

APPROVED MINUTES
DECEMBER 28, 2009 TOWN COUNCIL

Kittery Town Council

December 28, 2009

Council Chambers

1. CALL TO ORDER

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

2. INTRODUCTORY

Chairperson Spiller read the introductory.

3. PLEDGE OF ALLEGIANCE

The Chair led those present in the Pledge of Allegiance.

4. ROLL CALL

Answering the roll were Chairperson Judith Spiller, Vice Chair George Dow, Councilors Gary Beers, Frank Dennett, 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.

5. ACCEPTANCE OF MINUTES

The minutes of December 14, 2009 were accepted, as amended.

6. THE KITTERY TOWN COUNCIL MOVES TO HEAR A PRESENTATION FROM THE FUEL & MORE COMMITTEE TO WEATHERVANE SEAFOODS AND MARSHALL RENTAL FOR THEIR OUTSTANDING SUPPORT OF THE PROGRAM.

Town Manager Carter stated that this award was given in recognition of the generosity given towards the Fuel & More Committee which had been in existence for several years. He continued that they had put together a very active board which raises funds so that they can give out money towards heating fuel for those with income levels who do not generally qualify for general assistance or state welfare and who needed assistance to keep their homes warm. Town Manager Carter indicated that over the past couple of years they had held of a fundraiser that had been very successful. He continued they had held a dance and a silent auction at the Weathervane corporate offices and deck restaurant on Badgers Island. Town Manager Carter noted that through the generosity of the Gagner family, the owners of the Weathervane, they had been able to raise over \$20,000 towards the program. Town Manager Carter stated that it was with his great pleasure to present a plaque to the Gagner Family for their generosity to the Fuel & More program.

Town Manager Carter stated that the next plaque to be presented was to Marshall Rental Center, who provided the tents and all the furniture for the event, for their outstanding

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generosity.

7. THE KITTERY TOWN COUNCIL MOVES TO HEAR A PRESENTATION OF A CERTIFICATE OF APPRECIATION TO JOHN TADDEO FOR MAINTAINING THE JOHN PAUL JONES PARK.

Town Manager Carter stated that he was pleased to recognize John Taddeo who is an individual who Council had previously recognized for his work in maintaining the John Paul Jones Park which is a state park. He continued his work has resulted in a decision by Council to ask the state to turn the park over to the town. Town Manager Carter stated that Mr. Taddeo was a volunteer who had stepped forward to maintain the park and the town had provided backup to him through the highway department and the arborist association. Town Manager Carter then presented a plaque to Mr. Taddeo.

8. INTERVIEWS FOR THE BOARD OF APPEALS AND PLANNING BOARD

There were none.

9. PUBLIC HEARING

a. *(120209-1) THE KITTERY TOWN COUNCIL MOVES TO HOLD PUBLIC HEARINGS AS RECOMMENDED BY THE PLANNING BOARD ON PROPOSED AMENDMENTS TO TITLE 16: ACCESSORY DWELLING UNITS, DEFINITION OF "STRUCTURE", PLANNING BOARD AND BOARD OF APPEALS DUTIES AND MOBILE HOME SETBACKS IN MOBILE HOME PARKS.*

Chairperson Spiller stated that notice of this public hearing was advertised in the Portsmouth Herald on December 18, 2009. The Chair stated that they were going to start with the mobile home setbacks in mobile home parks issue. Town Planner, Gerry Mylroie, came to the podium and stated that this proposal emanated from a desire to attempt to try to streamline and improve the administrative process for the review of applications that were relating to facilitating the upgrade of mobile home units within a mobile home park and to maintain setbacks from the private roads along that area and to alleviate the need on a continuing basis to go back to the Board of Appeals for variances associated with the overlap and setbacks on the side yards and rear yards. He continued that there was a proliferation of those kinds of requests and through discussions between the Board of Appeals, staff and Planning Board and routine administrative process and review of the applications, they thought that it would benefit to applicants in the context of improving economic development and facilitating the change in the community as well as reducing costs and being more efficient in processing of the applications in a consistent manner. Chairperson Spiller opened the public hearing and no response being heard closed the public hearing.

Chairperson Spiller noted that they would now move on to definition of structure issue. Mr. Mylroie stated that this request evolved from an increasing number of requests from citizens who desired to install generators adjacent to their homes but a generator was defined as a structure and a structure could not be installed within a required setback. He continued that after

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discussion and work with the Planning Board and Code Enforcement Officer this was a recommendation that the Planning Board thought helped in the facilitation of installation of the emergency generators and that their operation was seen as short term in the time of need as opposed to allowing other kinds of structures that might be allowed in the setback areas. Chairperson Spiller opened the public hearing and no response being heard closed the public hearing.

Chairperson Spiller stated that they were now going to move on to the accessory dwelling units issue. The Chair wanted to note that this was in response to a citizen petition that was approved. Mr. Mylroie stated that this proposed amendment was a result of the citizen approval of the referendum and then a referral from Council to the Planning Board to look at the ordinance in a way that could improve its administration and address inconsistencies with the existing ordinances or other guidelines. He continued that there was a workshop between the Planning Board and Council and they presented some recommendations to the Planning Board which then held a public hearing and there were some comments from citizens relating to the amendments that are being brought forward and the Planning Board felt that it was desirable for Council to hear those public comments directly and decide how they would like to proceed. He noted that some of the concerns dealt with the size of the dwelling units and the restrictions proposed by the Planning Board on the construction of the dwelling units within structures that were already in nonconformance from a side yard setback. The Chair then opened the public hearing.

William Pierce of Rogers Road came to the podium. Mr. Pierce stated that because of the way that the amendments had been written, people that wanted the units could not have them because they would get tripped up from some of the finer points. He continued that it had been over a year since this was passed and the Planning Board had said that they had not decided on a few issues and was going to leave it up to Council to decide them. Mr. Pierce stated one issue was the expansion of the building's footprint was not allowed for new accessory dwelling unit but that you should be able to as long as you complied with the other zoning laws and that he would like to see that issue crossed out. He continued that Council should recognize that a lot of houses were not compatible with zoning laws but that those that were grandfathered in should remain grandfathered under the accessory dwelling unit ordinance. Mr. Pierce noted that he lives in a two family home and wanted to create a third unit but the way that the ordinance was written it would only apply to single family units but that it passed by petition to anyone who had a residence and who was in a zone where single family units were allowed. Mr. Pierce stated that another concern was relative to septic system design and that it was not clear to him if you had a new accessory dwelling unit if you have to build a whole new septic system or if you could just let it fail and have a design for a new one in place which is the way it works now. He continued that he knew of a woman who wanted to build an accessory dwelling unit over a single car garage but that she could not because it was too small of a space and that the size restriction should be reconsidered.

Eileen McCarthy who lives on Adams Drive in Kittery came to the podium. Ms. McCarthy stated that she had been following this issue from the beginning and noted that the Planning Board and Council had worked very hard on this. She continued that she had some of the same concerns as Mr. Pierce and also wanted to point out two concerns that she had. Ms.

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McCarthy stated that her first concern was relative to the applicability section and that she lived in a residential neighborhood that had been changed to commercial but there were still many residential homes there and in order to prevent any problems where the zoning had been changed and in order to protect their status in applying for an ADU in the future, she felt that if the term grandfathered was added in would be helpful. She continued that her second issue was relative to ADU standards and specifically section C under unit location and it was again a grandfathering issue and right now you could have a garage or outbuilding that did not meet yard setbacks because it is grandfathered and a lot of those buildings were already being used for residential purposes. Ms. McCarthy noted that the original amendment approved by the voters allowed for all existing permitted structures that were legally non-conforming to be grandfathered and she thought that what had been proposed in the changes was a complete reversal of that and disregarded the grandfathering provision that was already in the Kittery code and that she would like to see that section stricken. She continued that she thought that the grandfathering provision in the Kittery code was very important as Kittery is such an old town and there are a lot of buildings that could be put to good use and not restricted by the setbacks.

Chairperson Spiller stated that she had a letter dated December 27, 2009 from Drew Fitch who was not able to attend the meeting but asked that his letter be read into the record. The letter stated as follows:

“I would like to present my objections to several changes to the accessory dwelling unit ordinance. This ordinance approved by voters last year was intended to provide a means by which property owners could create affordable dwelling units for family members and others. Several proposed changes would make this very difficult to accomplish and in my opinion would circumnavigate the intent of the Kittery voters. First the amendment calls for a size limitation of 850 square feet which as far as I can tell is an arbitrary number. I am in the multi-family industry and I can tell you that at best this is a very small two bedroom apartment. Nowhere in the referendum is there a size limitation. I can only surmise that this is a method employed to limit the use of this ordinance. Second the amendment calls for a prohibition on construction of an ADU in a structure that does not conform to yard setbacks. Again I view this as a method to limit the ability to create ADUs and runs counter to the intent of the referendum. I understand the counter argument would be that in some cases it would create a hardship to an abutter. I would suggest that a reasonable compromise would be to make this a special exception rather than require a variance. I thank you for your time.”

Bob Saunders of Tilton Road came to the podium. He stated that he would like to urge Council to reconsider the ten permit per year limitation. He continued that he thought that the “first come, first serve” would only work well for the first 10 people and that other applicants who qualify should have a right to begin work. Mr. Saunders stated that the ordinance contains a good measure of control on overdevelopment, over taxing utilities and open space and it is also self-limiting if a person is applying to share the house that they live in. He continued that the good that this will do for prospective tenants and people who may have more house than they need outweighs whatever might be achieved by having an arbitrary limit on the number of permits per year.

Chairperson Spiller stated that they would now be moving onto the Planning Board and

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Board of Appeals Duties issue. Mr. Mylroie indicated this ordinance evolved out of the implementation requirements from the state with respect to implementing the Shoreland Zoning Act amendments and particularly where the state recommends that the Planning Board have oversight over the granting of special exceptions of single family and two family dwelling units in the shoreland zone and the resource protection zones as opposed to the Board of Appeals. He continued that there was an underlying perception that the Planning Board has more experience in reviewing site plans, subdivision plans and stormwater runoff presentations and felt that there would be better review on a more consistent basis if the responsibility was in the hands of the Planning Board. He continued that similarly in conjunction with the work with Council's Ordinance Review Committee, they were looking for opportunities to eliminate redundancies and to improve and streamline the efficiencies in the review of plans. He noted that they also wanted to respond to what he had heard from a number of Planning Board members as well as property owners about the need to improve the town's perception of being interested in promoting business and economic development and wanted to try to see if they could streamline and improve the efficiencies and review of some of the applications that were before the town and seemed to be bouncing back and forth between the Planning Board and Board of Appeals in terms of defining or permitting the use and reviewing the development plan criteria. Mr. Mylroie continued that this had added a lot of time and repetition in the review and in the use of different review criteria by the different boards to evaluate and make those decisions. He stated that there were some recommendations in conjunction with the representative from the Board of Appeals on ways to try and streamline that and delegate more of that review to the Planning Board for the special exception reviews and ensure that those reviews are consistent with the ongoing reviews that the Planning Board uses and incorporated with other kinds of considerations that the Board of Appeals was using in reviewing those permits. Mr. Mylroie continued that there are other responsibilities that require appeal review as provided in the municipal ordinance. He continued that in an attempt to establish an administrative framework for reviewing those appeals and there was nowhere in the code that describes where you go for those appeals and the desire was to try and take that kind of responsibility and create it into an appeals board or board of appeals. He stated that this recommendation tries to respond to those three basic areas. Chairperson Spiller opened the public hearing and no response being heard closed the public hearing.

Councilor Beers noted that he would have to recuse himself from the mobile home setback and asked that this issue be addressed first.

COUNCILOR THOMSON MOVED THAT THE KITTERY TOWN COUNCIL HEREBY ORDAINS THE AMENDMENT TO THE KITTERY MUNICIPAL CODE TITLE 16.32.730 MOBILE HOME PARKS FOR THE AMENDMENTS THAT WERE PUBLICLY HEARD ON DECEMBER 28, 2009, SECONDED BY COUNCILOR DOW.

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

COUNCILOR BEERS MOVED THAT THE KITTERY TOWN COUNCIL HEREBY ORDAIN THE FOLLOWING ORDINANCE TO BE CODIFIED IN THE TOWN CODE, TITLE 16 TO AMEND SECTION 6.08, SUBSECTION 16.08.020 WITH

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THE DEFINITION OF THE WORD STRUCTURE AS PRESENTED, SECONDED BY COUNCILOR DOW.

Councilor Dennett noted that he was told why this issue came up but asked for a concrete example of why this change was desired. Town Manager Carter responded that people had been rejected for a generator and pad because the code enforcement officer would not allow it. He continued that after a number of people complaining about this they went to the Planning Board and presented their case and the Planning Board had come up with an amendment to the definition of structure to allow that sort of device to be put in. Councilor Dennett asked if this issue was happening in any specific district. Town Manager Carter noted most of the complaints were coming from the more compact sections of town. Councilor Dennett stated that he had no basic problem with this but that it caused him some concern. He continued that if this issue was so critical why was this for residential use only and not commercial. Town Manager Carter responded that they did not receive any complaints from commercial areas and the only complaints had come from residential areas and if there was a commercial need it would have been put in. Mr. Mylroie stated that this was limited to residential areas because in commercial areas the generators would be larger and there would be concern about the size of them located within a required setback area as opposed to in a residential area. He continued that if it was defined as a problem that affects other land uses in other areas and there is an issue then it would open it up for consideration. Councilor Dennett asked how it would effect a single family resident who was using a generator to power their approved home occupation as well and would that make it illegal. Mr. Mylroie stated that if there was some ambiguity they would make a decision and if someone needed to appeal it they could. Councilor Dennett stated that he worried that people could get carried away and put the generator or tank some distance from their dwelling and make their neighbors deal with the noise and sight. Mr. Mylroie stated that noise was a consideration and the Planning Board's view was that this was a generator that would be used in emergency situations and would be used for a short time. Councilor Dennett indicated that he thought that this was a good idea but that he could not vote for it as written and that he thought that there was a better way to handle this. He continued that there was a definition in the zoning ordinance for an accessory building and with a little bit of tweaking it could be converted and fit very nicely and could get a lot of problems taken care of. Councilor Dennett reiterated that he was in favor of this but would have to vote against it.

A ROLL CALL VOTE WAS TAKEN WITH COUNCILOR DENNETT AND COUNCILOR BRAKE OPPOSED. MOTION PASSES 4/2.

COUNCILOR BEERS MOVED THAT THE KITTEERY TOWN COUNCIL HEREBY ORDAIN THE FOLLOWING ORDINANCE TO BE CODIFIED IN THE TOWN CODE TITLE 16 TO AMEND SECTION 16.04 GENERAL SUBSECTION 16.04.010-16.04.050 AS PRESENTED, SECONDED BY COUNCILOR THOMSON.

Councilor Beers noted that the proposal that came forth from the Planning Board had been restructured for Council consideration as a whole new enactment in order to accommodate the common language, common structure and common features applicable to both boards as derived from the existing ordinance, the Town Charter and the Planning Board recommendation. Councilor Dow noted that it sounded like the Planning Board was trying to take on more duties

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and have more control of the process. Councilor Beers stated that it was not and presently the Board of Appeals had the exclusive review authority in Title 16 for special uses. He continued that there were statutory requirements that warrant an appropriate review for single family dwellings in the overlay zone to be done by the Planning Board. He noted that principally had to do with the difference in the amount of material and the engineering requirement features that the Planning Board is used to reviewing where the Board of Appeals is not. He continued that the one special use consideration would now be the responsibility of the Planning Board and all other special use considerations would still be the responsibility of the Board of Appeals. Councilor Beers noted that there were a couple of parallel processes going with the existing code where the accessory dwelling units, shoreland zoning and related changes are being brought forth in the context of the current code. He continued that they understood the need to complete the recodification process and there were some related restructuring activities that would be a part of that effort when it comes forward. Councilor Beers noted that the Planner had set existing code changes that will fit and flow into the new recodification proposal but if the recodification proposal is not accepted it will work in the current code context. Councilor Dennett stated that line 351 and 352 regarding the Planning Board and relative to electing a Chairperson and Vice Chairperson and Secretary and that this was a change as the current provisions do not account for a secretary and wanted to know why a secretary had been added. Councilor Beers noted that this was a proposal from the Planning Board and concurrence with the Board of Appeals representatives to establish a common protocol. He continued that the Board of Appeals did have a secretary elected from the membership and both Boards felt that a secretary was a useful function but that it should not have to be necessarily from amongst the membership it would allow the boards to allow the Town Planner or Code Enforcement officer to be the secretary or to have a member or someone else entirely independent of the board serve. He noted that it was their preference in their practice to go forward. Councilor Dennett noted that it would bother him if a board had both a recorder being paid for and an outside secretary. Councilor Dennett noted relative to line 409 where the Board of Appeals currently has a chairperson and a secretary it now wants to add a vice chairperson and asked why they wished to add a vice chairperson. Mr. Mylroie stated that the current ordinance already provided for the election of a vice chairperson between the Planning Board or Board of Appeals and it was to be consistent between the two organizational frameworks and secondly was to have a person who would be able to serve in the absence of the chairperson. Councilor Dennett stated that the Board of Appeals did not currently have a position of vice chair in the ordinance and there was a reason of uniformity between boards but it could reach a point where it could be counterproductive. Tom Emerson of the Board of Appeals stated that it was felt in the absence of the chairperson that there would be someone in place to step forward to take that position.

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

COUNCILOR BEERS MOVED THAT THE KITTEERY TOWN COUNCIL HEREBY ORDAIN THE FOLLOWING ORDINANCE TO BE CODIFIED IN THE TOWN CODE, TITLE 16 TO AMEND SECTION 16.08 DEFINITION SUBSECTION 16.08.020 AND REVISION OF CHAPTER 16.32 DESIGN AND PERFORMANCE STANDARDS ADDING ARTICLE 29 AS PRESENTED, SECONDED BY COUNCILOR DOW.

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Councilor Beers stated that the presentation document on page 2 beginning on line 94 through page 3 line 98, reflects the dwelling unit definition as all new language because it is all underlined. He continued the only words that should be underlined are on page 97 beginning “elderly housing and accessory dwelling unit” and the rest of it is original language.

COUNCILOR BEERS MOVED THAT THE KITTELY TOWN COUNCIL ELIMINATE THE OLD DEFINITION OF DWELLING UNIT ENTIRELY AND SUBSTITUTE THEREFORE THE NEW DEFINITION OF DWELLING UNIT AS UNDERLINED IN ITS ENTIRETY, SECONDED BY COUNCILOR DOW.

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

Councilor Thomson stated that the issue that he saw was that there was a citizen petition that came forward that was flawed in many areas at the outset and that the citizens were informed of that. He continued that the petition did not meet and have the language necessary for it to be part of the town code but that the process went forward and the voters approved the wording with the understanding that rework had to be done. Councilor Thomson indicated that the concern now was that the rework that was done by the Planning Board is contrary to the spirit of what the voters approved in November of 2008.

COUNCILOR THOMSON MOVED THAT THE KITTELY TOWN COUNCIL POSTPONE ACTION ON THE AMENDMENTS REGARDING ACCESSORY DWELLING UNITS UNTIL SUCH TIME AS COUNCIL RECEIVES IN WRITING FROM THE PLANNING BOARD OR THE PLANNING OFFICE ANSWERS TO ALL THE QUESTIONS RAISED DURING THE PUBLIC HEARING THAT EVENING, SECONDED BY COUNCILOR DOW.

Councilor Beers stated that he endorsed the postponement and receiving the answers to the questions raised as most of what he had heard that evening represented an incomplete understanding or an unpublished understanding.

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

10. DISCUSSION

- a. Discussion by members of the public (three minutes per person)
- b. Chairperson’s response to public comments

There were none.

11. UNFINISHED BUSINESS

Councilor Dennett noted that at the last meeting a question was raised to Town Manager

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Carter regarding financial statements where one account which showed that there was \$197,000.00 in funds but only got 39 cents per month in interest. Town Manager Carter noted that it was accurate and noted that the 39 cents was the percentage of what the \$197,000.00 is of all of the investments of the \$2,000,000.00. Town Manager Carter stated that there are about 20 reserve accounts and all of the reserve accounts are invested together and the interest is then calculated and put back into the reserve accounts by the percentage of the investment total. Town Manager Carter stated that two thirds of the investments are in vehicles that do not pay on a monthly basis.

Councilor Thomson asked if they knew anything on the teacher contracts that had been approved by the School Committee but had not been voted on and wanted to know if the contracts had been voted on. Town Manager Carter responded that he had not received an official indication.

Councilor Thomson noted that the end of the year might be a good time for Council to acquire information including who of the town employees have town automobiles, are taking them home, where they live, for what purpose do they have the vehicle and how many trips of an emergency nature have they gone on over the past 12 months.

Councilor Dow asked if there was anyway to understand who was using fuel for the town vehicles. Town Manager Carter noted that each vehicle was given an ID card. Councilor Dow wanted to know who reviewed that information as it was a huge cost to the town. Town Manager Carter noted that the only people who took vehicles home which were the police chief, his supervisors and the fire chief.

Councilor Dow stated that in regards to the audit, it showed that the town had reduced their expenses by \$2,779,403.00 and wanted to give a big kudos to Town Manager Carter and his team.

12. NEW BUSINESS

a. *(120209-2) THE KITTERY TOWN COUNCIL MOVES TO APPROVE THE DISBURSEMENT WARRANTS.*

Chairperson Spiller read the disbursement warrants which were Warrant No. SNP 12/22 for the School Nutrition Program in the amount of \$29,493.60, Warrant No. S 122209 for the School Accounts Payable in the amount of \$406,356.77 and Warrant No. T10-26 for the Town Accounts Payable in the amount of \$577, 190.96. Chairperson Spiller asked Councilor Dennett if the town warrants were in appropriate format for signature which he answered in the affirmative. Chairperson Spiller asked Councilor Dow if the school warrants were in appropriate format for signature which he answered in the affirmative.

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

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

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6/0.

b. (120209-3) *THE KITTERY TOWN COUNCIL MOVES TO APPROVE AND AUTHORIZE THE CHIEF OF POLICE TO SIGN A SOUTHERN MAINE SPECIAL RESPONSE TEAM MEMORANDUM OF UNDERSTANDING.*

Chairperson Spiller noted that she understood that this item was going to be postponed. Town Manager Carter responded that because there had been an advanced question on insurance they had not had the time to get the answer in time. Chairperson Spiller noted that this item would then be postponed to the next meeting.

c. (120209-4) *THE KITTERY TOWN COUNCIL MOVES TO RE-APPOINT HEATHER M. ROSS AS CODE ENFORCEMENT OFFICER UNTIL 12/31/10.*

Chairperson Spiller noted that this action was required by state statute.

COUNCILOR THOMSON MOVED THAT THE KITTERY TOWN COUNCIL RE-APPOINT HEATHER M. ROSS AS CODE ENFORCEMENT OFFICER UNTIL 12/31/10, SECONDED BY COUNCILOR BEERS.

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

d. (120209-5) *THE KITTERY TOWN COUNCIL MOVES TO RE-APPOINT ROCHELLE BISHOP AS ASSISTANT CODE ENFORCEMENT OFFICER UNTIL 12/31/10.*

COUNCILOR THOMSON MOVED THAT THE KITTERY TOWN COUNCIL RE-APPOINT ROCHELLE BISHOP AS ASSISTANT CODE ENFORCEMENT OFFICER UNTIL 12/31/10, SECONDED BY COUNCILOR BEERS.

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

e. (120209-6) *THE KITTERY TOWN COUNCIL MOVES TO RE-APPOINT JOHN COPLEY AS ASSISTANT CODE ENFORCEMENT OFFICER UNTIL 12/31/10.*

COUNCILOR THOMSON MOVED THAT THE KITTERY TOWN COUNCIL RE-APPOINT JOHN COPLEY AS ASSISTANT CODE ENFORCEMENT OFFICER UNTIL 12/31/10, SECONDED BY COUNCILOR BEERS.

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

f. (120209-7) *THE KITTERY TOWN COUNCIL MOVES TO RE-APPOINT HEATHER M. ROSS AS THE LOCAL PLUMBING INSPECTOR UNTIL 12/31/10.*

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COUNCILOR THOMSON MOVED THAT THE KITTELY TOWN COUNCIL RE-APPOINT HEATHER M. ROSS AS THE LOCAL PLUMBING INSPECTOR UNTIL 12/31/10, SECONDED BY COUNCILOR BEERS.

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

g. (120209-8) THE KITTELY TOWN COUNCIL MOVES TO RE-APPOINT ROCHELLE BISHOP AS AN ALTERNATE PLUMBING INSPECTOR UNTIL 12/31/10.

COUNCILOR THOMSON MOVED THAT THE KITTELY TOWN COUNCIL RE-APPOINT ROCHELLE BISHOP AS AN ALTERNATE PLUMBING INSPECTOR OFFICER UNTIL 12/31/10, SECONDED BY COUNCILOR BEERS.

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

h. (120209-9) THE KITTELY TOWN COUNCIL MOVES TO RE-APPOINT JOHN COPLEY AS AN ALTERNATE PLUMBING INSPECTOR UNTIL 12/31/10.

COUNCILOR THOMSON MOVED THAT THE KITTELY TOWN COUNCIL RE-APPOINT JOHN COPLEY AS AN ALTERNATE PLUMBING INSPECTOR UNTIL 12/31/10, SECONDED BY COUNCILOR BEERS.

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

i. (120109-10) THE KITTELY TOWN COUNCIL MOVES TO SCHEDULE A DATE TO HOLD A PUBLIC HEARING AS RECOMMENDED BY THE ORDINANCE REVIEW COMMITTEE ON PROPOSED AMENDMENTS TO TITLES 1-14 FOR THE PURPOSE OF RECODIFICATION.

Chairperson Spiller noted that the date recommended was January 11, 2010.

COUNCILOR THOMSON MOVED THAT THE KITTELY TOWN COUNCIL SCHEDULE A PUBLIC HEARING ON PROPOSED AMENDMENTS TO TITLES 1-14 FOR THE PURPOSE OF RECODIFICATION FOR JANUARY 11, 2010, SECONDED BY COUNCILOR BRAKE.

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

j. (120209-11) THE KITTELY TOWN COUNCIL MOVES TO RE-APPOINT DANIEL CLAPP TO THE SHELLFISH CONSERVATION COMMITTEE UNTIL 8/14/12.

COUNCILOR BEERS MOVED THAT THE KITTELY TOWN COUNCIL RE-

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APPOINT DANIEL CLAPP TO THE SHELLFISH CONSERVATION COMMITTEE UNTIL 8/14/12, SECONDED BY COUNCILOR BRAKE.

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

k. (120209-12) THE KITTERY TOWN COUNCIL MOVES TO ACCEPT A DONATION FROM TANGER PROPERTIES LP IN THE AMOUNT OF \$500.00 FOR THE KITTERY FIRE DEPARTMENT TO BE USED TO BENEFIT THE DEPARTMENT OR A CHARITY OF THEIR CHOICE.

Town Manager Carter noted that this was an annual occurrence from Tanger Outlets who gives a check to the Police Benevolent Association and to the Fire Department. He continued that they are very grateful for the protection they receive from the fire department and police department. He noted that the chief has asked that the funds be put back into his account for use this year.

COUNCILOR BEERS MOVED THAT THE KITTERY TOWN COUNCIL ACCEPT A DONATION FROM TANGER PROPERTIES LP IN THE AMOUNT OF \$500.00 FOR THE KITTERY FIRE DEPARTMENT TO BE USED TO BENEFIT THE DEPARTMENT OR CHARITY OF THEIR CHOICE, SECONDED BY COUNCILOR THOMSON.

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

1. *OTHER*

Councilor Dennett noted that he thought that Council should consider a change in policy regarding the issuance of certain licenses. He continued that it was usually noted on the agenda that if the license is approved the town clerk will hold the license until such time as the premises involved has been inspected and approved by the CEO and fire chief. Councilor Dennett stated that once Council approves a license even if it is disapproved by either of the above parties there is not much that can be done besides holding a public hearing to revoke the license. He continued that he thought that it would seem more logical to have the inspection done when the application comes in and prior to Council acting on it. He stated that after that Council could act on the application and it would be on its way. He noted that if there was a problem from the CEO or fire chief they could stop it there and suggested that Council change its procedure. Councilor Dennett asked from a report from staff as to their opinion at the next meeting.

Councilor Brake noted that he had a check from the Recycling Committee in the amount of \$180.00 and wanted to thank everyone who donated at the solid waste facility. He noted that he wished everyone a happy new year.

13. COMMITTEE AND OTHER REPORTS

APPROVED MINUTES
DECEMBER 28, 2009 TOWN COUNCIL

a. Communications from the Chairperson

Chairperson Spiller wanted to wish everyone a happy and prosperous new year. She noted that Council had a long and short term planning discussion scheduled for the following Monday.

b. Town Manager's Report

Town Manager Carter stated that there were some personnel changes coming up as Steve Tapley was retiring February 1st but would be leaving the position at the end of that week. He continued that they had been advertising and doing a recruitment search that ended December 22nd and they were going to be interviewing next week and hopefully by the next meeting they will have made an announcement.

Town Manager Carter noted that a longtime employee at the Rec Department who had held other positions around town, Eileen Deberto, was also retiring at the end of the week and they wished her well.

Town Manager Carter wanted to thank everyone who attended the bridge connectivity meeting on December 16th and he thought that it was a worthwhile meeting. He continued that the direction that will be reported on in June as to the two alternatives should be studied carefully by the community as to their impact on businesses, citizens and the region as a whole.

Town Manager Carter also wanted to wish everyone a happy new year.

c. Committee Reports

There were none.

14. ADJOURNMENT

Meeting adjourned at 8:48 P.M.