

**APPROVED MINUTES**  
**KITTERY TOWN COUNCIL**

**November 9, 2009**

**Council Chamber**

1. CALL TO ORDER

Chairperson Thomson called the meeting to order at 7:00 P.M.

2. INTRODUCTORY

Chairperson Thomson read the introductory.

3. PLEDGE OF ALLEGIANCE

The Chair led those present in the Pledge of Allegiance.

4. OATH OF OFFICE TO NEWLY ELECTED OFFICIALS

Town Clerk Place administered the Oath of Office to Councilor Brake, Councilor Pelletier, Councilor Thomson and Councilor Dennett.

5. ROLL CALL

Answering the roll were Councilors Gary Beers, Frank Dennett, George Dow, Judith Spiller, Jeffrey Thomson, Jeffrey Pelletier and Jeffery Brake. Also present were Town Manager Jonathan Carter, Town Clerk Maryann Place, Recorder Ashley Rodier, members of the press and others.

6. The Kittery Town Council moves to elect a Chairperson for the ensuing year.

Town Manager Carter then noted that they would be opening up nominations for Chairperson and Vice Chairperson.

**COUNCILOR DOW NOMINATED COUNCILOR SPILLER FOR CHAIRPERSON, SECONDED BY COUNCILOR BRAKE.**

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

7. The Kittery Town Council moves to elect a Vice Chairperson for the ensuing year.

**COUNCILOR BRAKE NOMINATED COUNCILOR DOW FOR VICE CHAIRPERSON, SECONDED BY COUNCILOR PELLETIER.**

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

Chairperson Spiller indicated that she wanted to thank Councilor Grinnell for being on the Council for the past 9 years and that she was involved in some very difficult decisions and always acted with Kittery's interest foremost and with great integrity. She continued that she wanted to thank Councilor Thomson for running the Council meetings as well as he had. Chairperson Spiller noted that she thought that there was a good diversity of opinion on the Council and that it was important to do the people's work. She continued that she hoped that everyone would listen to each other and not get the level of discourse at such an amplitude that they could not hear each other.

8. The Kittery Town Council moves to hear a presentation from Hayden Pearson, a Life Scout, on a proposed improvement project for Legion Pond to earn his Eagle Scout badge.

Hayden Pearson came to the podium and described his project as set forth in his letter to Town Manager Carter. Mr. Pearson noted that there was some town land near Legion Pond and that he wanted to clean it up and make a park out of it. He indicated that he wanted to put a couple of benches near the pond so that people could enjoy the wildlife. Mr. Pearson then stated what his project entailed and what would need to be done with the land to make this project happen. Town Manager Carter noted that when Mr. Pearson came to the town with this idea they had put a team together knowing that there had been some ongoing issues with the abutters, including the town attorney and Norm Albert at Public Works. He stated that they had been very supportive and had given a lot of guidance especially regarding code enforcement relative to the shoreland issues. He continued that they thought that as long as the plan was carried out as was discussed the project should be okay. Councilor Dow noted that it was a good idea and that a lot of people in the winter like to skate there. Councilor Dow asked who owned the pond. Town Manager Carter answered that the town did. Chairperson Spiller indicated that it was a great project and that Council looked forward to his final report.

9. ACCEPTANCE OF MINUTES

The minutes of October 26, 2009 were accepted as amended.

10. INTERVIEWS FOR THE ZONING BOARD OF APPEALS AND PLANNING BOARD:

Planning Board (two positions Doug Muir and Joseph Carleton until 11/30/12):

- Joseph G. Carleton, Jr.
- David J. Kelly
- Earl R. Donnell, Jr.
- Robert P. Melanson, Jr.

The Chair noted that there were two open positions on the Planning Board. Chairperson Spiller noted that she wanted each candidate to introduce themselves and explain why they wanted to be on the board and what they thought that their qualifications were.

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Joseph Carleton came to the podium and noted that he had been a resident of Kittery for five years and that he was currently a member of the Kittery Planning Board. He noted that he is a real estate attorney in Wells and he had been doing it for about 30 years. Mr. Carleton stated that he enjoyed being on the Planning Board and he thought that they were going to be able to improve the land use ordinance. Councilor Dow asked what some of the big issues coming up were which he had been an active participant in. Mr. Carleton noted that the big effort was to modify the Shoreland Zoning Ordinance which had taken an enormous amount of time. He continued that beyond that there was review of some projects but that had slowed down because of the economy and expected that the Planning Board would be spending more time planning then reviewing.

David Kelly came to the podium and stated that he was a recently retired navy officer and that he was previously the Deputy Commander for Base Operations at the Shipyard. He noted that he worked with Town Manager Carter frequently and other town officials and that he had been a resident of Kittery for three years. He stated that he worked at the Shipyard currently as a civilian.

Earl Donnell came to the podium and stated that he had been a resident of Kittery for 7 years. He noted that he had also retired from the Shipyard a few years ago and Town Manager Carter had talked with him for several years about serving on a town board. He continued that he was the Collection, Operations and Planning Manager at the Shipyard for the last 10 years that he had worked there and that he was the Kittery town spokesperson for the BRAC Commission in 2005. Mr. Donnell indicated that he dealt with 2200 employees at the Shipyard and major facilities in the Shipyard for production were under his control. Mr. Donnell stated that about 10 years ago he had done a small subdivision in York which was his first opportunity to work with a Planning Board and that it took him about 4 years so he got very familiar with the procedures. He continued that he had not done anything to help the community or Kittery since he retired and he felt that he was in a position where he owed something to the community and that this was his chance to do so.

Robert Melanson came to the podium and stated that he had been a resident of Kittery for 4 years and wanted to give back to the community. He stated that he spent most of his career in high-tech manufacturing administration. Mr. Melanson indicated that over the past 20 years he had been self-employed and ran a manufacturers representative business selling high-tech components to the manufacturing enterprises in the area. He continued that he had also done a bit of real estate development work and had learned to work with town boards in doing so and that he would look forward to being able to contribute in that regard in Kittery. Mr. Melanson continued that he was a real estate agent and worked with Coldwell Banker in Portsmouth.

Councilor Beers stated that is was rare to have so many talented individuals for the amount of positions open and that he would like to appoint them all.

**COUNCILOR BEERS MOVED THAT THE KITTERY TOWN COUNCIL REAPPOINT JOSEPH G. CARLETON, JR. TO THE PLANNING BOARD FOR A POSITION EXPIRING 11/30/2012, SECONDED BY COUNCILOR DOW.**

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Councilor Dennett wanted to amplify Councilor Beers’ statement and noted that they had four very qualified individuals and it made the decision extremely difficult.

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

Councilor Thomson noted that there were very three qualified individuals for the one vacancy and he shared Councilor Beers’s comments. He continued that given the excellent qualifications of all three and the desire of all three to serve and the hope that the two who are not appointed will continue to seek service in the community, he would chose the application that was received first according to the date stamp.

**COUNCILOR THOMSON MOVED THAT THE KITTEERY TOWN COUNCIL APPOINT DAVID J. KELLY TO THE PLANNING BOARD FOR A TERM EXPIRING 11/30/2012, SECONDED BY COUNCILOR BRAKE.**

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

11. PUBLIC HEARING

a. (110109-1) *THE KITTEERY TOWN COUNCIL MOVES TO HOLD A PUBLIC HEARING ON PROPOSED AMENDMENTS TO THE KITTEERY MUNICIPAL CODE, CHAPTER 10.08.020 STOP INTERSECTIONS DESIGNATED TO ADD STOP SIGNS ON HIGHPOINTE CIRCLE AT NORTON ROAD AND ON DEVON WOODS AT WILSON ROAD.*

Chairperson Spiller open the public hearing and no response being heard closed the public hearing.

**COUNCILOR BEERS MOVED THAT THE KITTEERY TOWN COUNCIL HEREBY ORDAIN THE FOLLOWING TO BE CODIFIED IN THE KITTEERY TOWN CODE, TITLE 10, TO AMEND SECTION 10.08.020, STOP INTERSECTIONS DESIGNATED.**

*‘INSERTED ALPHABETICALLY INTO SECTION LISTING AT:*

**“10.08.020 Stop intersections designated.**

*A. The following intersections shall be designated as stop intersections and stop signs shall so be erected:”*

ON HIGHPOINTE CIRCLE AT NORTON ROAD;  
ON DEVON WOODS AT WILSON ROAD;

**SECONDED BY COUNCILOR DENNETT.**

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

### 12. DISCUSSION

#### a. Discussion by members of the public (three minutes per person)

Don Gagnon of 33 Pinkhams Lane came to the podium. Mr. Gagnon stated that as they moved forward in the next year priorities would be tough. He continued that as a taxpayer he would be willing to pay more tax dollars to justify having the Kittery School System stay K-12 including keeping Traip Academy in its existing form and making sure that they need to do whatever is necessary to make it better. Mr. Gagnon indicated that he is part of the staff at Traip and that he loves working there, that he is an alumni and that he got a fine education at Traip. He noted that he did not want to see any of the Kittery schools go anywhere and wanted to keep the community intact and that Kittery was a great place. He noted that as they move forward as part as priorities and tax dollars, for him it was safety, fire and schools and that kids come first.

Kathleen Regan of 2 Chickadee Lane came to the podium. She noted that she had lived in Kittery for 36 years and that her husband and son were both graduates of Traip Academy. She continued that she had been an educator in Kittery since 1994 as a school librarian. Ms. Regan noted that she was a product of public education and that she got a great education at a very small public high school. She noted that she had two careers, one as a classroom teacher in Dover and one as a librarian in Kittery. Ms. Regan indicated that if she were a parent of a student in the town, she would not want her kid tuitioned out to a town where there was not an elected school board representation which they would not have at Marshwood. Ms. Regan noted that from what she had seen the kids at Traip were getting an excellent education and that when her child was there, the teachers were very responsive to her as a parent. She continued that if a student was talented academically they would come out of Traip and have an opportunity to go to a great 4 year college. She noted that they were working on a plan for students who did not want to go to a 4 year college and that everyone should be prepared for what they wanted in the future. She indicated that at a small school people knew who you were and students had the opportunity to make connections. Ms. Regan stated that she thought that the community would be lacking from not having a public high school.

Gil Robert from Kittery Point came to the podium. He stated that he basically agreed with what the others had said but that they had the opportunity in front of them to explore another possible way to educate the children for grades 9-12 that being tuitioning out to Marshwood. He continued that he was very disappointed with what the school board had done the week before and that he was a firm believer that the process should have been vetted out and that the town should have had the opportunity to see what the objective findings were. He stated that it might have been a better opportunity or a worse opportunity but that they did not know. Mr. Robert noted that if it had been a better opportunity it should have been given to the superintendent and asked how they could do the same at Traip. He continued that to really look at the opportunity they needed to segregate the sentimental value and just looks at the standards of academic excellence, academic

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opportunities and costs. Mr. Robert stated that he thought that they threw that opportunity out the window and did not know what they were going to do as a community because the funding dollars were drying up. He stated that Kittery was at a tax rate of \$14.08 per thousand, Eliot was at \$12.00 per thousand and that York was at \$8.56 per thousand for property taxes and that he did not know if they could continue raising tax rates anymore. Mr. Robert noted that this was a unique opportunity that should be explored objectively so that everyone can see what is going on and that it was not on the table anymore.

### b. Chairperson's response to public comments

Chairperson Spiller responded that the issues regarding tuitioning out students was the school committee's domain and but that Council was concerned about balancing interests in the town, tax rates and getting the best education for the children in town. She continued that they would be holding a workshop on November 16, 2009 at 7:00 P.M. to start discussing building the budget for the coming year.

## 13. UNFINISHED BUSINESS

a. (100209-8) *THE KITTERY TOWN COUNCIL MOVES TO RECEIVE AN UPDATE FROM THE SCHOOL DEPARTMENT AND THE TOWN MANAGER ON INTERIM FINANCING AND QUESTIONS FROM THE OCTOBER 26<sup>TH</sup> COUNCIL MEETING CONCERNING TRAIIP ACADEMY.*

Town Manager Carter stated that since Council had last met, they were able to open bids for the Public Works projects and that those bids had come in under budget. He stated that they had awarded the bid for the salt shed to Pizzigalli Construction and HL Patten for the office complex. He continued that he wanted to thank the staff at Public Works and the engineers who put together the bids. Town Manager Carter continued that Council had asked him to receive communications from the school department that they were aware of the ramifications of closing Traip and place that in writing back to Council. Town Manager Carter asked Councilor Dennett if he was ok with the communication from the school department which Councilor Dennett stated that he was. Town Manager Carter indicated that he was prepared to release the bond anticipation notes the next day for bids and that there was a schedule in place where they would open bids November 18<sup>th</sup> for 1.2 million which would take them through July of 2010 so that they could pay off the Public Works projects which should be completed by February or early March. He indicated that the remaining funds would be paying for the engineer and architect work to get the two school projects permitted through the Planning Board, DEP and any other regulatory process and would pay for the design of the two school buildings and then go for permanent financing once bids had been received.

b. (090209-1) *THE KITTERY TOWN COUNCIL MOVES TO APPROVE AND ORDAIN PROPOSED AMENDMENTS TO THE KITTERY MUNICIPAL CODE, CHAPTER 12.10 ROGERS PARK.*

Chairperson Spiller indicated that this was something that Councilor Grinnell and members

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of the Parks and Conservation Commissions initiated to control horse waste at park areas and through Councilor Beers's efforts it had been sharpened to focus just on Rogers Park which was where the problem was. Councilor Beers noted that there was no notice of a public hearing regarding Chapter 12.10 and suggested that this item needed to be postponed. Chairperson Spiller noted that they would make sure that the notice would appear in the local printed media and would revisit this item on another day.

### 14. NEW BUSINESS

#### a. (110109-2) *THE KITTERY TOWN COUNCIL MOVES TO CONSIDER INCREASING THE SEWER RATES AS OF JANUARY 1, 2010.*

Chairperson Spiller noted that Council had a workshop regarding this issue on October 5, 2009 and that there had been a good deal of work that had gone into coming up with the proposal to increase the rates. Town Manager Carter noted that this had been a project that had been going on for several years to update the sewer plant and infrastructure to meet the growing regulatory requirements by the DEP and EPA on wastewater treatment and release. He continued that they had fulfilled 4.4 million dollars of upgrade and had made great strides in stemming the inflow and infiltration into the system creating a mechanism to save money in the processing of the waste and while upgrading the type of flow into the Piscataqua. Town Manager Carter stated that they saw more regulations coming down and a more unified approach beginning to come this way through New Hampshire and Maine with the EPA working towards higher controls on the Piscataqua. He indicated that he was laying the groundwork to let everyone know that they would be back to Council shortly and with the 4.4 million dollars in increases and advances, they have taken a broad attempt to increase the revenues to pay for that upgrade. He noted that they started this over two years ago working with the Town of Eliot because they are a client of Kittery and under contract Kittery accepts Eliot's waste and also had worked stringently with the US Navy in trying to approach their waste stream and upgrade that contract. Town Manager Carter stated that these contracts have not been updated for decades and Kittery needed to bring them into today's standards and requirements. He noted that working with the US Navy to update the contract was going slowly but that it was going forward and that Kittery had worked on a central model for rate adjustment not only for Kittery ratepayers but also for the Navy and Town of Eliot. He continued that this was to look at what the debt going out and how the operational costs will be impacted and that model was live modeling done in front of Council at the workshop and that Council's input went to solidify what was deemed that evening as a fair suggested rate increase. He continued that there was an appendix in the code and that they were asking Council to consider raising the quarterly rates from \$70.25 on the first 1500 cubic feet or fraction thereof to \$75.00 for the first 1000 cubic feet or fraction thereof. He noted that they were asking for Council's consideration in raising the per 100 cubic feet in excess of what is presently 1500 feet at \$3.75 to one of a rate increase of a per 100 cubic feet in excess of 1000 feet at \$5.00. He noted that to the public it might not make any sense but in the model they had adjusted those numbers and Council could see in live time what those impacts would be in revenue streams going out and after several calculations, adjustments and discussions it was settled on those two recommendations. Councilor Thomson asked what the number of people who would be impacted. Town Manager Carter noted that users

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paying over presently were 782 and with the change it would be 1223. Councilor Thomson then noted that there would be 500 plus users who would not be changing their usage in the system but they would be paying more than just the base rate increase. Town Manager Carter noted that this was true but that the rates were adjusted at an amount that would increase about \$14.00 more per quarter. Councilor Dow indicated that by keeping the base rate as close what it was it would benefit a greater percentage of people. He continued that if people used more than the minimum they would be paying more and that people were in control of that and only one-third would be impacted over and above what was already there. He continued that the opportunities for consumption were there and the opportunities to stay at the base rate were there and that minimizing the increase in the base rate impacted a fewer number of people in a negative manner which was why he felt this was reasonable. Councilor Dow continued that they wanted them to be able to generate enough in their revenues to be self-sustaining and that right now they were not there and in a couple of years they would be there if this passed. Town Manager Carter noted that this was an enterprise fund and they were required to make this a sustaining operation without taxpayers funding it and ratepayers and the customer base are obligated to make sure that this is a sustainable enterprise and one that can be relicensed on an ongoing basis. He continued that Councilor Dow was correct and that they were projecting to keep running a deficit but that it would require future rate increases and would require them to get ahead of the curve with Eliot in getting a new contract and with the US Navy in recognizing the modernization factors of the plant. Councilor Thomson stated that the rate increase was proposed for January 1, 2010 and wanted to know if that was for the Kittery users, Shipyard users and Eliot users or just for Kittery. Town Manager Carter noted that it was just for Kittery users because the other two contracts were calculated on a much different formula. Councilor Thomson asked why residents of Kittery should have to pay at a higher rate first ahead of the Shipyard and Eliot. Town Manager Carter noted that if they were not seeing red ink quickly they could wait but that they were dealing with the US Government on negotiations and that it was not easy and that they had spent almost 9 months to a year as well as negotiations with the Town of Eliot in that Kittery was trying to give them a higher volumes in the system for a new contract that recognizes the capital costs that were put into the plant and that required negotiations. He continued that Eliot had the opportunity for economic development and that it had become political and had been a rollercoaster and he thought that they would have some sort of contract in the near future. Town Manager Carter noted that the highest volume that the plant treated was from the Kittery ratepayers. Councilor Thomson noted that the Kittery ratepayers seemed to be somewhat of an easy target and that the Navy and Town of Eliot seemed to be being rewarded for dragging their feet and creating obstacles. Councilor Thomson asked Superintendent Tapley regarding the people on the Kittery sewer line why their bill was processed through the water district reading and wanted to know why people on the sewer line have to pay for watering their lawns in the summer on their sewer bill. Mr. Tapley answered that unfortunately a few years back they had tried to install a deduct meter and that it was very difficult to accurately put in to monitor this. He continued that the additional cost of hiring someone to install and monitor the meters would not be cost effective and the amount of people that go over the minimum because of this issue was around \$50 to \$60 a quarter. He noted that it was a hard pill to swallow but that it was a situation that did not have a very good answer. Chairperson Spiller summarized that the rates had not been raised in years, operating expenses, upgrades and EPA compliance were driving up the costs and that revenue is not meeting the costs of operation. She noted that there could not be a blanket rate for Kittery, Eliot

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and the Navy and that was a sore point but that there was an urgent need that needed to be met and that was why it was being discussed that night.

**COUNCILOR BEERS MOVED THAT THE KITTELY TOWN COUNCIL INCREASE THE SEWER RATES AS OF JANUARY 1, 2010 IN TOWN CODE, APPENDIX F AS PRESENTED, SECONDED BY COUNCILOR DOW.**

Councilor Thomson stated that he had understood what Town Manager Carter and Superintendent Tapley had explained and that he agreed that you could not operate in this manner forever but if it took three or four more months to negotiate a new contract with Navy and/or Eliot, he would feel better enacting a rate increase at that time for everyone. He continued that he personally could not support increasing the rates for the Kittery users and not the other users of the system

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

b. (110109-3) *THE KITTELY TOWN COUNCIL MOVES TO ADOPT ITS CURRENT RULES FOR THE ENSUING YEAR WITH CONSIDERATION TO PROPOSED AMENDMENTS.*

Chairperson Spiller noted that Councilor Beers had come up with some changes and that they should discuss the changes that would effect the way that Council does business. Councilor Beers stated that the proposed changes of the rules was entertained from November through February of last year and that recommendations were brought forward and were rejected by a 3/3 vote mostly due to the use of Chairman versus Chairperson. He continued that subsequently it was discovered in the Town Charter that the leader of Council was known as the Chairperson and that this recommendation was fundamentally the same set of those proposed changes as presented at that time including the establishment of the standing ordinance review committee.

**COUNCILOR BEERS MOVED THAT THE KITTELY TOWN COUNCIL ADOPT COUNCIL RULES BEARING A LAST AMENDMENT DATE OF AUGUST 24, 2009 TO INCLUDE IN THOSE RULES THE COUNCIL'S PROCEDURES FOR APPOINTMENTS BEARING A MOST RECENT AMENDMENT DATE OF SEPTEMBER 25, 2006, SECONDED BY COUNCILOR BRAKE.**

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

Councilor Beers noted that the proposed changes to Council rules and selection procedures will lay out for two weeks until the next regular meeting scheduled for November 23, 2009.

c. (110109-4) *THE KITTELY TOWN COUNCIL MOVES TO APPROVE THE DISBURSEMENT WARRANTS.*

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Chairperson Spiller asked Councilor Beers if he had reviewed the town warrants and if they were in good order for signature which he answered in the affirmative. Chairperson Spiller noted that she had reviewed the school warrants and they were in good order for signature. Chairperson Spiller then read the warrants which included Warrant No. SNP11/09 for the School Nutrition Program in the amount of \$11,890.00, Warrant No. S111009 for the School Accounts Payable in the amount of \$154,425.90, Warrant No. S111009A for the School Accounts Payable in the amount of \$5,35049 and Warrant No. T10-19 for the Town Accounts Payable in the amount of \$113,839.46.

**COUNCILOR DOW MOVED THAT THE KITTEERY TOWN COUNCIL APPROVE THE DISBURSEMENT WARRANTS, SECONDED BY COUNCILOR BEERS.**

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

d. (100209-5) *THE KITTEERY TOWN COUNCIL MOVES TO RE-APPOINT NORMAN LEON TO THE RECYCLING SCHOLARSHIP COMMITTEE UNTIL 2/8/12.*

Chairperson Spiller noted that the interview was completed by Councilor Beers.

**COUNCILOR THOMSON MOVED THAT THE KITTEERY TOWN COUNCIL RE-APPOINT NORMAN LEON TO THE RECYCLING SCHOLARSHIP COMMITTEE UNTIL 2/8/2012, SECONDED BY COUNCILOR BEERS.**

**The Chair took a consensus with all in favor.**

e. (110109-6) *THE KITTEERY TOWN COUNCIL MOVES TO RE-APPOINT MJ BLANCHETTE TO THE PARKS COMMISSION UNTIL 5/3/12.*

Chairperson Spiller noted that Councilor Dow interviewed Ms. Blanchette.

**COUNCILOR DOW MOVED THAT THE KITTEERY TOWN COUNCIL RE-APPOINT MJ BLANCHETTE TO THE PARKS COMMISSION UNTIL 5/3/12, SECONDED BY COUNCILOR BRAKE.**

**The Chair took a consensus with all in favor.**

Councilor Thomson noted that for future reference Council is required to do roll call votes except for procedural matters and wanted to know if reappointments were going to be viewed as procedural matters. Chairperson Spiller noted that they would do roll call votes in the future.

f. (100209-7) *THE KITTEERY TOWN COUNCIL MOVES TO AUTHORIZE THE TOWN MANAGER TO CLOSE DEPARTMENTS WITH THE EXCEPTION OF ESSENTIAL PERSONNEL, THE DAY AFTER THANKSGIVING, NOVEMBER 27<sup>TH</sup> AND A HALF-DAY ON CHRISTMAS EVE, DECEMBER 24<sup>TH</sup>, WITH THE UNDERSTANDING THAT EMPLOYEES WILL USE THEIR*

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### *PERSONAL ACCUMULATED TIME.*

Chairperson Spiller noted that this had been approved as long as she had been on Council.

**COUNCILOR BEERS MOVED THAT THE KITTERY TOWN COUNCIL AUTHORIZE THE TOWN MANAGER TO CLOSE DEPARTMENTS WITH THE EXCEPTION OF ESSENTIAL PERSONNEL, THE DAY AFTER THANKSGIVING , NOVEMBER 27<sup>TH</sup> AND A HALF-DAY ON CHRISTMAS EVE, DECEMBER 24<sup>TH</sup>, WITH THE UNDERSTANDING THAT EMPLOYEES WILL USE THEIR PERSONAL ACCUMULATED TIME, SECONDED BY COUNCILOR BRAKE.**

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

*g. (11010908) THE KITTERY TOWN COUNCIL MOVES TO APPOINT COUNCIL MEMBERS TO ONGOING STANDING, ADHOC AND COUNCIL COMMITTEES.*

Chairperson Spiller indicated that there were a number of committees that now had vacancies including the Community Center Building Committee which had no representative, the Frisbee School Revitalization Committee which Ann Grinnell was a representative, the Open Space Advisory Committee which Ann Grinnell was a representative as was Glenn Schwaery, and the Energy Advisory Committee which Glenn Schwaery was a representative. Chairperson Spiller indicated that they also needed to appoint representatives to review the municipal and school warrants. Town Manager Carter noted that they had planned to appoint representatives to review the warrants at the November 23<sup>rd</sup> meeting. Councilor Beers noted that the Superintendent Search Committee appointment was not on the list and it would be important to poll the councilors that were currently appointed to those committees to consider accepting the appointments in the future. Councilor Dow asked that if Chairperson Spiller still wished to remain on the Superintendent Search Committee as she was appointed as a councilor or if she felt that as she was now the chairperson did she want to reconsider. Chairperson Spiller stated that if anyone wanted to step into that role she would be happy to step aside. As there was no response, Chairperson Spiller indicated that she would stay on the committee. Councilor Beers stated that he would be happy to continue serving on the Capital Improvement Planning Committee and the Ordinance Review Committee. He continued that his current workload would not facilitate him continuing to do the municipal warrants and he had no interest in continuing to serve on the Shared Services Committee. He continued that he was uncomfortable appointing three councilors to a single ad hoc committee and thought that consideration needed to be given to that and that there should be no more than two councilors at the most in his opinion. Councilor Beers stated that this would allow Ann Grinnell to remain as a participant on the Frisbee School Revitalization Committee if she wanted to. Chairperson Spiller indicated that she did not share that discomfort and she thought that it helped the committees to have the three different viewpoints of councilors and would not support reducing Council representation on any of the committees. Councilor Dow indicated that he welcomed Councilor Beers to stay on the Capital Improvement Planning Committee and that he had made a huge impact and done a terrific job and in regards to Councilor Beers stepping off the Shared

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Services Committee that these were positions that were volunteered for and if they felt that they wanted to step off they could. He noted that he thought that Councilor Beers should stay on the Ordinance Review Committee as he had brought a tremendous offering and wanted to thank Councilor Beers for wanting to stay on the committees. Chairperson Spiller asked if anyone had any interest in serving on the Community Center Building Committee which Town Manager Carter indicated that he would recommend that vacancy stay open as they were a partner in the proposed revitalization at Frisbee. Chairperson Spiller asked if anyone was interested in serving on the Open Space Advisory Committee and Councilor Pelletier indicated that he would and Chairperson Spiller indicated that she would add her name as well. Chairperson Spiller asked if anyone was interested on serving on the Energy Advisory Committee and with no response she indicated that spot would stay vacant. Chairperson Spiller asked if anyone was interested in serving on the Shared Services Committee which Councilor Thomson and Councilor Dow indicated that they would. Chairperson Spiller asked if anyone was interested on serving on the Recycling Scholarship Committee which Councilor Brake indicated that he would continue to serve on that committee. Chairperson Spiller asked if anyone was interested on serving on the Ordinance Review Committee. Councilor Dennett indicated that he would step down if anyone was interested in taking his position. Councilor Pelletier indicated that he would be willing to serve and Councilor Beers indicated that he was willing to stay on the committee. Chairperson Spiller indicated that she was the representative for the Mary Safford Wilds Trust. Chairperson Spiller then asked relative to the Frisbee School Revitalization Committee if they wanted to stay with three members. Councilor Dow responded that he did not personally care if there was two or three people but he could understand the potential concern but that where they had not seen a large rush for people to join the committee, he was fine with two councilors but that they would need to rewrite the charge. Chairperson Spiller asked if anyone had a desire to be on the Frisbee School Revitalization Committee and with no response she noted that at the next meeting they should review the charge and revise it. Town Manager Carter asked who was going to serve on the Eliot Negotiating Team. It was noted that Councilor Dennett and Councilor Beers that were currently serving and both indicated that they would stay on.

h. (110109-9) *THE KITTERY TOWN COUNCIL MOVES TO APPROVE A REQUEST FOR FUNDS FROM THE MUNICIPAL FACILITY CAPITAL RESERVE ACCOUNT TO PAY A PORTION OF THE FURNACE REPAIR IN THE FRISBEE ANNEX FACILITY THAT HAS BEEN REPAIRED TO MAINTAIN THE HEAT WITHIN THE FACILITY.*

Chairperson Spiller noted that this money had already been spent and the repair had been made. Town Manager Carter noted that the annex furnace presently was in use for the SAFE Program and the Head Start Program and there was a memorandum of understanding with the School Department for the SAFE Program to continue its operation. He continued that the furnace needed to be replaced and the facility manager had been able to get a contractor in to reseat the furnace and get it so that it will operate for the winter and the expense came out to be \$7500.00. Town Manager Carter indicated that the superintendent and facility manager came to him and asked if Council would consider paying a portion of the bill.

**COUNCILOR THOMSON MOVED THAT THE KITTERY TOWN COUNCIL APPROVE THE REQUEST FOR FUNDS FROM THE MUNICIPAL FACILITY CAPITAL**

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### **RESERVE ACCOUNT TO PAY A PORTION OF THE FURNACE REPAIR IN THE FRISBEE SCHOOL ANNEX THAT HAS BEEN REPAIRED TO MAINTAIN THE HEAT WITHIN THE FACILITY, SECONDED BY COUNCILOR BEERS.**

Councilor Dennett asked Town Manager Carter if there was any indication on when the School Department was planning on turning the building over to the town. Town Manager Carter indicated that he had heard after several discussions with the superintendent that the School Department was planning on keeping ownership of the school until June 30, 2010. He continued that due to the integrated contracts with all of the other schools, they had decided that it was too complicated to hand it over to the town at this point. Councilor Dow asked Town Manager Carter relative to the SAFE Program revenues where the revenues were going. Town Manager Carter answered that they were going to the Recreation Department and that it was a self-sustaining program.

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

i. (110109-10) *THE KITTERY TOWN COUNCIL MOVES TO SCHEDULE A DATE FOR A PUBLIC HEARING ON PROPOSED AMENDMENTS TO SECTIONS RELATED TO SHORELAND ZONING, RESOURCE PROTECTION ZONES OF THE KITTERY MUNICIPAL CODE TITLE 16 AND THE ZONING MAP.*

Town Manager Carter noted that because of discussions they had recently with the Ordinance Review Committee, they had discussed the technical aspects for scheduling a hearing for this resource conservation district amendment to the land use ordinance and that it was a very complex process which the Planning Board was going through and revisiting. He continued that this was going to cause the hearing to be held with everything in compliance in either very late December or early January and with that aspect the requirements to hold a hearing within the present year would probably not happen and would happen once and for all after the Planning Board had finalized the process. Town Manager Carter indicated that they apologized for bringing this forward and thanked the Ordinance Review Committee members for working diligently on this issue and that he asked for the item to be withdrawn at this time.

**The Chair took a consensus with all in favor.**

j. (110109-11) *THE KITTERY TOWN COUNCIL MOVES TO HEAR UPDATE ON THE STATUS OF THE RECODIFICATION PROJECT.*

Councilor Beers indicated that this was an Ordinance Review Committee initiative and there was \$29,000.00 in the present year's budget for recodification of the town code by an outside contractor. He continued that this was prospectively a 10 to 12 month effort in upwards of \$29,000.00 and when the Ordinance Review Committee was established a cursory review of the current 16 chapters of the town code pointed to significant anomalies, disconnects and other concerns related to a quality submission to an external company. He continued that Council

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sentiment to proceed occurred at a regular meeting in September and all 16 chapters have had a first round conversion and that electronic versions of those were presented to the Town Manager and Town Clerk on October 27<sup>th</sup> and a solicitation of input went to all boards, committees, commissions and department heads. Councilor Beers noted that the first version contained no substantive changes to any of the code and that round two was in three parts, the input from the boards, the Planning Board conclusion of the Shoreland Zoning and related initiatives which was just delayed. He noted that it looked like they could complete their notice and hearing by December 10<sup>th</sup> and if that occurred and the other substantive changes that were recommended were completed in a timely fashion then they could conceivably announce and hold a public hearing on December 28<sup>th</sup> in two parts. He continued that one part would be to adopt the revisions to the town code being revised as it currently sits and second addressing the Shoreland Zoning initiatives. Councilor Beers noted that successful conclusion of those would mean that there was a document that was consistent in format, technically correct, which would include the creation of a title dedicated to boards, commissions and committees which he suggested should include the Council selection procedures, a separate title for appeals as a process, removal of code enforcement building related activity and have it put into Title 15 and make it a building and code enforcement document and allow Title 16 to be the planning, land use and development code document. Councilor Beers noted that it would be a recommendation to include a chapter dedicated to environmental protection. Councilor Beers indicated that all of the codes would then have a coherent numbering system and a complete indexed set to facilitate use in the future and that they anticipated an input deadline by November 20<sup>th</sup>, complete the review by November 30<sup>th</sup> and they would have a document for the Council packet on December 3<sup>rd</sup> so that it would be in for plenty of time to review for a public hearing on December 28<sup>th</sup>.

k. (110109-12) *THE KITTERY TOWN COUNCIL MOVE TO DISCUSS PROCEEDING WITH ORDERING A PUBLIC HEARING TO BE HELD ON A DANGEROUS BUILDING DETERMINATION PER M.R.S. TITLE 17 CHAPTER 91 SUBCHAPTER 4 §2851.*

Town Manager Carter indicated that no one wanted to see these types of properties develop in any community and he had only seen a handful in his career and unfortunately there were a couple developing in Kittery. He stated that public safety personnel, based on the statute, had gone into and worked with the property owner and unfortunately he had to report that this was a dangerous building under the statute. He continued that health and safety issues were at hand and they felt that the individual in the building could not continue to reside in the building. Town Manager Carter noted that this was not because they wanted to do this but it was because of their responsibilities in the community that they believed that the property was a dangerous building and they were trying to enact the initial process that evening. Chairperson Spiller noted that they would be scheduling a public hearing on this matter. Councilor Dow asked if this was an attempt to remove the building from existence or if it was an attempt to remove the person from the building. Town Manager Carter answered that it was both and that it was to eliminate the hazard to both fire and public health issues for anyone that lived there and also they determined that the facility itself could not be lived in as it was presently. Councilor Dow asked if by removing the person from the facility if they still claimed ownership to the lot. Town Manager Carter responded that it was complex and that the individual in the house was elderly and that she had given her children one

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quarter rights to the property and that it was the responsibility of the children to maintain the property and the health and safety standards. He continued that was not happening and that it came to their attention through a nephew of the resident who was out of state and that they immediately followed through and had been working with DHS and unfortunately at that point in time had not been able to get to the children to have them come and talk to the town. Town Manager Carter noted that they would be serving them with notices and they hoped by the date of the hearing to have better information to give to Council. Town Manager Carter indicated that this was not a taking action and that it was a health and safety enforcement action. He continued that there was a similar situation in the Village awhile ago and though it took many years but it was very successful at the end and they took the person out and were able to get that person into a secure residential elderly housing facility with the profits of the sale of the house. Town Manager Carter noted that it was a matter of deeming the person competent and working with them to clean up the property. He stated that in this situation the person was quite elderly and though the person believes that she can live there, the Town’s personnel had said that for sanitary reasons and other safety issues it was not a place that she should be living in. Town Manager Carter stated that December 14, 2009 was recommended for the public hearing.

**COUNCILOR THOMSON MOVED THAT THE KITTERY TOWN COUNCIL SCHEDULE A PUBLIC HEARING ON DECEMBER 14, 2009 ON A DANGEROUS BUILDING DETERMINATION PER M.R.S. TITLE 17 CHAPTER 91 SUBCHAPTER 4 §2851, SECONDED BY COUNCILOR BEERS.**

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

I. other

Councilor Brake wanted to thank the public for coming out and voting.

15. COMMITTEE AND OTHER REPORTS

*a. Communications from the Chairperson*

There was none.

*b. Town Manager’s Report*

Town Manager Carter indicated that on November 16<sup>th</sup> there was an executive session to discuss labor contracts at 6:00 P.M. and a special meeting with the school committee at 7:00 to discuss budgets and guidance on those budgets.

Town Manager Carter indicated that there had been a meeting with Eliot relative to the sewer issue and he thought that communications had been straightened out relative to the directions that they want to get in and where Kittery can agree to move in. He continued that the two

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engineering firms were in the room and the process will be that the two engineers will develop a scope of work for a study that will be funded through the TIF funds that Eliot has and that the study will look at alternative routes into the treatment plant and develop costs for the construction of the sewer line from Eliot into the treatment plant. Town Manager Carter indicated that they were awaiting that scope of work to see if it meets the needs of the superintendent of sewers and the Town of Eliot and if so it will go to a special town meeting in Eliot to release the TIF funds to pay for it.

Town Manager Carter noted that the town had developed a flu readiness policy and that they had tried to have everyone review it and that the feedback had been good and that hopefully they will not need to use it. He continued that the H1N1 flu and the regular flu were catching up more in the school department and that there were some sizable amounts of ill students and recently had attacked the school bus drivers.

Town Manager Carter noted relative to the bridges that the data gathering and scenarios were becoming very interesting. He continued that they had looked at 30 different alternatives which had gotten down to 16 and they had spent two hours looking at some very strange alternatives and some takings situations which would not be discussed further. Town Manager Carter noted that it was running a course that did not look too healthy for the Memorial Bridge and the Sarah Long Bridge in what could happen to improve the facilities. He noted that they were only in the second round and that there would be one or two more rounds to look at the alternatives and see how they fit together. He indicated that he would report back when he had more information.

### *c. Committee Reports*

There were none.

## 16. ADJOURNMENT

The Chair took a consensus to adjourn the meeting with all in favor.

***MEETING ADJOURNED: 9:26 P.M.***