A WORKSHOP FOR OCTOBER 3 AT 6:30 P.M. WITH THE SUPERINTENDENT OF SEWER SERVICES AND THE TOWN MANAGER TO DISCUSS AND REVIEW THE PROPOSED SEWER ASSESSMENT FORMULA FOR PROPERTY OWNERS BETTERED BY THE EXTENSION OF SEWER ON MAIN STREET, CENTRAL AVENUE, DAME STREET, OTIS AVENUE AND WENTWORTH STREET IN 2004.*

Town Manager Carter said they also would ask if the Council would consider, not for October 12 but for November 14, scheduling a public hearing since State Law required a 30 day notice and if Council found everything appropriate at their workshop, they would like to proceed quickly ( because of the holidays coming) with the proper newspaper ads; they must run three consecutive weeks up to the date that the hearing is held. Chairperson Grinnell said she would move to amend.

CHAIRPERSON GRINNELL MOVED TO AMEND THE MOTION TO SCHEDULE A WORKSHOP FOR OCTOBER 3 AT 6:30 P.M. WITH THE SUPERINTENDENT OF SEWER SERVICES AND THE TOWN MANAGER TO DISCUSS AND REVIEW THE PROPOSED SEWER ASSESSMENT FORMULA FOR PROPERTY OWNERS BETTERED BY THE EXTENSION OF SEWER ON MAIN STREET, CENTRAL AVENUE, DAME STREET, OTIS AVENUE AND WENTWORTH STREET IN 2004, TO INCLUDE SCHEDULING A PUBLIC HEARING ON NOVEMBER 14, SECONDED BY COUNCILOR BALANO. ALL IN FAVOR BY VOICE VOTE. MOTION PASSES 5/0.

g. (090205-8) *THE KITTERY TOWN COUNCIL MOVES TO DISCUSS THE UPCOMING OCTOBER 1 BLOCK PARTY SPONSORED BY THE SEACOAST SHIPYARD ASSOCIATION.*

Town Manager Carter said, again, the Council had received in their packets a memo with an outline of the day's events. They will start the block party that was probably the last project of the task force that was set up to save the shipyard - Representative Wheeler was on that. There were a whole lot of people that made up the task force. This is a project to thank all the

vast number of people who had come out and helped to make the success story of the Portsmouth Naval Shipyard's removal from the BRAC list. It will be in Wallingford Square from 1:00 to 4:00, Saturday, October 1; there will be food vendors, as well as entertainment and the typical political speeches by our congressional folks and our Governors, both Maine and New Hampshire. Chairperson Grinnell said she believed it would be one more time to wear their yellow shirts. Councilor Balano said he thought Elvis would be there too. Town Manager Carter said that Elvis was out of the building and would be down there. Chairperson Grinnell said she hoped that all the councilors could attend; she certainly would be there.

h. (090205-9) *THE KITTELY TOWN COUNCIL MOVES TO SCHEDULE A DATE TO HOLD A PUBLIC HEARING TO ADOPT THE NEW VERSION OF THE GENERAL ASSISTANCE ORDINANCE AS PROPOSED BY MAINE MUNICIPAL ASSOCIATION IN AUGUST 2005.*

Town Manager Carter said he would recommend setting a date of October 24.

**CHAIRPERSON GRINNELL MOVED TO SCHEDULE A DATE FOR A PUBLIC HEARING TO ADOPT THE NEW VERSION OF THE GENERAL ASSISTANCE ORDINANCE AS PROPOSED BY MAINE MUNICIPAL ASSOCIATION IN AUGUST 2005, SECONDED BY COUNCILOR BALANO. ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 5/0.**

Chairperson Grinnell said that at this time, she was going to waive from the agenda and not go on to "Other," but go over the Minutes. Councilor Dennett said to the Chair that the block party had been concluded but the Manager had a note that he would like the Council to set up vendor licenses for that three-hour event. Town Manager Carter thanked Councilor Dennett for picking that up. The Manager said he was not sure what the Council had done in prior block parties but the Town was not sponsoring it, the task force was sponsoring it and they were responsible for the vendors and so forth. In that light, the Town is part of the task force and, as such, does the Council want to – for four hours - get involved with vendor licensing or did they want to waive the vending licensing? Some people were going to be on their own property, so it could be victualers licenses. The Manager said he did not know if the Council wanted to get into that or how that had been done in the past. Councilor Dennett said the question lay in what area could the Council relax any ordinances and he was sorry the Manager had said they weren't sponsoring it because this particular ordinance allowed the Council to waive the vendors licenses. Town Manager Carter said, well, the Town has just become a sponsor. Councilor Dennett said he was glad the Manager said that so they didn't go against their own ordinance.

**COUNCILOR DENNETT MOVED THAT THE KITTELY TOWN COUNCIL, PER 5.28.040 WAIVE THE NEED FOR VENDOR LICENSES WITH REGARD TO "SAVED OUR SHIPYARD CELEBRATION" BLOCK PARTY, OCTOBER 1, 2005, SECONDED BY CHAIRPERSON GRINNELL.**

Council Heilshorn said he had a question for the Town Manager: did that mean anyone could come in and set up a cart? The Manager said the task force had met for five meetings to set this up and that there was a proscribed procedure vendors had to follow. Councilor Heilshorn asked if the period to apply had expired and Town Manager Carter said he thought pretty much;

that the task force was meeting again Wednesday and they had kind of mapped it out and told the vendors where they were going to be.

**ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 5/0.**

Chairperson Grinnell said she hoped everybody watching would be at the party and then said they would now go to acceptance of the Minutes from September 12, asking if there were any corrections to those Minutes. Councilor Dennett said he had a few corrections. On the first page, under Roll Call, on the third line, Planning Board Member Janet Gagnen's name should be corrected to "Gagner" and that change should be made throughout the text wherever her name appeared.

On Page three, under New Business Item 11.e, the first paragraph says that the Chair asked for input from the Council and immediately thereafter the vote appears. Since the next few paragraphs reflect discussion, the vote should appear after that. In addition, the vote should be changed to reflect 5 in favor, 0 opposed, 1 abstention. Also, within that paragraph, the statement that Councilor Dennett had contacted the Town Attorney was incorrect. Town Manager Carter contacted the Town Attorney since Councilors were not allowed to contact him unless it was through the Manager.

On Page four, top paragraph, third line down, Maplewood Avenue should be changed to Maple Avenue and also changed throughout the text wherever it appears. Councilor Dennett brought attention to spell-check errors involving Mr. Litsinberger's name which needed to be corrected throughout the text. On Page 10, the reference to "Mendon" Creek in the second full paragraph needed to be changed to "Mendum" and also changed wherever else it appeared in the text, and further down on Page 10 at the end of the fifth full paragraph, the word "ducks" should be changed to "docks." On Page 15, where reference is made to Sgt. Eton, his name should be spelled Eaton and that correction made wherever else his name appears in the text.

On Page 18, under Unfinished Business, where the date 9/16/05 appears concerning the Council's hearing of the Parks Commission fee recommendations, that date should be corrected to read 9/26/05.

Chairperson Grinnell said they would like to approve the Minutes and Councilor Brock said that, for clarification, he would like to rephrase his comment that appeared on Page 12 after "*The meeting resumed at 9:11 p.m.*" to read as follows: "Councilor Brock said regardless of whether a public hearing is legally required, it still is fair to have a public hearing since the zoning would affect at least four property owners." Councilor Brock also referred to Page 17, the last sentence of the last full paragraph and asked that it be rephrased to read as follows: "Mr. Brock then said that this is a matter that has now come before Council and there may be changes to the regulation, so the Police Department should so inform any applicant that changes may be made."

Chairperson Grinnell asked if there were any other changes and Councilor Balano said he was not sure who it was, but he did not remember requesting that language be inserted in the August 22 Minutes concerning the mobile unit luncheon wagon and Councilor Brock said he thought it had been Councilor Shwaery.

Chairperson Grinnell asked if there were any other corrections to the Minutes and then said the Minutes could be considered accepted, as corrected. Chairperson Grinnell then asked if there was any other new business.

i. *OTHER* – None.

11. COMMITTEE AND OTHER REPORTS

a. *COMMUNICATIONS FROM THE CHAIRPERSON*

Chairperson Grinnell said she had a few things. She said she had been reading the Minutes of the Port Authority's 9/1/05 Meeting that were in their packets and on Page three, it says that Harbor Master McCollect is getting ready to do mooring letters to people telling them they did not pay. Chairperson Grinnell asked if that meant there were people out there until September 1 that have never paid for their mooring? Town Manager Carter said there were a couple of issues involved and that they had begun to work with the Navy in order to access their records. He wasn't sure if that was what was meant there or not because the Harbor Master had come in and spoken with him about the assessment collection. Chairperson Grinnell said she would like the Manager to speak with the Harbor Master because it sounded like people had had their moorings and had not paid and that was not all right with her and she wondered if anyone else wanted to say anything about that. Town Manager Carter said he certainly would get back to them.

Chairperson Grinnell said the Council had received a letter from a man who lived on 236 by certified mail, which said they were concerned about their neighbors' property. She said she wanted to somehow respond to Mr. MacKenzie letting him know they received this and how they were going forward on it. Town Manager Carter said they had a letter going to this individual and a note from the Code Enforcement Officer as well. Chairperson Grinnell said okay, she would keep this.

Chairperson Grinnell said she had attended the annual clambake for the Kittery Land Trust and accepted an award on behalf of the Town. The award was presented in recognition of all the outstanding efforts made by Council members and private citizens for the preservation of Fort Foster, keeping it available for the citizens of Kittery and Kittery Point. Chairperson Grinnell said that it was going to be an annual award and she accepted it because back in the late 50's or early 60's, the Town was going to decide what to do with Fort Foster, whether to sell it for development or keep it for the Town, and a group of forward-thinking people voted to keep it and what a great vision they had, so we can go and enjoy the park. She said she wanted to thank all those family members whose relatives were still alive for all their hard work.

Chairperson Grinnell said that one more thing was that the nominating papers were now in for Council and the School Board. She said she believed there were two seats open for the School Board and there were two running: Teresa Schneier and Lauri Pasqualoni and there were two seats open for the Town Council. She said they would be losing Councilor Balano for a little while and Councilor Guy's seat was opening up; there were two candidates for seats on the Council: Jeff Brake and Judith Spiller. (It was mentioned that Councilor Guy wanted to keep his seat.) Chairperson Grinnell said that hopefully they would have a candidates night, they would ask Traip to handle or the Council would handle it.

b. *TOWN MANAGER'S REPORT*

*Resignations – Officer Ron Lund, Karen Sullivan, Dispatcher and Theresa Gilman and Debi Solich, receptionists*

Chairperson Grinnell said, now on to the Manager's Report and Town Manager Carter said he had no report.

c. *COMMITTEE REPORTS* – None.

12. ADJOURNMENT

CHAIRPERSON GRINNELL MOVED TO ADJOURN AT 8:35 P.M., SECONDED BY COUNCILOR BALANO WITH ALL IN FAVOR BY VOICE VOTE.