

APPROVED MINUTES  
Approved on July 27, 2009

**KITTERY TOWN COUNCIL**

**June 22, 2009**

**Council Chamber**

1. CALL TO ORDER

Chairperson Jeffrey Thomson called the meeting to order at 6:30 p.m.

2. INTRODUCTORY

Chairperson 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 Gary Beers, Frank Dennett, Ann Grinnell, Glenn Shwaery, Vice Chair Judith Spiller and Chairperson Jeffrey Thomson. Also present were Town Manager Jonathan Carter, Town Clerk Maryann Place, Recorder Ashley Rodier, members of the press and others.

5. EXECUTIVE SESSION

*THE KITTERY TOWN COUNCIL MOVES TO HOLD AN EXECUTIVE SESSION TO DISCUSS THE TOWN MANAGER'S FY '10 COMPENSATION IN ACCORDANCE WITH 1 M.R.S. §405 (6) (A).*

**CHAIRPERSON THOMSON MOVED TO OPEN THE EXECUTIVE SESSION, SECONDED BY COUNCILOR DENNETT, WITH ALL IN FAVOR.**

*Executive Session opened: 6:32 p.m.*

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

*Executive Session closed: 7:00 p.m.*

6. ACCEPTANCE OF MINUTES

The Minutes of the June 1, 2009 Special Meeting were accepted. The Minutes of the June 8, 2009 Regular Meeting were accepted, as amended.

7. PUBLIC HEARING

- a. (060209-1) *THE KITTERY TOWN COUNCIL MOVES TO HOLD A PUBLIC HEARING ON A RENEWAL APPLICATION FROM CHIOS PIZZA, INC., 49*

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*GRIFFIN ROAD, PORTSMOUTH, NH FOR A MALT LIQUOR LICENSE  
FOR TOWN PIZZA RESTAURANT, 15 WENTWORTH STREET.*

Chairperson Thomson then opened the Public Hearing. No response being heard, the Chair closed the Public Hearing.

**COUNCILOR SPILLER MOVED THAT THE KITTERY TOWN COUNCIL APPROVE A RENEWAL APPLICATION FROM CHIOS PIZZA, INC., 49 GRIFFIN ROAD, PORTSMOUTH, NH, FOR A MALT LIQUOR LICENSE FOR TOWN PIZZA, 15 WENTWORTH STREET, SECONDED BY COUNCILOR GRINNELL**

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

*b. (060209-2) THE KITTERY TOWN COUNCIL WILL HOLD A PUBLIC HEARING TO RELEASE FUNDS FROM THE TOWN'S GRANT MATCH RESERVE FUND IN THE AMOUNT OF \$6,132.00 TO CONDUCT A HARBOR ECONOMIC FEASIBILITY STUDY, MATCHING THE STATE'S PLANNING OFFICE AMOUNT OF \$8,918.00 FOR A TOTAL GRANT WITH IN-KIND CONTRIBUTIONS OF \$15,550.00*

Chairperson Thomson indicated that the Town Manager is assisting the Kittery Port Authority with the grant and it is seen as a collaborative effort with the Harbormaster leading the project with members of the Kittery Port Authority. The program of the work for the project will be modeled after the recently completed Wood Island feasibility study using UNH students and professionals in a one year review with a future waterfront business infrastructure at Pepperrell Cove that can make the KPA and town operations more sustainable. Chairperson Thomson then asked Town Manger Carter if there was anything that he would like to add. Town Manager Carter explained that the Town expected a great deal of collaboration with the KPA and the general public on looking at the whole Pepperrell Cove infrasructure. Through some vision that the Harbormaster had which played out in the capital improvement planning process, Town Manager Carter thought that there is a business plan that could be put into place which would make the facilities more efficient, more attractive and more sustainable to the community. Chairperson Thomson then opened the Public Hearing. No response being heard, the Chair closed the Public Hearing.

**COUNCILOR BEERS MOVED THAT THE KITTERY TOWN COUNCIL RELEASE FUNDS FROM THE TOWN GRANT MATCH RESERVE FUND IN THE AMOUNT OF \$6,132.00 TO CONDUCT A HARBOR ECONOMIC FEASIBILITY STUDY, MATCHING THE STATE'S PLANNING OFFICE AMOUNT OF \$8,918.00 FOR A TOTAL GRANT OF WITH IN-KIND CONTRIBUTIONS OF \$15,500.00, SECONDED BY COUNCILOR SPILLER.**

Councilor Dennett inquired if the Town had received the contract from the Maine

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State Planning Office. Town Manager Carter indicated that they had not received the contract yet. Councilor Dennett indicated that he would like to see the contract before it is signed. Town Manager Carter noted that he would like to see the contract shaped like the Wood Island contract. Vice Chair Spiller suggested that someone from Council work on the project as well. Councilor Grinnell indicated that as she and Vice Chair Spiller had worked on the Wood Island project, she would second Vice Chair Spiller's suggestion that Council appoint someone to work on the project as eventually it would be brought before Council and it would be beneficial to have a councilor on the project. Harbormaster Bion Pike indicated that was a good idea and that any input from any department would be helpful to decide what the eventual vision will be. Councilor Spiller indicated that she would be willing to work on the project. Councilor Shwaery wanted to know how the "wish list" was generated and if it was flexible. Town Manager Carter indicated that the "wish list" or scope of work was very flexible and that it was devised by the KPA. Town Manager Carter indicated that the eventual goal was to make it more of a transient facility and allow more people to use it. Councilor Shwaery indicated that there was no land transportation currently and that was something that needed to be figured out. Councilor Beers noted that in regards to infrastructure and development it would lend itself to the type of activity that supports a tax increment finance district to deal with those kinds of issues and that it ought to be considered in parallel if not in sequence.

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

c. (060209-3) *THE KITTERY TOWN COUNCIL MOVES TO HOLD A PUBLIC HEARING ON A RENEWAL APPLICATION FROM CAPITAL VIDEO CORPORATION, 1 METRO PARK DRIVE, CRANSTON, RI, FOR A VIEWING BOOTHS LICENSE FOR AMAZING.NET, 92 ROUTE 236, KITTERY.*

Chairperson Thomson indicated that notice of this hearing appeared in the local printed media on Friday, June 5, 2009 and Friday, June 12, 2009. Chairperson Thomson then opened the Public Hearing. No response being heard, the Chair closed the Public Hearing.

**COUNCILOR SHWAERY MOVED THAT THE KITTERY TOWN COUNCIL APPROVE A RENEWAL APPLICATION FROM CAPITAL VIDEO CORPORATION, 1 METRO PARK DRIVE, CRANSTON, RI FOR A VIEWING BOOTHS LICENSE FOR AMAZING.NET, 92 ROUTE 236, KITTERY, SECONDED BY COUNCILOR SPILLER**

Councilor Dennett asked if there was any recommendation given by the Police Department. Town Manager Carter replied that all inspecting departments have inspected and authorized the premises.

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**A ROLL CALL VOTE WAS TAKEN, WITH VICE CHAIR SPILLER AND CHAIRPERSON THOMSON OPPOSED. MOTION PASSES 4/2.**

d. (060209-4) *THE KITTELY TOWN COUNCIL MOVES TO HOLD A PUBLIC HEARING TO AMEND THE CURRENT LIQUOR LICENSE FOR ROUTE 1 FUN, LLC D/B/A PLAY ON FUN CENTER, 506 US ROUTE 1, TO ALLOW FOR AN EXTENDED AREA ON THE PREMISE FOR THE CONSUMPTION OF LIQUOR.*

Chairperson Thomson indicated that they were looking to amend their current liquor license to allow them to serve liquor outside on the patio. Chairperson Thomson then opened the Public Hearing. No response being heard, the Chair closed the Public Hearing.

**COUNCILOR BEERS MOVED THAT THE KITTELY TOWN COUNCIL AMEND THE CURRENT LIQUOR LICENSE FOR ROUTE 1 FUN, LLC, D/B/A PLAY ON FUN CENTER, 506 US ROUTE 1, TO ALLOW FOR AN EXTENDED AREA ON THE PREMISE FOR THE CONSUMPTION OF LIQUOR, SECONDED BY COUNCILOR GRINNELL.**

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

e. (060209-5) *THE KITTELY TOWN COUNCIL MOVES TO HOLD A PUBLIC HEARING AND HEREBY ORDAINS THE ADOPTION OF THE MUNICIPAL AND ADULT EDUCATION FY 2009-10 BUDGETS, IN ACCORDANCE WITH SECTION 6.06 (1) OF THE TOWN CHARTER.*

Chairperson Thomson noted that the voters approved per the State Education and Consolidation Law, the education portion of the budget on Tuesday, June 9, 2009. Chairperson Thomson indicated that they were now looking at the municipal and the adult education portion of the budget. Chairperson Thomson stated that there have been a number of workshops and a number of articles in the paper regarding this. Chairperson Thomson then read the memorandum from the Town Manager to the Town Council relative to the FY '10 budget. Town Manager Carter indicated that it is still a constant challenge and that everyone did an extremely good job trying to hold the budget together for next year. He further noted that FY '11 was going to be very difficult and depending on the November vote outcome on the excise issue, the FY '10 budget could be revisited quickly. Chairperson Thomson then opened the Public Hearing. No response being heard, the Chair closed the Public Hearing.

Chairperson Thomson indicated that Council was going to go through the overall account items and the amount proposed and any adjustments to the sum totals will be specific to lines in the budget, which a councilor may address, but the motions will go through by summary line item. Councilor Dennett indicated that as a matter of procedure it gets to be a very lengthy and cumbersome process by item and asked if it would be

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more efficient just have one blanket motion to cover everything if there were no amendments. Councilor Beers indicated that as a matter of order it would be appropriate to move the bottom line of the total requested and amend as necessary on individual accounts and appropriate accounts as the councilors so desire. Councilor Grinnell seconded Councilor Beers's suggested. Chairperson Thomson then read the list of accounts, amounts and the projected percentage change in those accounts. Chairperson Thomson stated that the total appropriation was in an amount of \$9,474,579.00 and was an overall 3% reduction from FY '09.

**COUNCILOR SHWAERY MOVED TO AMEND THE ADMINISTRATION ACCOUNT, SPECIFICALLY TO REDUCE THE MANAGER'S SALARY ACCOUNT BY \$726.00 YIELDING A TOTAL AMOUNT TO BE APPROPRIATED FOR ACCOUNT 1110 TO \$833,775.00, SECONDED BY COUNCILOR GRINNELL.**

**A ROLL CALL VOTE WAS TAKEN, WITH CHAIRPERSON THOMSON OPPOSED. MOTION PASSES 5/1.**

Councilor Grinnell wanted to explain why the adjustment was made to the Manager's salary and that it had nothing to do with merit and that Council voted to give him a 1% raise due to the financial times. Chairperson Thomson wanted to explain his vote on the matter, in that he felt that a decision like this should have been made prior to this evening and should have been uniform to all department heads and to the union employees of the town. The Chair then indicated that he did not think that it was fair to single one person out in Council's deliberations.

Chairperson Thomson indicated that this would make the total appropriation \$9,282,725.00.

**CHAIRPERSON THOMSON MOVED TO AMEND THE TOTAL APPROPRIATION, LESS OVERLAY, IN AN AMOUNT OF \$9,282,725.00.**

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

**COUNCILOR SHWAERY MOVED TO REDUCE THE SEWER DEPARTMENT BUDGET BY \$242.00, SECONDED BY COUNCILOR SPILLER**

**A ROLL CALL VOTE WAS TAKEN, WITH CHAIRPERSON THOMSON OPPOSED. MOTION PASSES 5/1.**

8. DISCUSSION

- a. *DISCUSSION BY MEMBERS OF THE PUBLIC (Three minutes per person)*  
There was none.

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b. *CHAIRPERSON'S RESPONSE TO PUBLIC COMMENTS*

There was none.

9. UNFINISHED BUSINESS

Councilor Grinnell reported that she had represented the Town Council at the kickoff meeting for the feasibility study of all recreational facilities at the Portsmouth High School. She reported that there had been talks about ball fields, tennis courts, ice rinks, and a pool facility. Councilor Grinnell noted that there was another meeting scheduled in July and another meeting in the fall. Councilor Grinnell wanted to know from Council what aspects of the feasibility study the Town would like to be involved in and how much the Town wants to be involved in the study. Councilor Grinnell indicated that it was her intent to get a place where Kittery residents can go that the Town does not offer. Councilor Shwaery asked if there was any indication from the City of Portsmouth as to what kind of contribution they wanted from the Town. Councilor Grinnell indicated that there was not. Councilor Grinnell indicated it could be a large savings for Kittery residents if everyone was treated as a resident and that families could get free swimming lessons and lap lanes. Councilor Shwaery indicated that he would like Councilor Grinnell to find out what role Portsmouth would see the Town playing. Town Manager Carter indicated that based on his discussions with City Manager Bohenko, the door was wide open as to what the Town could participate in the study. Councilor Grinnell indicated that she would keep going to the meetings and would report back to Council.

10. NEW BUSINESS

a. (060209-6) *THE KITTEERY TOWN COUNCIL MOVES TO APPROVE THE DISBURSEMENT WARRANTS.*

Chairperson Thomson referred Council to the warrant summary which included Warrant No. 4 for the Enterprise/Gate Receipts in the amount of \$3,162.80, Warrant No. 21 for School Nutrition Program in the amount of \$6,053.83, Warrant No. 24 for the School Accounts Payable in the amount of \$139,460.82, Warrant No. 24A for the School Accounts Payable in the amount of \$22,039.12, Warrant No. 24B for the School Accounts Payable in the amount of -\$185.00 and Warrant No. 102 for Town Accounts Payable in the amount of \$265,802.49. Chairperson Thomson asked Councilor Beers if he had reviewed the Town Warrant. Councilor Beers indicated that he had and that they were correct. Chairperson Thomson then asked Vice Chair Spiller if the School Warrants were appropriate for signature which she answered in the affirmative.

**COUNCILOR SHWAERY MOVED THAT THE DISBURSEMENT WARRANTS BE APPROVED, SECONDED BY COUNCILOR SPILLER.**

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

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- b. (060209-7) *THE KITTERY TOWN COUNCIL MOVES TO APPOINT A REPRESENTATIVE TO MEET WITH THE CHAIR OF THE CONSERVATION COMMISSION TO INTERVIEW KELLY WEEKS WILSEY FOR APPOINTMENT TO THAT COMMISSION UNTIL 5/31/12.*

Chairperson Thomson indicated that he was next on the list to do so and with the Council's permission he will take care of it.

**COUNCILOR SPILLER MOVED THAT THE COUNCIL CHAIR MEET WITH THE CHAIR OF THE CONSERVATION COMMITTEE TO INTERVIEW KELLY WEEKS WILSEY FOR AN APPOINTMENT TO THAT COMMISSION UNTIL 5/31/12, SECONDED BY COUNCILOR BEERS.**

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

- c. (060209-8) *THE KITTERY TOWN COUNCIL MOVES SCHEDULE A DATE FOR A PUBLIC HEARING ON PROPOSED AMENDMENTS TO TITLE 16 OF THE LAND USE AND DEVELOPMENT CODE POST – CONSTRUCTION STORMWATER ORDINANCE, TO ADDRESS METHODS FOR COMPLIANCE TO THE FEDERAL CLEAN WATER ACT AND STATE LAW.*

Chairperson Thomson noted that July 13, 2009 was recommended for that hearing and that the hearing would be advertised twice because of it being a zoning amendment.

**COUNCILOR BEERS MOVED TO SCHEDULE A PUBLIC HEARING ON PROPOSED AMENDMENTS TO TITLE 16 OF THE LAND USE AND DEVELOPMENT CODE POST-CONSTRUCTION STORMWATER ORDINANCE, TO ADDRESS METHODS FOR COMPLIANCE TO THE FEDERAL CLEAN WATER ACT AND STATE LAW ON JULY 13, 2009, SECONDED BY COUNCILOR SHWAERY.**

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

- d. (060209-9) *THE KITTERY TOWN COUNCIL MOVES TO APPOINT A REPRESENTATIVE TO MEET WITH THE CHAIR OF THE PARKS COMMISSION TO INTERVIEW ALAN MCDONALD FOR APPOINTMENT TO THAT COMMISSION UNTIL 5/3/11.*

Chairperson Thomson indicated that Councilor Beers was next on the list.

**COUNCILOR DENNETT MOVED TO APPOINT COUNCILOR BEERS TO MEET WITH THE CHAIR OF THE PARKS COMMISSION TO INTERVIEW ALAN MCDONALD FOR APPOINTMENT TO THAT**

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**COMMISSION UNTIL 5/3/11, SECONDED BY COUNCILOR GRINNELL.**

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

- e. (060209-10) *THE KITTERY TOWN COUNCIL MOVES TO APPROVE THE REQUEST OF INTERNATIONAL RECREATIONAL OPEN WATER ROWING ASSOCIATION (IROW) TO CONDUCT THE ARTHUR MARTIN MEMORIAL REGATTA ON JULY 25, 2009 AT FORT FOSTER.*

**COUNCILOR GRINNELL MOVED TO APPROVE THE REQUEST OF INTERNATIONAL RECREATIONAL OPEN WATER ROWING ASSOCIATION (IROW) TO CONDUCT THE ARTHUR MARTIN MEMORIAL REGATTA ON JULY 25, 2009 AT FORT FOSTER, SECONDED BY COUNCILOR SPILLER.**

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

- f. (060209-11) *THE KITTERY TOWN COUNCIL MOVES TO APPOINT A REPRESENTATIVE TO MEET WITH THE CHAIR OF THE BOARD OF ASSESSMENT REVIEW TO INTERVIEW JOSEPH AFLENKO FOR REAPPOINTMENT TO THAT BOARD UNTIL 4/24/12.*

Chairperson Thomson noted that Councilor Dennett is next on the list.

**COUNCILOR BEERS MOVED TO APPOINT COUNCILOR DENNETT TO MEET WITH THE CHAIR OF THE BOARD OF ASSESSMENT REVIEW TO INTERVIEW JOSEPH AFLENKO FOR REAPPOINTMENT TO THAT BOARD UNTIL 4/24/12, SECONDED BY COUNCILOR GRINNELL.**

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

- g. (060209-12) *THE KITTERY TOWN COUNCIL MOVES TO SCHEDULE A PUBLIC HEARING TO TRANSFER APPROPRIATIONS BETWEEN ACCOUNTS AND CARRY FORWARD REQUESTS IN ACCORDANCE WITH SEC. 6.09 (4) OF THE KITTERY TOWN CHARTER.*

Chairperson Thomson indicated that Council was aware that the charter was allowed, within 30 days of the end of the fiscal year, to transfer funds between the different municipal accounts. Chairperson Thomson indicated that the Town Manager had requested that the hearing be scheduled for July 27, 2009.

**COUNCILOR DENNETT MOVED TO SCHEDULE A PUBLIC HEARING TO TRANSFER APPROPRIATIONS BETWEEN ACCOUNTS AND**

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**CARRY FORWARD REQUESTS IN ACCORDANCE WITH SEC. 6.09(4)  
OF THE KITTEERY TOWN CHARTER FOR JULY 27, 2009, SECONDED  
BY COUNCILOR SPILLER.**

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

h. *OTHER*

Councilor Shwaery wanted to applaud the Town Manager and school department for coming in with a zero based budget and wanted to clarify to the town residents that the mill rate will not be set until the fall and that there was already a warrant article passed that was sixty times what Council had saved that evening by reducing the manager's salary. He further noted with all of the bonds passing that the debt was potentially doubled and that people should not be surprised if there is an increase in the mill rate.

11. COMMITTEE AND OTHER REPORTS

a. *COMMUNICATIONS FROM THE CHAIRPERSON*

Chairperson Thomson wanted to report from the recent AARP newsletter. The newsletter reported that in the State of Maine more than 17,000 residents, 60 and older, will receive \$50.00 worth of fruits and vegetables during the growing season through the Maine Senior Farm Share Program for individuals with annual incomes of up to \$20,036.00 and couples with annual incomes of up to \$26,995.00. Chairperson Thomson wanted this article to be put on the Town website to inform residents of the program.

b. *TOWN MANAGER'S REPORT*

Town Manager Carter reported that the FY '09 budget continued to be monitored and it was getting right down to the finish line with the last payroll coming up. Town Manager Carter indicated that the budget was right below where he had budgeted the deferred amount and will make some adjustments for the July meeting.

In regards to the bridge update, Town Manager Carter indicated that a few weeks ago with the help of State Rep. Wheeler, Rep. Hill and Sen. Bowman a group went to Augusta and campaigned hard to have the legislators understand the issue that we are facing with the two bridges. Town Manager Carter continued that they made the legislators aware of the supplemental stimulus grant through the United States Department of Transportation, called Tiger Grant funds, which are due mid-September and are state competitive grants. He stated that the opportunity was to collaborate with New Hampshire on an application to repair the two bridges. He stated that they spoke to the legislators about the Homeland Security issue with the Sarah Long bridge and made them aware of that importance. Town Manager Carter stated that at the end of the day with the help of Rep. Wheeler, Senator Bowman and Rep. Hill, they got the point across

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to the Chairs of the Transportation Committee and several legislators and made a substantial argument in front of the Governor's Chief of Staff, Jane Lincoln who is from Kittery Point and Commissioner Cole. Town Manager Carter noted that they were urging through letter writing and conversations with legislators in York County to ask the Governor for his review of this project in light of other projects that he has on his desk and hope that he would choose the bridge project and collaborate with New Hampshire in the next few weeks. Town Manager Carter indicated that the grant application takes a great deal of concentration and a team effort to put together and may take 6-7 weeks to put it together to have it ready for submittal by Labor Day. He again urged anyone who is able to write to the Governor to urge him to choose the bridge project.

Town Manager Carter explained that there was not only a Stormwater Ordinance coming to Council but that this Thursday there was a Planning Board meeting and it may pass the Shoreland Zoning Ordinance which would then come to Council for a public hearing. He explained that it was a very large ordinance and that Councilor Beers has done a huge amount of work on the applications.

Councilor Shwaery wanted to know relative to the bridge grant if September was within the timeline to get the money committed. Town Manager noted that the national deadline was September 15<sup>th</sup> with an award date of January or February of 2010.

c. *COMMITTEE REPORTS*

12. ADJOURNMENT

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

***MEETING ADJOURNED: 8:13 P.M.***