

**APPROVED MINUTES**  
**Approved on June 30, 2008**

**KITTERY TOWN COUNCIL**

**June 9, 2008**

**Council Chamber**

1. **CALL TO ORDER**

Chairman Jeffrey Thomson called the meeting to order at 6:00 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, Ann Grinnell, George Dow, Glenn Shwaery, and Chairman Jeffrey Thomson. Vice Chair Spiller was present at the start of the regular meeting. Also present were Town Manager Jonathan Carter, State Rep. Walter Wheeler, Recorder Chris Kudym, members of the press and others.

5. **EXECUTIVE SESSION**

*THE KITTERY TOWN COUNCIL MOVES TO HOLD AN EXECUTIVE SESSION WITH THE TOWN MANAGER TO FINALIZE HIS EVALUATION AND EMPLOYMENT CONTRACT IN ACCORDANCE WITH 1 M.R.S. §405(6)(A).*

**COUNCILOR SHWAERY MOVED TO OPEN THE EXECUTIVE SESSION, SECONDED BY COUNCILOR DOW, WITH ALL IN FAVOR.**

*Executive Session opened: 6:00 p.m..*

**COUNCILOR BRAKE MOVED TO CLOSE THE EXECUTIVE SESSION, SECONDED BY COUNCILOR GRINNELL, WITH ALL IN FAVOR.**

*Executive Session closed: 7:10 p.m.*

Chairman Thomson indicated that Councilor Grinnell would be leaving the meeting to keep a necessary engagement. The Chair explained that Council had begun their meeting at 6:00 p.m. for an Executive Session to discuss the Town Manager's evaluation and new employment agreement and that final details were being ironed out on that item.

6. **ACCEPTANCE OF MINUTES**

The Minutes of May 28, 2008 were accepted, as read.

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7. INTERVIEWS FOR THE ZONING BOARD OF APPEALS, PLANNING BOARD OR CABLE TELEVISION RATE REGULATION BOARD: None
8. PUBLIC HEARINGS

a (060108-1) *THE KITTELY TOWN COUNCIL MOVES TO HOLD A PUBLIC HEARING ON AND APPROVE THE APPLICATION FROM MARCIA FOYE, 1631 STATE ROAD, ELIOT, MAINE, FOR A VICTUALER'S LICENSE FOR SAUSAGE EXPRESS AT THE LOCATION OF ONE BADGER'S ISLAND WEST, KITTELY.*

Chairman Thomson indicated that this item was published in the local printed media on Friday, May 30<sup>th</sup> and opened the Public Hearing. No response being heard, the Chair closed the Public Hearing.

**VICE CHAIR SPILLER MOVED TO APPROVE THE APPLICATION FROM MARCIA FOYE, 1631 STATE ROAD, ELIOT, MAINE, FOR A VICTUALER'S LICENSE FOR SAUSAGE EXPRESS AT THE LOCATION OF ONE BADGER'S ISLAND WEST, KITTELY, SECONDED BY COUNCILOR BRAKE.**

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

b. (060108-2) *THE KITTELY TOWN COUNCIL MOVES TO HOLD A PUBLIC HEARING ON AND APPROVE THE APPLICATION FROM PETER LAMANDIA, 27 WENTWORTH STREET, KITTELY, FOR A VICTUALER'S LICENSE FOR STARRY NIGHTS BED & BREAKFAST, 27 WENTWORTH STREET, KITTELY.*

Chairman Thomson indicated that this item was published in the local printed media on Friday, May 30<sup>th</sup> and opened the Public Hearing. No response being heard, the Chair closed the Public Hearing.

**COUNCILOR SHWAERY MOVED TO APPROVE THE APPLICATION FROM PETER LAMANDIA, 27 WENTWORTH STREET, KITTELY, FOR A VICTUALER'S LICENSE FOR STARRY NIGHTS BED & BREAKFAST, 27 WENTWORTH STREET, KITTELY, SECONDED BY VICE CHAIR SPILLER.**

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

c. (060108-3) *THE KITTELY TOWN COUNCIL MOVES TO HOLD A PUBLIC HEARING ON AND APPROVE THE APPLICATION FROM ROUTE 1 FUN, LLC, 506 U.S. ROUTE 1, KITTELY, FOR A VICTUALER'S LICENSE FOR ROUTE 1 FUN, 506 U.S. ROUTE 1.*

Chairman Thomson indicated that this item was published in the local printed media on Friday, May 30<sup>th</sup> and opened the Public Hearing. No response being heard, the Chair closed the Public Hearing.

**COUNCILOR SHWAERY MOVED TO APPROVE THE APPLICATION FROM ROUTE 1 FUN, LLC, 506 U.S. ROUTE 1, KITTELY, FOR A VICTUALER'S LICENSE FOR ROUTE 1 FUN, 506 U.S. ROUTE 1, SECONDED BY VICE CHAIR SPILLER.**

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

d. (060108-4) *THE KITTELY TOWN COUNCIL MOVES TO HOLD A PUBLIC HEARING ON AND APPROVE THE APPLICATION FROM ROUTE 1 FUN, LLC, 506 U.S. ROUTE 1 FOR AN AMUSEMENT DEVICE LICENSE FOR ROUTE 1 FUN, 506 U.S. ROUTE 1.*

Chairman Thomson indicated that this item was published in the local printed media on Friday, May 30<sup>th</sup> and opened the Public Hearing. No response being heard, the Chair closed the Public Hearing.

**VICE CHAIR SPILLER MOVED TO APPROVE THE APPLICATION FROM ROUTE 1 FUN, LLC, 506 U.S. ROUTE 1 FOR AN AMUSEMENT DEVICE LICENSE FOR ROUTE 1 FUN, 506 U.S. ROUTE 1, SECONDED BY COUNCILOR SHWAERY.**

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

e. (060108-5) *THE KITTELY TOWN COUNCIL MOVES TO HOLD A PUBLIC HEARING ON AND APPROVE THE RENEWAL APPLICATION FROM JUCOTY ENTERPRISES, LLC FOR A MALT, SPIRITUOUS AND VINOUS LIQUOR LICENSE FOR MAHALO’S, 517 U.S. ROUTE ONE, KITTELY.*

Chairman Thomson opened the Public and not receiving a response, closed the Public Hearing.

**COUNCILOR SHWAERY MOVED TO APPROVE THE RENEWAL APPLICATION FROM JUCOTY ENTERPRISES, LLC FOR A MALT, SPIRITUOUS AND VINOUS LIQUOR LICENSE FOR MAHALO’S, 517 U.S. ROUTE ONE, KITTELY, SECONDED BY VICE CHAIR SPILLER.**

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

9. DISCUSSION

- a. *DISCUSSION BY MEMBERS OF THE PUBLIC (Three minutes per person)*
- b. *CHAIRPERSON’S RESPONSE TO PUBLIC COMMENTS*

10. UNFINISHED BUSINESS

11. NEW BUSINESS

a. (060108-6) *THE KITTELY TOWN COUNCIL MOVES TO APPROVE THE DISBURSEMENT WARRANTS.*

Chairman Thomson listed the warrant articles as follows:

Warrant No. 15	School Nutrition Program	\$ 37,511.33
Warrant No. 22	School Accounts Payable	\$ 227,337.65
Warrant No. 98	Town Accounts Payable	\$ 367,902.82

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

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

b. (060108-7) *THE KITTERY TOWN COUNCIL MOVES TO RE-APPOINT ANNE BORDEN TO THE CONSERVATION COMMISSION UNTIL 5/31/11.*

Chairman Thomson stated that the appropriate paperwork had been received indicating that Councilor Grinnell and Chairperson Wells met with the applicant and had endorsed her for another term.

**VICE CHAIR SPILLER MOVED TO RE-APPOINT ANNE BORDEN TO THE CONSERVATION COMMISSION UNTIL 5/31/11, SECONDED BY COUNCILOR SHWAERY.**

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

c. (060108-8) *THE KITTERY TOWN COUNCIL MOVES TO SCHEDULE A PUBLIC HEARING TO AMEND TITLE 13, PUBLIC SERVICES, OF THE KITTERY MUNICIPAL CODE TO ADD CHAPTER 13.12, FIRE DEPT. IMPACT FEE.*

Town Manager Carter indicated that this was in draft format. Following some discussion, it was decided that Council would first hold a workshop on this item at 6:00 p.m. before their regular meeting on July 14<sup>th</sup> if no Executive Session on the cable issue was scheduled. If the cable issue was scheduled for July 14<sup>th</sup>, a workshop on the present issue would be held at 6:00 p.m. before their regular July 28<sup>th</sup> meeting, possibly along with the issue Councilor Grinnell brought up. As a result of this discussion, no action was taken on this item.

d. *OTHER*

Councilor Dennett noted that four of the license applications voted on either raised a suspicion of a problem or contained errors and he hoped that Council would look at these a little closer in the future.

Councilor Shwaery had a question concerning the under-estimation of what it would cost for centrifuge equipment. The Manager explained that the overage primarily came from the building due to the cost of the steel, the construction and the installation of the equipment but, he said, the funds were available for it.

## 12. COMMITTEE AND OTHER REPORTS

a. *COMMUNICATIONS FROM THE CHAIRPERSON*

b. *TOWN MANAGER'S REPORT*

Town Manager Carter reminded people they could vote tomorrow night at the Shapleigh Middle School until 8:00 p.m. There were a number of items on the ballot that were covered Saturday by the Portsmouth Herald.

Regarding fuel issues, they were working with the School Dept. on moving themselves into an alternative fuel situation. They were putting a bid together to get a cost factor on changing over the buildings to either gas or propane and going to a dual fuel burner system so there were options for

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them in the future. They hoped that by mid-July, early August, they would have a clear direction on how this would all play out.

Regarding the Route 1 road project, there was a Kittery Area Comprehensive Transit Program tax meeting tomorrow where they would be voting on additional necessary funds, as well as seeking authorization to submit a grant to the State for reimbursement of those additional dollars. The Route 1 bids were open and were about \$400,000 over budget. They were trying very hard to stay with concrete sidewalks and granite curb and that item, in itself, was \$125,000 over the budget but they were standing as firm as they could on maintaining that kind of quality in the project.

The Manager noted that responding to a question raised regarding the maintenance of John Paul Jones Park, he met with the Park Manager who indicated that his hope was to speed up the mowing cycle since they had taken on their summer employee. In response to a question by the Chair, the Manager said he would also investigate the small triangle area where Water Street intersected with Commercial.

The Manager reminded Council that they were working with their U.S.S. Greenville Host Committee for a picnic that was scheduled at Fort Foster for Sunday, July 13<sup>th</sup> (not the 16<sup>th</sup>) with a rain date a couple of weeks later. Hopefully, some of the Councilors would come out and help flip hamburgers and hotdogs to welcome the crew.

The Manager reminded Council that their June 23<sup>rd</sup> meeting had been re-scheduled to June 30<sup>th</sup> so there would be no meeting on June 23<sup>rd</sup>.

Lastly, the Manager said he wanted to bring to Council's attention that the Charter had been changed last year to allow for the closing of the books and transfer of accounts to be 30 days after the June 30<sup>th</sup> closure. They would be doing that at the last meeting of July and, at the same time, doing the "carry forwards" if no one had any objection. In addition, the Charter called for a Public Hearing during the financial year where Council could move up to \$50,000 into the Budget if there were any short falls. With Council's permission, they would be doing that also at the second meeting of July, making any transfer retroactive to the FY-08 year.

Councilor Shwaery asked if this was the week of the Homeland Security exercises off the coast? The Manager replied, yes, they had beginning drills this morning with the Kittery and Portsmouth Fire Departments participating. They would then move off into the river for Coast Card/Navy Canadian operations.

Chairman Thomson indicated he received a couple of phone calls regarding traffic issues since Dunkin Donuts opened and wondered if there had been any accidents there. The Manager said he had not heard of any accidents but would agree that the site's circulation could be precarious.

Councilor Dow noted that because the light was so short coming off Haley Road to Route 1, people would race to try to get through it and he wondered if that was something they could talk to the DOT about. He also mentioned that the road seemed to dip there and the Manager said the State was scheduled to be finished paving in that area this summer.

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The Chair then brought up the issue of having a light put in at the dump road and discussion ensued, including Rep. Wheeler's input regarding his interactions with DOT. Chairman Thomson wondered if they could invite a representative to come down to Kittery for public discussions and Rep. Wheeler noted that he had another project going with them and two representatives were coming down to check that out sometime.

The Manager noted that it wouldn't hurt for him to send them a letter suggesting a compromise of having the light operating only on Saturdays.

Councilor Dennett also mentioned the slow traffic by Frisbee School because of the 15 mph speed limit.

13. ADJOURNMENT

**COUNCILOR SHWAERY MOVED TO ADJOURN, SECONDED BY VICE CHAIR SPILLER, WITH ALL IN FAVOR.**

***MEETING ADJOURNED: 7:47 P.M.***