

APPROVED MINUTES
Approved on October 27, 2008

KITTERY TOWN COUNCIL

October 15, 2008

Council Chamber

1. **CALL TO ORDER**
Chairman Jeffrey Thomson called the meeting to order at 7:00 p.m.
2. **INTRODUCTORY**
Chairman Thomson read the Introductory.
3. **PLEDGE OF ALLEGIANCE**
The Chair led those present in the Pledge of Allegiance.
4. **ROLL CALL**
Answering the roll were Councilors Jeffery Brake, Frank Dennett, George Dow, Ann Grinnell, Glenn Shwaery, Vice Chair Spiller and Chairman Jeffrey Thomson. Also present were Town Manager Jonathan Carter, Fire Chief David O'Brien, Patty Ayers, Don Gagnon, Brenda Goodell, Eleanor Gee Downs, Kate Lance, Chris Perkins, George Shea, Diane Fallon, Elizabeth McKay, Gary Beers, Recorder Chris Kudym, members of the press and others.
5. **ACCEPTANCE OF MINUTES**
The Minutes of September 22, 2008 were accepted, as read.
6. **INTERVIEWS FOR THE ZONING BOARD OF APPEALS, PLANNING BOARD OR CABLE TELEVISION RATE REGULATION BOARD: None**
7. **PUBLIC HEARINGS**
 - a. (100108-1) *THE KITTERY TOWN COUNCIL MOVES TO HOLD A PUBLIC HEARING TO RELEASE \$2,250 IN GRANT MATCH FUNDS FOR THE CLIMBING WALL AT TRAIIP ACADEMY FROM THE GRANT MATCH RESERVE ACCOUNT.*

Chairman Thomson stated that notification of this Public Hearing was published in the local printed media on Friday, October 3rd and referred to information Council had received in a letter from Patty Ayers concerning the fact that the Timberland Company had donated this wall and funds were being sought to move the wall to Traip Academy. The Chair then opened the Public Hearing.

Don Gagnon, soon to be of 27 Pinkham Ave. and currently of 4 Dana Ave., came to the podium and indicated that he was the Phys. Ed. teacher at Traip Academy. Mr. Gagnon said that hopefully the Council would approve these funds because at the end of the day it would mean that Traip would have a state-of-the-art climbing wall for their students as part of the curriculum and it could also be used as part of the Recreation Department to benefit the whole community.

The Chair closed the Public Hearing.

Approved on 10/27/08

COUNCILOR SHWAERY MOVED TO RELEASE \$2,250 IN GRANT MATCH FUNDS FOR THE CLIMBING WALL AT TRAIIP ACADEMY FROM THE GRANT MATCH RESERVE ACCOUNT, SECONDED BY COUNCILOR BRAKE.

Referring to the \$30,000 amount estimated for the removal and reinstallation of the climbing wall in the correspondence from Ms. Ayers, Councilor Dennett questioned how that amount would be achieved. Town Manager Carter indicated that the School Committee would also contribute \$2,250 and Ms. Ayers came to the podium explaining that donations were also being received from local companies to transport the wall, as well as donations from local hotels for the installation.

Councilor Shwaery asked how liability coverage for public use of the wall would be handled? Mr. Gagnon replied that the Town's insurance policy would cover the public use of the wall and that certified training would be made available, noting that research had proven that climbing was safer than playing football.

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

b. (100108-2) *THE KITTELY TOWN COUNCIL MOVES TO HOLD A PUBLIC HEARING ON AN APPLICATION FROM MAC'S CONVENIENCE STORES, LLC, P.O. BOX 347, COLUMBUS, IN FOR A VICTUALERS LICENSE FOR AMATO'S, 103 U.S. ROUTE 1 BYPASS.*

Chairman Thomson indicated that notification of this Public Hearing was published in the local printed media on Friday, October 3rd and opened the Public Hearing. Not receiving a response, the Chair then closed the Public Hearing.

VICE CHAIR SPILLER MOVED TO APPROVE THE APPLICATION FROM MAC'S CONVENIENCE STORES, LLC, P.O. BOX 347, COLUMBUS, IN FOR A VICTUALERS LICENSE FOR AMATO'S, 103 U.S. ROUTE 1 BYPASS, SECONDED BY COUNCILOR GRINNELL.

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

c. (100108-3) *THE KITTELY TOWN COUNCIL MOVES TO HOLD A PUBLIC HEARING ON AN APPLICATION FROM HOLODEK GAMING, INC., 8 MERRILL INDUSTRIAL DRIVE, UNIT 12, HAMPTON, NH FOR AN AMUSEMENT DEVICES LICENSE FOR HOLODEK GAMING, 506 U.S. ROUTE 1.*

Chairman Thomson indicated that notification of this Public Hearing was published in the local printed media on Friday, October 3rd and was for 40 amusement devices. The Chair opened the Public Hearing and not receiving a response, closed the Public Hearing.

COUNCILOR GRINNELL MOVED TO APPROVE THE APPLICATION FROM HOLODEK GAMING, INC., 8 MERRILL INDUSTRIAL DRIVE, UNIT 12, HAMPTON, NH FOR AN AMUSEMENT DEVICES LICENSE FOR HOLODEK GAMING, 506 U.S. ROUTE 1, SECONDED BY VICE CHAIR SPILLER.

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

d. (100108-4) *THE KITTELY TOWN COUNCIL MOVES TO HOLD A PUBLIC HEARING ON AN APPLICATION FROM THE RICE COMPANY, 961 CONGRESS STREET, DUXBURY, MA*

Approved on 10/27/08

FOR A MOBIL UNIT LICENSE FOR FAIR POINT COMMUNICATIONS, 355 CONGRESS STREET, BOSTON, MA.

Chairman Thomson indicated that notification of this Public Hearing was published in the local printed media on Friday, October 3rd and asked the Manager to clarify the application.

Town Manager Carter explained that this was a promotional program that the advertisement company for Fair Point wished to put on in Kittery in order to promote their product, the FIOS Verizon Fast Fair Point internet and telephone service. They wanted multiple ice cream trucks with Fairport and Fast marketing logos to give away ice cream. They also wanted to place door hangers door-to-door, for which Police Chief Strong indicated their need to register with the State. The Manager noted that a representative of the advertising company, Brenda Goodell, was present in order to answer any questions.

Chairman Thomson asked Ms. Goodell about the dates being requested and she replied that they were proposing October 29th through November 2nd, which was Wednesday through Sunday. The Chair opened the Public Hearing and not receiving a response, closed the Public Hearing.

COUNCILOR GRINNELL MOVED TO APPROVE THE APPLICATION FROM THE RICE COMPANY, 961 CONGRESS STREET, DUXBURY, MA FOR A MOBIL UNIT LICENSE FOR FAIR POINT COMMUNICATIONS, 355 CONGRESS STREET, BOSTON, MA, SECONDED BY VICE CHAIR SPILLER.

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

8. DISCUSSION

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

Eleanor Gee Downs of 21 Gee Road came forward saying that she was extremely concerned about the environmental impacts of the development occurring on Lot 1G on Gee Road. She said that last February, she had presented a letter regarding environmental issues but had received no response. Ms. Downs indicated that Gee Road was zoned as a rural residential zone. She stated that the owner of the lot had been denied a permit but it was apparent a structure that appeared to be of a commercial nature was being built. Since this was a neighborhood of residences, Ms. Downs asked why a building of this nature was being allowed and if homeowners on Gee Road, who had invested thousands in their residences, had no impact on what structures were allowed, especially when they deviated from the character of the neighborhood dwellings. Ms. Downs noted that although her dwelling did not abut this project, she was concerned about its intended uses and wondered if material of a flammable nature would be stored there and, if so, were fire suppression systems going to be installed since this would not be an inhabited structure? Also, she said, there was a huge pile of mud and rocks that was dumped close to the end of Gee Road, which would be a hindrance this winter when they arranged to have the road plowed, noting that this was a private road that the residents maintained themselves. Ms. Downs said that it was her opinion that this structure diminished the value of the homes on Gee Road and she would like to know if this would be permitted on Gerrish Island, Kittery Point or other residential areas of Kittery?

Kate Lance of Old Farm Road came to the podium saying she wanted to speak about her disappointment with the Council's 5-2 vote regarding putting Frisbee School on the November 4th

Approved on 10/27/08

ballot. She had been so disappointed at the five of them who didn't allow the Townspeople to vote; the five of them had the opportunity to say where they stood and yet all of them who stayed current with the information, who shared information, who went to the discussions, who heard the thoughtful deliberations and architectural ideas and who tried to make sense of it, had had that opportunity taken away from them and it was with great disappointment that she found that out. Ms. Lance said she had children at Frisbee and a child at Mitchell School; she was very invested in where the Town was going and would very much like to have the opportunity to place her vote where she stood. Ms. Lance reiterated her disappointed and wanted to speak to the frustration of what the School Board must have felt for their incredible time and dedication in this matter. June was when the information came out and yet there had been no indication until this meeting of two weeks ago, a meeting which many had not been able to attend because of the Mitchell School open house. Ms. Lance stated that she would expect more.

Chris Perkins of Leach Road came to the podium saying he would like to follow up on those comments regarding the same vote. As the Town's higher echelon of officials, he would ask that Councilors share their opinion. That, he said, was what was really frustrating, that there was an opportunity over the course of these months, with the work that the School Committee did with their consultant and with a lot of people giving input and - even just a week or two before the vote, there was the very encouraging brainstorming session - so if they had an opinion on it, please share it. If there was an alternate approach, let's get it on the table sooner rather than later because he felt like they were either taking two steps forward and one step back or one step forward and two steps back at this point. That was what he would urge them to do, if they had a concern in the direction the Town was going, obviously their role was to share that vision and that concern. He hated to go through this again, hated to have the School Committee go through this again and regardless of what it was, whether it was the schools, the rec, the highway, the DPW, whatever it was, if there was a feeling that things were moving down a path they didn't agree with, please make it clear so everyone was at least on the same page and could talk about the merits of what was being proposed. Mr. Perkins said that was what he would ask Council to do.

George Shea of Walker Avenue came to the podium saying he also wanted to express his dismay and shock about the Council's decision not to let the vote on Frisbee go to the poll. He thought the School Department's process was excellent in looking at the different possible configurations. They had many opportunities for people to voice their input and had many experts come in, architectural engineers, people who knew a lot more than he did about school configurations and school set-ups, and the community had been invited to go to all of those. He couldn't go to each one but went to some and felt he had the opportunity to speak on it as much as he wanted to. In the end, Mr. Shea said, he didn't particularly like the recommendation and didn't feel the configuration was what was best suited for education but he took it because he thought the process was honorable and well done and when he saw all that had been done, all that work and the amount of time for opinion that was possible from this community and the amount of extensions they had made and it went to this Council and they chose not to let it go to the voters, he really thought what arrogance at that point and when he read further about some of the reasonings behind it, about being able to take kids in Frisbee and put them with kids from Mitchell and Shapleigh with a few minor tweaks here and there, as someone who had gone through the process and looked at what these people were looking at, he thought what ignorance. Mr. Shea said he thought that tandem was really hard for a community to overcome; he thought a community could overcome arrogance or ignorance in Town officials but when they came together and all this work had been done before them, he thought that was a tough

Approved on 10/27/08

thing to move through. He hoped this Council had a pretty significant plan for what to do with Frisbee because just saying no didn't work when the whole community went through a process. He thought they needed ideas; if you come to me with a problem, bring me two solutions. He thought they needed some solutions for what was going to happen to that building and it couldn't just come at budget season time when they said "no more money goes into Frisbee" because that didn't work; it wasn't a forward thinking proposal so he hoped as they moved forward that their Council members could be more collaborative and informed about their process because he thought it would be very necessary for this community.

Thad Ackerman of Haley Road came to the podium and identified himself as a teacher, small business owner and a parent of a child in Kittery schools. Mr. Ackerman said he could echo a lot of the thoughts but wanted to make two additional points. Having gone to school and grown up in university towns and, as part of his teacher training, observing different kinds of meetings where consideration was being given to different school additions, he noted that at Oyster River, it took them over a decade to finally make some of the improvements, during which time, the students suffered. They had three students sharing a locker, they lost their accreditation because of the physical plant, and they couldn't have handicapped accessibility so he worried about the kids of the parents here and certainly about his own daughter. He worried about Frisbee; there was a recent editorial in the Portsmouth Herald stating a concern about what would happen to the kids in Frisbee. Mr. Ackerman noted they were all concerned about finances and he appreciated Council's efforts to keep tax rates low and knew they were juggling a lot of balls. In the meantime, when maybe no solution had been looked at or, again, the Council just said no, then things started to become disrepaired at Frisbee so the question rose, do you either put money into a school that you planned on not doing something with or do you not do the repairs and the kids suffer? From what he had heard, there were already shortcomings in the school. The more you wait, of course, finances being what they were, and inflation being what it was, costs increased. In the case of Oyster River, the ultimate cost of that project was so much more for two reasons, one because of inflation and two, because they lost their accreditation. In the meantime they actually had to do portable structures that were not cost-efficient when if they had had the wisdom and foresight, they could have done so earlier. So, with all due respect, and he meant that sincerely, there were really two points of view: that the community came together, the school committee came together, architects came together and, again, he would echo the previous speaker in that if there were disagreements, they should be voiced. Mr. Ackerman said he had lived in this area for most of his life and he really believed in Kittery, he loved seeing the things that the Rec Center did and the community did and he thought in this case, with all due respect, it fell short of what they were capable of as a community and, thinking positively because he was a teacher, he hoped to see better going forward.

Diane Fallon of Miller Road came to the podium to ask how the Town was going to move forward on the school reorganization without the funding for an architect. She also wanted to express a concern that this process could drag on for many years like the Portsmouth Middle School, which had been going on for five years and was probably still five years away from a Middle School. In the meantime, they would essentially be dumping money into keeping Frisbee safe and operational. In the recent rain, the School Department had to hire specialized equipment that cost thousands of dollars a day just to get up and look at the roof, never mind fix it, so she thought it wasn't a crisis now but it could easily become a crisis so her question was what was the plan and what was the time line?

Approved on 10/27/08

Elizabeth McKay of 18 Wyman Avenue came to the podium saying she had a seven-year-old son who was going to be going into school at Frisbee next year and she was really concerned about it. From what she understood, it seemed that Frisbee had no leadership. At Mitchell School, David Foster was just amazing because he had every kid's back but there was none of that at Frisbee. Regarding safety issues at Frisbee, she said that the bottom line was they were talking about their children and she was concerned about it but really concerned that it didn't necessarily seem to be so concerning to other people in Town beyond parents. Their children needed to be in a structure that had a sprinkler system in place, that was free of bats - the things she'd heard at PTA blew her mind - and they needed to be on this and, yes, they would be dumping money into Frisbee because there was no quick solution for all of this but they needed to be taken care of in a big way. In her opinion, that meant getting on it and going forward in a steady motion, not going back and forth, back and forth, back and forth. It was really clear to her that their safety was at stake; their education was at stake and she took this very seriously and just wanted to know that the Council was taking it seriously and thought that was a pretty fair question so she would keep showing up as much as she could. From what she'd heard, there had been many, many parents before her that had put their energy in trying to fight this same battle for decades in this Town and there were a lot of problems in this Town and even though they were putting so much money in per kid, they had to find a solution. As a community, they had to come up with a solution because going back and forth was just wasting time. Ms. McKay concluded by saying she wanted them all to know she appreciated the effort and time they put in.

Gary Beers came to the podium and said he had listened to some of the dialogue concerning this particular question and it had a lot of passion; it also had a lot of rumor and a lot of innuendo. He had been at the September 22nd meeting when the Council took that vote and had seen no arrogance; he did see ignorance, which was confirmed at the Joint School Committee/Council Workshop on October 7th wherein it was pointed out that inadequate detail direct to the warrant presented had not been provided to the Council prior to that meeting. It was also pointed out that the warrant article, as written, was technically flawed and there were serious considerations about the implications of what they were presented to pass on. He thought the Council's action in a technical sense was appropriate facing the absence of information and the technical flaws in the warrant article. He would also suggest - with his years on the School Committee and school business administration dealing with school construction, quality standards, space and efficiency utilization, allocation specifications and educational allocations - that there was some work that needed to be done and, for himself, in this Town, he didn't see any prohibitive area towards actually making that bogie of approval for a construction project next June.

b. *CHAIRPERSON'S RESPONSE TO PUBLIC COMMENTS*

Addressing Ms. Downs, the Chair noted he had seen Town Manager Carter speaking with her and asked if she had been provided with some answers or information? The Manager said that he would be providing the same.

Addressing the other issue, Chairman Thomson noted that, as they had heard, a lot of the issues had been talked about a number of times. Those people who were there on the 22nd or happened to view it on cable saw the deliberations of the Council and some of the questions that were raised. The Chair noted that the questions he had raised, for example, were nothing new and were questions he had been speaking about for a year. Councilor Grinnell and Councilor Shwaery raised very different issues regarding the wording of the ballot, the fact that it was unclear what the voters were really being asked to do, what that money hoped to accomplish and so forth, so there were a variety of reasons why

Approved on 10/27/08

the majority of the Council opted not to move that particular question forward for the November ballot. That did not mean that the issue of the three-school configuration, the closing of Frisbee and relocating these children into the other three buildings was not going to move forward and would be moving forward. Council had a workshop with the School Committee on October 7th where he thought they had a pretty healthy discussion about concerns and came up with a course of action that they hoped would yield some results. Folks were unfortunately kind of mixing apples and oranges in what the firm was asked to do in the spring, the questions they were asked to answer and what they didn't answer that perhaps they should have answered, but they couldn't deal with any of that now. All they knew was, yes, they had a Frisbee School that needed attention but they also had identified space in their other three buildings. They had a declining enrollment, with fewer children in Frisbee School this year than last year; there were only 313 students at Traip Academy, which was built to house 425 to 450.

The Chair said those were some of the issues that had to be discussed between the Council and the School Committee as they tried to move forward and that discussion regrettably had to be taken place in light of the world, the state, and the local economic conditions and what people could do. They saw all around them, Prime Tanning, long-time business in Berwick, closing, Wentworth Lumber, long-time business in Exeter, closing, retail sales for the month of September, sharpest drop in two years. That drop in retail sales would translate into a drop in sales tax revenue, which would translate into a drop in revenue sharing, which affected cities and towns in Maine. They all had seen on the news the difficulties the lobster industry in Maine was experiencing. The Governor of Massachusetts at 5:00 this afternoon announced \$1.4 billion worth of cuts to the Massachusetts State Budget because of economic conditions there. There was a meeting in Augusta today of Gov. Baldacci and he was pretty sure they would hear similar news coming from Augusta.

This body also had a workshop with the School Committee on the 29th of September to talk simply about the budget issues for FY-10. Later this evening, they would be setting the tax rate for the current fiscal year and next year, although they hadn't thought it could look worse when they acted on the budget last summer, it did look worse so they would be dealing with that. That was the climate in which they had to make decisions and he believed they would solve this issue but it was going to take teamwork between the School Committee and the Council. It was going to need folks being open to some changes, maybe in where students went and perhaps sizes of classes but these issues needed to be addressed. Speaking to Ms. McKay, the Chair noted that, as she had indicated, Kittery certainly did not want for support of education with \$14,000 plus per student compared to a \$10,000 State average. A recent survey by the Maine Municipal Association indicated that the average expenditure percentage wise by cities and towns in Maine was 58% of their budget; Kittery spent 68% of its budget for education so they all needed to understand that the appropriate support was there. They had an issue they needed to work through and that was what they were going to try to do in the coming months working with the School Committee.

9. UNFINISHED BUSINESS

Councilor Shwaery referred to an update Council had received regarding the Wood Island project, saying he assumed this was an environmental engineering senior project through UNH, which would be a year long issue.

Vice Chair Spiller confirmed that it was a UNH senior project with the goal of having a student report in April. Those students would be giving a presentation and working toward putting together a plan for collecting public input, as well. Councilor Shwaery expressed his concern that they were not setting themselves up again to present themselves with a number of options, none of which were palatable for them and if they were telling students to use their imaginations and not be restricted, he

Approved on 10/27/08

thought they needed to at least suggest that they needed to keep a budget in mind because the Town would not be able to spend unlimited funds on this.

Vice Chair Spiller noted that the Committee that was working on this with the students consisted of Councilor Grinnell (who was a bit of a tightwad), the Town Manager, Page Mead and Ken Fellows and thought their goal was to bring something to the Council that would allow them to preserve Wood Island without spending a lot of money that they didn't have. In fairness to the students, who were top line students, they had to be allowed to use a bit of imagination but they would know, through the process of meeting with the Subcommittee and speaking before the Council, that reality demanded that whatever they came up with would not involve a lot of money.

Councilor Shwaery noted that lots of times these environmental engineering students were concerned about human use of an environment altering what they needed to do and he just didn't see Wood Island having human use or the Town being able to afford any human use out there; that was just his statement of concern.

Town Manager Carter indicated that the Committee working on it shared that concern and that was why the grant application clearly stated three areas to research, including: (1) what was the cost to restore it and was it even feasible to restore it; (2) what was the cost to remove it and put an architectural design there to be a model or monument; and (3) what was the condition of the Island itself, was the infrastructure so far gone that it was hopeless. That's what the students were looking at, not weddings or anything like that.

10. NEW BUSINESS

a. (100108-5) *THE KITTERY TOWN COUNCIL MOVES TO APPROVE THE DISBURSEMENT WARRANTS.*

Chairman Thomson listed the following warrant article:

Warrant No. 12	Town Accounts Payable	\$ 793,273.58
----------------	-----------------------	---------------

COUNCILOR SHWAERY MOVED TO APPROVE THE DISBURSEMENT WARRANT, SECONDED BY VICE CHAIR SPILLER.

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

b. (100108-6) *THE KITTERY TOWN COUNCIL MOVES TO APPOINT JOYCE TOBEY AS WARDEN AND SANDRA LUTTS AS DEPUTY WARDEN AND THE OPENING OF THE POLLS AT 7:00 A.M. AND CLOSING AT 8:00 P.M. FOR THE NOVEMBER 4, 2008 STATE AND MUNICIPAL ELECTION, AS RECOMMENDED BY THE TOWN CLERK.*

COUNCILOR GRINNELL MOVED TO APPOINT JOYCE TOBEY AS WARDEN AND SANDRA LUTTS AS DEPUTY WARDEN AND THE OPENING OF THE POLLS AT 7:00 A.M. AND CLOSING AT 8:00 P.M. FOR THE NOVEMBER 4, 2008 STATE AND MUNICIPAL ELECTION, AS RECOMMENDED BY THE TOWN CLERK, SECONDED BY COUNCILOR BRAKE.

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

Approved on 10/27/08

c. (100108-7) *THE KITTERY TOWN COUNCIL MOVES TO SIGN THE MUNICIPAL WARRANTS FOR THE NOVEMBER 4, 2008 MUNICIPAL ELECTION.*

Chairman Thomson indicated that these were warrants to be posted and testified to indicating that Chief Constable Edward Strong had been informed to notify the voters of the community of the November 4th election of two members of Town Council for three-year terms; two School Committee members for three-year terms; and one referendum question.

VICE CHAIR SPILLER MOVED TO SIGN THE MUNICIPAL WARRANTS FOR THE NOVEMBER 4, 2008 MUNICIPAL ELECTION, SECONDED BY COUNCILOR GRINNELL.

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

d. (100108-8) *THE KITTERY TOWN COUNCIL MOVES TO APPROVE AND AUTHORIZE THE TOWN MANAGER TO SIGN A PARKING RENEWAL LOT LEASE AGREEMENT WITH THE RICE PUBLIC LIBRARY.*

Town Manager Carter stated that the parking lot beside the Rice Public Library was a leased lot from the Library to the Town. There was a Lease Agreement between the Library and the Town and this was a continuation of that agreement.

COUNCILOR GRINNELL MOVED TO APPROVE AND AUTHORIZE THE TOWN MANAGER TO SIGN A PARKING RENEWAL LOT LEASE AGREEMENT WITH THE RICE PUBLIC LIBRARY, SECONDED BY COUNCILOR BRAKE.

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

e. (100108-9) *THE KITTERY TOWN COUNCIL MOVES TO ESTABLISH AN OVERLAY AMOUNT OF \$_____, RESULTING IN A MILL RATE OF _____ MILLS AND TO CHARGE AN INTEREST RATE OF 11% PER ANNUM ON PAST DUE ACCOUNTS AND AN INTEREST RATE OF 7% ON OVERPAYMENT OF PROPERTY TAXES.*

Chairman Thomson stated that this completed action of the budget that had been adopted in June so that property tax bills could be mailed later this month or early November for payment in December this year and June of '09. The Chair referred to information provided by the Town Manager regarding the options opened to them.

The original proposal called for a mill rate of .01404, or a \$.04 increase, a .3% increase in the tax rate for the coming budget tax bills. That was using \$200,000 of the up to \$300,000 surplus that the voters authorized the Council to use in the vote of June 2008.

They also had a couple of other options. One was to use the entire \$300,000, which would make the mill rate .01398, a decrease of \$.02.

Another option was to use \$250,000 of the surplus, which would have the tax rate remain the same as the current fiscal year, .01400 and would require an overlay of \$250,539. The overlay was used to cover abatements and other issues regarding taxation and a certain amount of that figure was required by law to be appropriated to be included as part of the tax rate.

COUNCILOR DENNETT MOVED TO ESTABLISH AN OVERLAY AMOUNT OF \$203,969, RESULTING IN A MILL RATE OF .01404 MILLS AND EQUATING TO \$14.04, OR A \$.04 INCREASE, OVER THE CURRENT TAX RATE, SECONDED BY COUNCILOR DOW.

Approved on 10/27/08

Councilor Dennett said that Council had several options. When they first started this process, Council was most interested in holding the tax rate even at \$14 per thousand. As they got into more than preliminary discussions and with the approximated figures given to the Manager by the Assessor, it looked like they would end up with a \$.10 increase in the rate, or \$14.10. Councilor Dennett noted that these figures changed constantly and with no changes over what they had discussed, it would come out to \$14.04. Certainly, they could bring it down to \$13.98, however, with the current economic difficulties, not only country-wide but in their State, he feared they might need that \$100,000 and he didn't want to let go of that surplus if they found themselves in very dire straits and they could be slammed by the State in revenue sharing and who knew whatever areas. In making this motion, he thought if they could have a \$.04 increase in the tax rate, which was about three tenths of one percent, they were doing pretty good.

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

Chairman Thomson stated they needed an additional motion to set the due date for taxes, one half being due by December 10, 2008 and the second half due June 10, 2009 and establishing an interest rate of 11% on past due accounts and 7% on overpayment of property taxes.

VICE CHAIR SPILLER MOVED TO SET THE DATE OF DECEMBER 10, 2008 FOR PAYMENT OF ONE HALF THE AMOUNT OF PROPERTY TAXES DUE AND THE DATE OF JUNE 10, 2009 FOR PAYMENT OF THE SECOND HALF OF SAID AMOUNT AND TO ESTABLISH AN INTEREST RATE OF 11% PER ANNUM ON PAST DUE ACCOUNTS AND AN INTEREST RATE OF 7% ON OVERPAYMENT OF PROPERTY TAXES, SECONDED BY COUNCILOR BRAKE.

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

Chairman Thomson said he would like to echo comments by Councilor Dennett but also to say that when this body received the initial budget, as proposed, it was going to call for a \$.93 increase, 6.7%, and it was through the fine work of the Manager and his Municipal Department Heads and the School Department that they ended up where they were at a .3% increase. He was sure some would like to see no increase but given what they had to deal with, the revenue decline and looking at what they may face in the coming months, he thought this was a prudent course of action and he personally wanted to thank members of the Council, the Municipal side of the aisle and the School Department for the work they did to achieve this particular mill rate in very difficult times while still moving forward with a number of initiatives regarding sustainability.

f. (100108-10) *THE KITTERY TOWN COUNCIL MOVES TO SCHEDULE A DATE TO HOLD A PUBLIC HEARING TO REPEAL APPENDICES A, B AND C OF THE GENERAL ASSISTANCE ORDINANCE, WHICH BECAME EFFECTIVE OCTOBER 1, 2007 AND ADOPT THE REVISED MMA MODEL ORDINANCE GA APPENDICES A, B AND C FOR THE PERIOD OF OCTOBER 1, 2008 – OCTOBER 1, 2009. THE GA ADMINISTRATOR IS AUTHORIZED TO BEGIN USING THE NEW REVISED APPENDICES AS OF OCTOBER 1, 2008.*

Chairman Thomson indicated that this was an annual event that they did to adjust their General Assistance standards to keep them in line with State standards every October.

Approved on 10/27/08

COUNCILOR SHWAERY MOVED TO SCHEDULE OCTOBER 27, 2008 FOR A PUBLIC HEARING TO REPEAL APPENDICES A, B AND C OF THE GENERAL ASSISTANCE ORDINANCE, WHICH BECAME EFFECTIVE OCTOBER 1, 2007 AND ADOPT THE REVISED MMA MODEL ORDINANCE GA APPENDICES A, B AND C FOR THE PERIOD OF OCTOBER 1, 2008 – OCTOBER 1, 2009. THE GA ADMINISTRATOR IS AUTHORIZED TO BEGIN USING THE NEW REVISED APPENDICES AS OF OCTOBER 1, 2008, SECONDED BY VICE CHAIR SPILLER.

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

Town Manager Carter stated that if Council had no objections, because the State was suggesting they implement this October 1st, the General Assistance Program would start using these rates effective immediately.

Councilor Dennett noted that he couldn't authorize an ordinance that hadn't gone through the proper procedure, he did not object but he did not authorize.

g. (100108-11) *THE KITTERY TOWN COUNCIL MOVES TO HEAR AN UPDATE ON THE PROPOSED NEW CIP PLANNING PROCESS.*

Chairman Thomson indicated that they had discussed this very briefly at a workshop on September 29th with the School Committee and it was decided to have it as an agenda item basically to see if there were any initial questions that the Manager could address and then they would look toward an actual workshop next Monday, the 20th, to discuss this in detail.

Town Manager Carter explained that this was an effort that he, along with his summer intern and the Fire Chief, had taken on to bring them back into compliance with the Charter in having a multiple year CIP plan that would be adopted by the Town. It was also an effort to bring all departments into the process, including the School Department. The way it worked was using the warrant process for one-time capital items, depreciation accounts being built into the operating budgets, and so what they were trying to do was bring it all into one document, a multiple year process that had a management piece to it, which was one of the items for discussion at the workshop to answer who was on the committee, how it was developed and how it would go forward.

Chairman Thomson suggested 6:00 P.M. on Monday, October 20, 2008.

h. (100108-12) *THE KITTERY TOWN COUNCIL MOVES TO RELEASE FUNDS TO PURCHASE A NEW BOILER FOR THE RECREATION CENTER AND A DUAL FUEL BURNER FOR THE GORGES ROAD FIRE STATION USING THE ENERGY EFFICIENCY ACCOUNT APPROVED BY THE VOTERS AT THE JUNE 10, 2008 TOWN MEETING ELECTION AS WARRANT ARTICLE #14.*

Chairman Thomson indicated that the amount approved by the voters was \$100,000. A process had been pursued to receive estimates and Fire Chief O'Brien and Town Manager Carter would be able to field any questions.

Town Manager Carter said that back in the summer, through the efforts of the Fire Chief, they developed an RFP to begin looking at changing over the boilers to a dual fuel burner system so that alternative fuels could be burned at a lower cost in their public facilities. They did a lengthy analysis

Approved on 10/27/08

with the natural gas company, with propane and with their brokerage group that did the Statewide bid on oil. They put the specs together and, unfortunately, only one bidder on the schools came in at \$75,000. They stepped back when the three school process was being talked about and they were voting to close Frisbee so it didn't make much sense to them if Shapleigh was going to be updated, as well as Traip and maybe Mitchell, to pump this amount of money into a heating system that could change with the upgrades so they backed away. However, they still had need for the Recreation Center, which has its original boiler and burner, to replace it with either oil or natural gas. Natural gas was in the area, a sleeve was installed and the payback was very small so they were suggesting to put a high efficiency boiler in the Rec Center for \$21,000 plus.

Regarding the Gorges Road Fire Station, even though it was a brand new facility, it had a straight burner for oil. The idea was to change it to a dual fuel burner that could burn propane and put a propane system up there so that could go forward and be less expensive for that building.

Those were the two right now they were suggesting they move forward on, the highest priority being the Rec Center.

Chairman Thomson asked Chief O'Brien if the unit currently at the Fire Station could be used anywhere else?

Coming to the podium, Chief O'Brien said that the burner would be taken out and put aside; there was nothing wrong with it. The Chief explained that back when they first started this, oil was \$4.25 a gallon and at that time and natural gas didn't run up there but they were able to get propane at \$2.83, which was a little misleading because oil was more efficient than propane. Doing the numbers, however, they would have burned propane at \$2.73, \$2.83 a gallon vs. the \$4.05, \$4.25 for the oil. The payback would have been roughly \$3,500 so in a matter of three and a half to four years, you've actually paid for the system. They had also looked at the Sewer Department, as well as all the schools and had put an engineered spec together. Dual fuel gave them the capability to go either way. If oil dropped significantly, it was a five-minute changeover and you started burning oil again. The Chief said he believed oil prices would start to skyrocket again and natural gas and propane were local commodities. There was a stub on Whipple Road now that could be used for the Gorges Road Station and Town Hall was already dual fuel capable.

Addressing the Chair's question about the current burner, Chief O'Brien said their plan was to put it aside to be put into use if needed.

Chairman Thomson asked the Manager if whatever they put in at the Community Center, and the Community Center was relocated, could be removed and placed at another site? The Manager replied that it depended on the btu that was needed in the facility and if the Cole Street facility were shut down.

Chief O'Brien noted that he didn't see that building being torn down so it was still going to need a heating system. The present system was well over 60 years old and he had spent a great deal of time looking at it for safety inspections; it wasn't a safe situation and something needed to be done. It could be moved but it would have to go to some sort of equivalent building with that kind of btu and could, in fact, be taken down and put in at the old Kittery Fire Station.

Councilor Dow had questions about the systems at Traip and Frisbee, which Chief O'Brien answered. The Chief indicated that he had an inventory of every boiler in every municipal building.

Approved on 10/27/08

Councilor Dow asked if there was a benefit to doing both the Fire Station and the Rec Center at the same time and the Manager stated that the Rec Center needed something before winter.

Councilor Dennett asked the Chief if he used propane for the generator at Gorges Road and the Chief replied that he used diesel. Councilor Dennett noted that they would have to get propane capacity tanks put in there. The Chief said that companies would put in the tank and run the outside piping to a regulator at their cost as long as you used their product. Councilor Dennett asked if he had considered wood up there and the Chief replied that, in fact, they had and it was a strong possibility for the future.

CHAIRMAN THOMSON MOVED TO ACCEPT THE PROPOSED QUOTE OF \$21,725 TO REPLACE THE EXISTING BOILER AT THE COMMUNITY CENTER AND THE PROPOSED QUOTE OF \$12,650 TO REPLACE THE EXISTING OIL FIRED BURNER AT THE GORGES ROAD FIRE STATION, FUNDING TO COME FROM THE ENERGY EFFICIENCY UPGRADE ACCOUNT APPROVED BY THE VOTERS IN THE JUNE WARRANT ARTICLE, SECONDED BY VICE CHAIR SPILLER.

Councilor Dennett asked for an explanation of a note from the Town Manager indicating that he had proceeded in moving forward with bringing natural gas into the Recreation Center at no additional charge in commitment years.

Town Manager Carter explained that initially, when they had estimates from the natural gas company, there was a required payback period but when they started working with them and signing contracts, they actually did away with any commitment for the Rec Center and lowered it way down for the Town from seven years to two.

Councilor Shwaery said he wasn't sure why the Fire Station and the Rec Center were being linked within the same motion because now he had to be for both of them to vote for this. They were basically predicting oil prices and he wondered if they would, in fact, be saving that much money. Chief O'Brien said that he personally didn't think oil prices would remain low and what they were trying to do was to hedge their bets.

Chairman Thomson said he felt this was a move toward sustainability and toward freeing themselves from imported oil. It could be done with funds that had been authorized by the voters and wouldn't affect the tax rate. The boiler coming out of the Fire Station, as the Chief mentioned, could be stored and perhaps used somewhere else so he saw this as an expense that was being forward thinking and protecting the Town from these spikes and that was why he was choosing to support it.

Councilor Shwaery commented that it was true it wouldn't affect the tax rate but though the warrant allowed for the use of up to \$100,000, that didn't mean they had to spend \$100,000 and he was uncomfortable in trying to predict the difference between propane and oil over the next eight years.

A ROLL CALL VOTE WAS TAKEN, AS FOLLOWS: SIX IN FAVOR; ONE OPPOSED. MOTION PASSES 6/1, WITH COUNCILOR SHWAERY OPPOSED.

Approved on 10/27/08

i. (100108-13) *THE KITTERY TOWN COUNCIL MOVES TO SCHEDULE A PUBLIC HEARING ON AN ORDINANCE TO CREATE AN EMERGENCY BENEFIT VOLUNTEER PROGRAM.*

Chairman Thomason indicated that this item referred to a piece of legislation that was passed in the last Legislative Session and they were being asked to schedule a Public Hearing so public comment could be heard regarding this proposal to allow seniors over 60 to work a maximum of 103 hours if they met certain requirements.

COUNCILOR GRINNELL MOVED TO SCHEDULE OCTOBER 27, 2008 FOR A PUBLIC HEARING ON AN ORDINANCE TO CREATE AN EMERGENCY BENEFIT VOLUNTEER PROGRAM, SECONDED BY COUNCILOR BRAKE.

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

j. (100108-14) *THE KITTERY TOWN COUNCIL MOVES TO ESTABLISH THE ANNUAL HOLIDAY PARADE SPONSORED BY KIWANIS CLUB OF THE SEACOAST AS A TOWN EVENT TO BE HELD ON SATURDAY, DECEMBER 6, 2008 AT 3:00 P.M. AND TO APPOINT THE FOLLOWING KIWANIS MEMBERS AS THE TOWN'S OFFICIAL PARADE COMMITTEE: NORMAN LEON, GORDON MILLETT AND GLEN PHILBROOK.*

VICE CHAIR SPILLER MOVED TO ESTABLISH THE ANNUAL HOLIDAY PARADE SPONSORED BY KIWANIS CLUB OF THE SEACOAST AS A TOWN EVENT TO BE HELD ON SATURDAY, DECEMBER 6, 2008 AT 3:00 P.M. AND TO APPOINT THE FOLLOWING KIWANIS MEMBERS AS THE TOWN'S OFFICIAL PARADE COMMITTEE: NORMAN LEON, GORDON MILLETT AND GLEN PHILBROOK, SECONDED BY COUNCILOR BRAKE.

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

k. (100108-15) *THE KITTERY TOWN COUNCIL MOVES TO HEAR AN UPDATE ON THE COMMISSIONING OF THE USS NEW HAMPSHIRE ON OCTOBER 25, 2008 AND ITS ORGANIZATION INVOLVING KITTERY.*

Town Manager Carter stated that the USS New Hampshire, the new class of sub-attack submarine, would arrive prior to October 25th. It would steam up the river, there would be a celebration similar to that of the commissioning of the USS Maine and would be a week-long event. On the designated date of October 25th, there would be approximately 3,000 to 5,000 people at the Shipyard and others would line the New Hampshire coast. Kittery's Police and Fire Departments would assist the Shipyard with the crowd and it should be a great event. On the downside, this event, unlike the USS Maine, has had only six months to put together this very large celebration and they have been hampered by the economy, as well as the shortness of time, so the folks on the Commissioning Committee who spoke to them were finding it fairly difficult to bring the entire celebration as they would like to see it together.

l. *OTHER*

Councilor Grinnell asked for an update on Comcast. Town Manager Carter noted that Comcast was a difficult company to deal with in this small environment. They had been unresponsive to their negotiations so they put forward a letter indicating that they would probably be moving

Approved on 10/27/08

forward to an ordinance amendment with their last best offer of six months ago so they hoped Comcast would come back to the table. The Manager noted that they now also had Fair Point waiting in the wings with their Fast product.

Councilor Dennett noted that one of the local publications listed tomorrow night's Candidates Night in the local area but made no mention of Kittery candidates at 6:00 P.M. The Manager replied that there was a "twofer" tomorrow night, with local candidates speaking from 6:00 P.M. to 7:30 P.M. with Traip student asking questions and then from 7:30 P.M. to 9:00 P.M. candidates for the State Senatorial and Representatives races would speak.

Councilor Dow mentioned that the last three or four months he had been coaching soccer outside of the Rec Center and he knew the Police Department had been trying hard to control some of the young juveniles hanging down there smoking, drinking and fighting – he had witnessed fights where he had to call the police. He would make a plea to notify some of the citizens down there, and especially some of the organizations that had worked very hard to save the Village and the green space, to encourage them to step out and take a look at that area. For some of the community members that were immediately in that area, which this affects, who had children, it certainly was not an area where they needed to have other kids smoking with young children out there getting involved in sports and other activities so he would encourage people to step out and use their time to keep and preserve that area that they'd worked so hard to do.

Councilor Shwaery requested that Councilors hold on to as much paper material as they could.

11. COMMITTEE AND OTHER REPORTS

a. *COMMUNICATIONS FROM THE CHAIRPERSON*

b. *TOWN MANAGER'S REPORT*

Town Manager Carter reported that the Route 1 South project was definitely under way and anyone driving down there should take alternate routs, which were plentiful.

The Memorial Bridge closure update meeting had been canceled that week and they would be waiting for another one to be scheduled.

The Sarah Long Bridge was closed from October 27th through November 14th. NHDOT promised to get the signage going.

The ribbon cutting of the wind turbine went very well.

Several Councilors went to the Fuel and More dance, which was held in an ideal setting, which created the atmosphere that was wanted. It produced over \$10,000 for Fuel and More's goal of \$50,000. They believed this would be the first annual dance and they wanted to thank the Gagner Family, the Weather Vane owners, and all the corporate sponsors and the people who made it possible. It was really a community event.

Papers, Inc., the Foreside owner who was somewhat the coordinator of some of the businesses down there had posed the question of whether the Council or the Town would be opposed to the

Approved on 10/27/08

merchants in the area putting some holiday decorations up on the trees, such as lights and wreaths and so forth. It would be on Town property but not violate the protocol of what should be up and they were talking to Central Maine Power about getting some conduits in the ornamental lights down there.

Councilor Dennett said he certainly liked the idea but wondered if there was any way to bring the group under the aegis of the Town's liability insurance? The Manager said that if Council liked and authorized the idea, he would certainly try to bring it under their insurance.

c. COMMITTEE REPORTS

12. ADJOURNMENT

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

MEETING ADJOURNED: 9:50 P.M.