

APPROVED MINUTES

**KITTERY TOWN COUNCIL**

**September 14, 2009**

**Council Chamber**

1. CALL TO ORDER  
Vice Chair Judith Spiller called the meeting to order at 7:00 p.m.
2. INTRODUCTORY  
Vice Chair Spiller read the Introductory.
3. PLEDGE OF ALLEGIANCE  
Vice Chair Spiller led those present in the Pledge of Allegiance.
4. ROLL CALL  
Answering the roll were Councilors Gary Beers, Frank Dennett, Ann Grinnell, and Vice Chair Judith Spiller. Also present were Town Manager Jonathan Carter, Recorder Ashley Rodier, members of the press and others.
5. ACCEPTANCE OF MINUTES

The Minutes of the August 24, 2009 Town Council Meeting were accepted, as amended.

Vice Chair Spiller indicated that she would like to move Item J under New Business to be heard out of order.

**VICE CHAIR SPILLER MOVED THAT THE KITTERY TOWN COUNCIL HEAR ITEM J. UNDER NEW BUSINESS ON THE AGENDA OUT OF ORDER, SECONDED BY COUNCILOR GRINNELL.**

**A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 4/0.**

*j.(090109-13) THE KITTERY TOWN COUNCIL MOVES TO ACCEPT THE RESIGNATION OF GLENN SHWAERY FROM THE TOWN COUNCIL EFFECTIVE SEPTEMBER 11, 2009 AND SCHEDULE A SPECIAL ELECTION FOR NOVEMBER 3<sup>RD</sup> TO FILL HIS UNEXPIRED TERM AND TO SHORTEN THE TIME PERIOD FOR NOMINATION PAPERS.*

**COUNCILOR BEERS MOVED THAT THE KITTERY TOWN COUNCIL ACCEPT THE RESIGNATION OF GLENN SHWAERY FROM THE TOWN COUNCIL EFFECTIVE SEPTEMBER 11, 2009 WITH GENUINE REGRET, KUDOS AND COMPLIMENTS FOR EXEMPLARY SERVICE FOR FIVE YEARS, SECONDED BY COUNCILOR GRINNELL.**

APPROVED MINUTES

Councilor Spiller indicated that she echoed Councilor Beers's remarks and noted that she thought that Councilor Shwaery had the unique ability to look at issues from different perspectives and raise compelling arguments on both sides. Councilor Dennett indicated that he thought that it was too bad that states, such as the State of Maine, drives residents out because of taxation.

**A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 4/0.**

Vice Chair Spiller noted that the Town Council had a plaque for Councilor Shwaery and that they appreciated his service. Vice Chair Spiller noted that there was a memo from the Town Clerk outlining what was needed to have a special election and that they appreciated that Councilor Shwaery resigned in such a way that they did not have to pay the expense of holding another election.

**COUNCILOR BEERS MOVED THAT THE KITTELY TOWN COUNCIL SCHEDULE A SPECIAL ELECTION FOR NOVEMBER 3, 2009 TO FILL COUNCILOR SHWAERY'S UNEXPIRED TERM AND TO SHORTEN THE TIME PERIOD FOR NOMINATION PAPERS, SECONDED BY COUNCILOR GRINNELL.**

Vice Chair Spiller noted that the deadline for filing the papers would be September 28, 2009 at 6:00 P.M. with the Town Clerk and that the papers would be available tomorrow morning. Vice Chair Spiller encouraged residents to take out papers and noted that it was for a one year term.

**A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 4/0.**

6. PUBLIC HEARING

- a. *(090109-1) THE KITTELY TOWN COUNCIL MOVES TO HOLD A PUBLIC HEARING ON THE RENEWAL APPLICATION OF DELTA AMUSEMENT, INC., 182 STATE ROAD, KITTELY FOR A MALT, SPIRITUOUS AND VINOUS LIQUOR LICENSE FOR NAVY YARD BAR & BILLIARDS, 182 STATE ROAD.*

Vice Chair Spiller noted that notice of this public hearing was advertised in the local printed media on September 4, 2009. Vice Chair Spiller opened the public hearing. No response being heard, Vice Chair Spiller closed the public hearing.

**COUNCILOR BEERS MOVED THAT THE KITTELY TOWN COUNCIL APPROVE THE RENEWAL APPLICATION OF DELTA AMUSEMENT, INC., 182 STATE ROAD, KITTELY FOR A MALT, SPIRITUOUS AND VINOUS LIQUOR LICENSE FOR NAVY YARD BAR & BILLIARDS, 182 STATE ROAD, SECONDED BY COUNCILOR GRINNELL.**

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

APPROVED MINUTES

**PASSES 4/0.**

Vice Chair Spiller noted that this license would be held by the Town Clerk until she receives confirmation from the Code Enforcement Officer and Fire Chief that the establishment is in compliance with all state and local safety codes and ordinances.

- b. *(090109-2) THE KITTERY TOWN COUNCIL MOVES TO HOLD A PUBLIC HEARING ON THE RENEWAL APPLICATION OF DELTA AMUSEMENT INC., 182 STATE ROAD, KITTERY FOR A SPECIAL ACTIVITY AMUSEMENT PERMIT FOR NAVY YARD BAR & BILLIARDS, 182 STATE ROAD.*

Vice Chair Spiller opened the public hearing and no response being heard closed the public hearing.

**COUNCILOR BEERS MOVED THAT THE KITTERY TOWN COUNCIL APPROVE THE RENEWAL APPLICATION OF DELTA AMUSEMENT, INC., 182 STATE ROAD, KITTERY FOR A SPECIAL ACTIVITY PERMIT FOR NAVY YARD BAR & BILLIARDS, 182 STATE ROAD, SECONDED BY COUNCILOR DENNETT.**

**A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 4/0.**

- c. *(090109-3) THE KITTERY TOWN COUNCIL MOVES TO HOLD A PUBLIC HEARING ON THE PROPOSED AMENDMENTS TO THE TOWN CHARTER, ARTICLE XIV TOWN MEETING.*

Vice Chair Spiller noted that the Town Council was looking to do away with the town meeting but there would be a public hearing at a regularly scheduled Town Council meeting. Town Manager Carter noted that he would be willing to go through the changes which Vice Chair Spiller indicated would be helpful. Town Manager Carter noted that there were multiple changes to the Town Charter under Section 14. He noted that Council would be setting up questions for the ballot through the Town Clerk but that basically the changes would affect the amount of money which would trigger a vote by the public. He noted that presently that amount was \$50,000.00 and that amount would change to \$125,000.00 as long as that expenditure does not cause the unencumbered surplus to fall below an amount equal to the equivalent of 2.5 months of the current year operating budget, per item or project. Town Manager Carter noted that the other change was that the annual meeting, which is currently held the Saturday meeting prior to the vote, would be eliminated and a public hearing on the warrant would be held at the regularly scheduled Council meeting immediately preceding the second Tuesday in June for open debate with secret ballot vote on the second Tuesday in June. He continued that the public hearing must consider the proposed capital program and other issues eligible under Sec. 14.03 may come before the public hearing. Town Manager Carter noted that this meant that at the last Town Council meeting of May prior to the June vote, there would be a public hearing on the ballot questions instead of holding the meeting on the Saturday. Town Manager Carter noted that the third change was that presently the Town Clerk was required to send out the warrant to every registered voter in town which was running the town \$5000.00 to \$6000.00 to do so. He

APPROVED MINUTES

indicated that Council was asking the electorate to consider posting the ballot in the post offices in Kittery and to use the town website and other locations in town to get the word out. Vice Chair Spiller opened the public hearing, no response being heard Vice Chair Spiller closed the public hearing.

**COUNCILOR DENNETT MOVED THAT THE KITTERY TOWN COUNCIL APPROVE THE PROPOSED AMENDMENTS TO THE TOWN CHARTER, ARTICLE XIV TOWN MEETING, SECONDED BY COUNCILOR BEERS.**

Councilor Dennett noted that the amount in Sec. 14.03 subparagraph 5 was still listed at \$50,000.00 and that it should be the same as listed in subparagraph 4 at \$125,000.00. Councilor Beers indicated that he concurred with Councilor Dennett and noted that was a change that Council had agreed to that had gotten lost in translation and that changing the \$50,000.00 to \$125,000.00 was appropriate.

**COUNCILOR DENNETT MOVED THAT SECTION 14.03 (5) OF THE TOWN CHARTER THE AMOUNT OF \$50,000.00 BE STRICKEN AND THE AMOUNT OF \$125,000.00 BE INSERTED IN PLACE THEREOF, SECONDED BY COUNCILOR GRINNELL.**

**A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 4/0.**

Vice Chair Spiller asked if there was any additional discussion on the main motion. There was none.

**A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 4/0.**

- d. *(090109-4) THE KITTERY TOWN COUNCIL MOVES TO HOLD A PUBLIC HEARING ON PROPOSED AMENDMENTS TO THE TOWN CHARTER, SECTIONS 2.07 ENUMERATION OF POWERS, 8.04 ZONING BOARD OF APPEALS AND 12.05 TIME OF MEETINGS.*

Vice Chair Spiller noted that this was in anticipation of some changes that Councilor Dennett had indicated were going to occur on the state level. Councilor Dennett indicated that for a number of years what the town had termed the Zoning Board of Appeals had been changed by the State to Board of Appeals. He continued that Council was asking the voters to eliminate the word “zoning” and to make it Board of Appeals and that it was really just a wording change and nothing substantial.

**COUNCILOR DENNETT MOVED THAT THE KITTERY TOWN COUNCIL APPROVE THE PROPOSED AMENDMENTS TO THE TOWN CHARTER, SECTIONS 2.07 ENUMERATION OF POWERS, 8.04 ZONING BOARD OF APPEALS AND 12.05 TIME OF MEETINGS, SECONDED BY COUNCILOR GRINNELL.**

Vice Chair Spiller noted that Chairman Thomson had emailed a statement that he wished to be read into the record pertaining to the previous item and to this item. Chairperson Thomson’s email read “Fellow Councilors, I wish to express my apologies to you and to the citizenry for my absence this evening. My absence involves a

## APPROVED MINUTES

contractual obligation to my employer. I would respectfully ask that Council move the proposed amendments to the Town Charter that will have been publicly heard this evening. As you know changes proposed to Article 14 were first broached by me a couple of months ago. Subsequent to that Councilor Dennett raised his recommendations regarding Section 2.07., 8.04 and 12.05 as they pertain to the Zoning Board of Appeals. A council workshop was held and we were able to reach agreeable language by consensus. Through the proposed amendments we concurred that the amendments addressed fiscal responsibility and language clarity for the town councils and charter moving forward”.

Councilor Dennett noted that under 2.07(2) the word “be” should be stricken and that this was approved at the last meeting but that it had slipped through the cracks. He continued that under Section 8.04(1) the word “zoning” should be stricken and the word “board” should be capitalized.

**COUNCILOR DENNETT MOVED THAT UNDER SEC. 2.07(2) THE WORD “BE” SHOULD BE STRICKEN AND UNDER SEC. 8.04(1) THE WORD “BOARD” SHOULD BE CAPITALIZED, SECONDED BY COUNCILOR BEERS.**

**A ROLL CALL VOTE WAS TAKEN, WITH ALL IN FAVOR. MOTION PASSES 4/0.**

**A ROLL CALL VOTE WAS TAKEN ON THE MAIN MOTION, WITH ALL IN FAVOR. MOTION PASSES 4/0.**

Vice Chair Spiller noted that these proposed amendments would appear on the November ballot.

### 7. DISCUSSION

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

Gil Roberts of Kittery came to the podium. He stated that Kittery had the opportunity to tuition out its high school to Marshwood and he thought that at every level it raised questions that as a community should be looked into. He continued that there were educational standards that appeared to be achieved at a higher level at Marshwood and noted that he was not saying anything negative about the Kittery school system but that these were the state facts. Mr. Roberts noted that the cost per student was substantially less and that it could be up to a million dollars in savings if Kittery was to tuition out. Mr. Roberts continued that a lot of people in the community have raised concerns relative to if this was feasible and if it could save money. He continued that he realized that this was a School Board issue but noted that the Town Council had a fiduciary responsibility to look at this issue also as it was such a large sum of money and impacted the whole community. Mr. Roberts indicated that he thought that this was a tremendous opportunity for the community and that it should be looked into.

Jeff Nerelki of Kittery came to the podium. He indicated that he was there to give his support for possibly tuitioning out. He indicated that he knew that this was a school committee issue primarily but wanted to address it with Council first. He noted that the

## APPROVED MINUTES

facts were very clear that Marshwood had excellent academic success and very diverse academics and a lot more opportunities. He indicated that it had much more diverse opportunities in extra curricular activities as well as athletics. He continued that the physical plant at Marshwood was exceptional. He noted that those were all facts that were very positive towards tuitioning out and when you added the huge factor of the amount of money that Kittery would save per year it became overwhelming to some residents. He continued that he would like to see Council become involved with this in whatever influence it has in talking with the School Board in order to pursue this. He continued that there may be deal killers along the way but that the timing was important and it needed to be pursued immediately and positively.

Jonel Thames Leake from Kittery Point came to the podium. She wanted to urge the Town Council and the School Board to approach this issue with a great deal of caution. She noted that she had seen some of the numbers that were thrown around the previous year and that she did not think that they were accurate. She noted that there were a lot of other issues that needed to be considered. She indicated that her main issue was that if Kittery tuitioned out students then they would give up all control and that Kittery would have no say. She noted that she did not want Kittery to end up like Rollinsford which was desperately trying to find a new school for their students. She noted that there would be more academic and extra curricular activities at Marshwood but noted that they also needed to look at the lost opportunities such as the kids who would not be able to make a sports team or school play. She indicated that Marshwood was quite a distance from Kittery, especially Kittery Point, and that she did not want her child on the bus for 45 minutes to an hour each way. She urged Council to look at this issue with a lot of caution.

William Campbell of Kittery Point came to the podium. He asked Council about doing something about the excessive motorcycle noise and altered muffler issues. He noted that this was an issue that had grown throughout towns on the seacoast and that the hobby was becoming a public nuisance. He noted that there was some movement with the State in which Sen. Peter Bowman was going to co-sponsor a bill to enforce an old EPA rule from the 1980's which had not been enforced. He continued that he did not know what the town could do in regards to this matter but would ask that Council help in any way possible to help with this issue.

Glenn Shwaery came to the podium. He thanked Council members as his colleagues for raising the bar. He noted that he had tried to resign to minimize the effect on the budget and also to minimize the number of meetings that Council would be without a seventh councilor. Mr. Shwaery noted that when the Chief spoke about his taser program he wanted to know if they were going to be the tasers that fired one or two shots. Mr. Shwaery noted that the main reason that he was there was to reiterate what Mr. Campbell had spoken about previously. He continued that Route 103 was a quiet road when he had first moved there in the 1980's and now you could not sleep at night with the windows open. He noted that he had gone out on the second weekend in July from 9 A.M. at 7 P.M. in which he would go out for an hour, skip an hour and so forth, and he took the average number of motorcycle trips by his house on Pepperrell Road per

## APPROVED MINUTES

hour and multiplied it by ten to get the average for the 10 hours and came out with a number of 630 motorcycle trips by his house. He noted that he understood that the motorcyclists wanted to enjoy the view but that residents could not hear when some of the modified bikes went by. He indicated that about 50% of the motorcycles were modified. He sympathized with the Chief in trying to measure decibel levels. He noted that he wished that there was something that the town could do to measure the decibel levels and that he understood the difficulties in doing so but that the quality of life was really eroded.

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

Vice Chair Spiller noted relative to the public comments regarding tuitioning out students to Marshwood that at this point it was a School Board issue and that the residents should be working with the School Board. She continued that Council followed what the School Board did but that Council has tried to keep a line between what the School Board does and what Council does.

Vice Chair Spiller noted relative to the motorcycle noise issue that she was sympathetic and that possibly at a future meeting the Town Manager and Police Chief could put together some sort of report on the challenges associated with that issue and some strategies to address the issue.

## 8. UNFINISHED BUSINESS

Councilor Beers noted that Eliot had publicized an approach where they would conduct a sewer installation study in Kittery to mitigate the cost for themselves. He noted that they could study Kittery all that they wanted to but Kittery would not accept the results of any such study and would wish to engage in their own study and that he would ask a sentiment of the Council to have the Town Manager communicate the essence of that message to the Town of Eliot. Councilor Dennett asked where Councilor Beers got this information from and wanted to make sure that the information was accurate. Councilor Beers noted that the essence of the message appeared to be valid and thought that it was fair to ask Council to communicate to Eliot the essence of Kittery's dedication to doing its own study. Vice Chair Spiller indicated that she had confidence that the Town Manager could send a letter using enough conditional language to get the point across. Vice Chair Spiller indicated that it was an ongoing and difficult issue.

Councilor Beers noted that in regards to the last regular meeting discussion with regard to dogs and horses and the scheduled public hearing for September 28, 2009, in reviewing the recent Council policy, Councilor Dennett had pointed out that it was appropriate to formally refer an ordinance question to the review committee for evaluation and he wanted to ask for a formal referral for that so that they could meet the obligation prior to Council packet being distributed for the scheduled public hearing. Vice Chair Spiller took a consensus of the referral with all in favor.

Councilor Beers noted that his last item was that in the information packet

## APPROVED MINUTES

presented to Council this week was a report relating to re-codification of the town code and that he had discussions with the Manager, the man from the prospective re-codification company and Councilor Dennett and that they were in general agreement to proceed and to prepare the town code to incorporate, prior to December 15, 2009, certain upcoming code ordinance revisions in order to deliver the best possible document. Councilor Beers asked for a sentiment of the Council for go ahead for the ordinance review committee to engage that effort. Vice Chair Spiller indicated that Councilor Beers had the sentiment of Council.

Vice Chair Spiller noted that she had read an article in the Portsmouth Herald about John Taddeo. She noted that Chairperson Thomson had indicated at the last meeting that Mr. Taddeo had regularly been mowing the John Paul Jones Park and that she had thought that the State was doing that and that she was surprised that a local resident was doing it. She indicated that she wanted to remind people that on June 29<sup>th</sup> the Town Manager sent a letter to the Department of Conservation exploring transferring that park over to the Town of Kittery. Vice Chair Spiller indicated that they might want to contact the Department one more time to find out what their thoughts were.

### 9. NEW BUSINESS

- a. *(090109-5) THE KITTERY TOWN COUNCIL MOVES TO ACCEPT DONATIONS IN THE AMOUNT OF \$4250.00 FROM LOCAL BUSINESSES FOR THE PURCHASE OF TASERS FOR THE POLICE DEPARTMENT AND TO PLACE SAID FUNDS IN THE POLICE DEPARTMENT SUPPLY ACCOUNT #1310-6030.*

Chief Strong indicated over the last several years they had been looking at starting a taser program within the police department for officer safety and public safety. He noted that this was another tool in their arsenal of non-deadly force that would then be available to them. He continued that several times during the past few years there were situations where they had needed tasers and they had to bring in other police departments to do their job because they did not have tasers. He noted that a group of businesses in Kittery contacted him because they thought that the police department should have their own and not rely on other police departments. He continued that the businesses collected a total of \$4250.00 which would be enough for the police department to buy 4 tasers. Chief Strong continued that the department already had one taser that was purchased with drug forfeiture money and that they had purchased that taser because one officer attended training and got a 50% discount. Chief Strong noted relative to Mr. Shwaery's question that the tasers were single shot tasers with double triggers. He indicated that the plan was that every individual in the department would be trained and certified on the use of the taser. Chief Strong remarked that there was a Use of Force policy drafted and sent to the MMA and that it was a state standard policy. He continued that every time a taser was used a report would be filed and kept on record. Chief Strong indicated that the \$4250.00 would not be enough to complete the total program because of the training costs and that he was planning to take \$3000.00 out of the drug forfeiture account to pay for the additional training costs.

## APPROVED MINUTES

**COUNCILOR GRINNELL MOVED THAT THE KITTERY TOWN COUNCIL ACCEPT DONATION IN THE AMOUNT OF \$4250.00 FROM LOCAL BUSINESSES FOR THE PURCHASE OF TASERS FOR THE POLICE DEPARTMENT AND TO PLACE SAID FUNDS IN THE POLICE DEPARTMENT SUPPLY ACCOUNT #1310-6030, SECONDED BY COUNCILOR BEERS FOR THE PURPOSE OF DISCUSSION.**

Councilor Beers asked Chief Strong which model taser the department was planning to buy. Chief Strong indicated that he did not know the model number off the top of his head. Councilor Beers asked if the tasers had a drive stun feature which Chief Strong indicated that they did and that they were calibrated and tested everyday using that feature. Councilor Beers asked how many more tasers the department planned on buying in the future. Chief Strong replied that they were only planning on acquiring 5 total but would like to acquire more in the future if the money was there and that it would be nice for every officer to have one. Councilor Beers asked if the lifecycle and continuing operational costs had been calculated. Chief Strong answered that the tasers had a 4 year warranty for a cost of \$180.00 and that the battery lifecycle was estimated at almost 5 years depending on usage. Councilor Beers indicated that the Use of Force policy was not in Council's packet and wanted to know if it was in keeping with the state model which Chief Strong answered in the affirmative. Councilor Beers wanted to know if it was consistent with the Police Executive Research Forum on Use Policy for Conducted Electrical Weapons. Chief Strong indicated that he was not aware of the Forum and that the state has mandated policies by law. He noted that one was the Use of Force Policy which was developed by the Maine Chiefs of Police Association and that was the only policy accepted in the State of Maine. Councilor Beers noted that he did not receive a copy of the policy and was uncomfortable supporting the use of a non-lethal weapon which has significant health considerations without the existence of the approved policy. Chief Strong noted that the policy is approved by the State of Maine Board of Trustees of the Maine Criminal Justice Academy. Councilor Beers asked where in the continuum of force were the tasers envisioned to be used. Chief Strong noted that they would be used before deadly force and would depend on the situation and the dangers to the officer and the individual being taken down. Councilor Beers asked if there was a mandated provision for immediate medical support which Chief Strong answered that there was. Councilor Beers noted that he did not have any more questions but that he was uncomfortable approving the donations until he had seen the policy. Vice Chair Spiller noted that the policy was omitted from the packet and that they would have to defer to the Chief that the policy was a state policy that had been approved by the MMA. Chief Strong indicated that there were 12 mandated policies in the State of Maine that have been approved and that one is the Use of Force policy. He continued that the Use of Force policy was approved by the legislature and that all agencies were required to adopt that standard policy. He noted that the Kittery Police Department did not have tasers so that portion of the policy was not adopted but that they would add it into the policy as an appendix. Vice Chair Spiller noted that her concern was that there were only four councilors present and that the motion could probably benefit from more time for Councilor Beers and other councilors to review the policy and vote as a full council.

APPROVED MINUTES

Councilor Dennett indicated that his question was that it was noted that these funds were going to go into the supply account and he wanted to know why they were not going into the equipment account and that he thought that it would be a capital expenditure and wanted to know if the Chief had any objection to it going into the 7560 account. The Chief indicated that he did not have any objection. Town Manager Carter noted that when the Chief first came to him with the idea of purchasing tasers with the business community donating the money he asked if there was a policy and that the Chief said that there was that the MMA had accepted. He continued that the Chief had brought him the policy and apologized that it was omitted from Council's packet. He noted that he then sent the policy to the MMA for their review and comments and heard back from the MMA that they were familiar with the policy and that the police department would be covered under the liability section of the town's insurance. Vice Chair Spiller asked Councilor Beers if that allayed his concerns which he answered that it did not until he had the chance to review the policy. Vice Chair Spiller then suggested that the item be postponed to the next regular meeting.

**COUNCILOR GRINNELL MOVED THAT THE KITTERY TOWN COUNCIL POSTPONE ACTION ON ACCEPTING DONATIONS IN THE AMOUNT OF \$4250.00 FROM LOCAL BUSINESSES FOR THE PURCHASE OF TASERS FOR THE POLICE DEPARTMENT UNTIL THE NEXT SCHEDULED MEETING ON SEPTEMBER 28, 2009, SECONDED BY COUNCILOR BEERS.**

**A consensus was taken with all in favor.**

b. *(090109-6) THE KITTERY TOWN COUNCIL MOVES TO APPOINT A REPRESENTATIVE TO MEET WITH A MEMBER OF THE RICE PUBLIC LIBRARY BOARD OF TRUSTEES TO INTERVIEW DAVID HARRIS FOR HIS APPOINTMENT TO THAT BOARD.*

Vice Chair Spiller noted that she was next on the list.

**COUNCILOR DENNETT MOVED TO APPOINT VICE CHAIR SPILLER TO MEET WITH A MEMBER OF THE RICE PUBLIC LIBRARY BOARD OF TRUSTEES TO INTERVIEW DAVID HARRIS FOR HIS APPOINTMENT TO THAT BOARD.**

**A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 4/0.**

c. *(090109-7) THE KITTERY TOWN COUNCIL MOVES TO APPOINT A REPRESENTATIVE TO MEET WITH A MEMBER OF THE SHELLFISH CONSERVATION COMMISSION TO INTERVIEW DANIEL CLAPP FOR HIS RE-APPOINTMENT TO THAT BOARD UNTIL 8/14/12.*

Vice Chair Spiller noted that Chairperson Thomson was next on the list.

APPROVED MINUTES

**COUNCILOR BEERS MOVED THAT THE KITTEERY TOWN COUNCIL APPOINT CHAIRPERSON THOMSON TO MEET WITH A MEMBER OF THE SHELLFISH CONSERVATION COMMISSION TO INTERVIEW DANIEL CLAPP FOR HIS RE-APPOINTMENT TO THAT BOARD UNTIL 8/14/12.**

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

d. (090109-8) THE KITTEERY TOWN COUNCIL MOVES TO RE-APPOINT MILTON HALL TO THE PORT AUTHORITY UNTIL 8/31/12.

Vice Chair Spiller indicated that she would like to postpone this item until the other two councilors were present.

**COUNCILOR BEERS MOVED TO POSTPONE THE AGENDA ITEM UNTIL THE NEXT REGULAR SCHEDULED MEETING ON SEPTEMBER 28, 2009, SECONDED BY COUNCILOR GRINNELL.**

**A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 4/0.**

e. (090109-9) THE KITTEERY TOWN COUNCIL MOVES TO DESIGNATE \_\_\_\_\_ AS THE OFFICIAL VOTING DELEGATE AND \_\_\_\_\_ AS THE ALTERNATIVE VOTING DELEGATE FOR KITTEERY TO THE MAINE MUNICIPAL ASSOCIATION ANNUAL BUSINESS MEETING TO BE HELD OCTOBER 7, 2009.

Vice Chair Spiller asked if there was anyone interested in filling these slots other than the Town Manager and the Town Clerk. No one expressed any interest.

**COUNCILOR BEERS MOVED THAT THE KITTEERY TOWN COUNCIL DESIGNATE TOWN MANAGER CARTER AS THE OFFICIAL VOTING DELEGATE AND TOWN CLERK PLACE AS THE ALTERNATIVE VOTING DELEGATE FOR KITTEERY TO THE MAINE MUNICIPAL ASSOCIATION ANNUAL BUSINESS MEETING TO BE HELD OCTOBER 7, 2009, SECONDED BY COUNCILOR GRINNELL.**

**A consensus was taken with all in favor.**

f. (090109-9) *THE KITTEERY TOWN COUNCIL MOVES TO APPROVE THE DISBURSEMENT WARRANTS.*

The Vice Chair then read the warrants which included Warrant No. 3 for the School Nutrition Program in the amount of \$4009.23, Warrant No. 5 for the School Accounts Payable in the amount of \$129,438.01 and Warrant No. T-10-11 for the Town Accounts Payable in the amount of \$462,510.84. The Vice Chair asked Councilor Beers if the town warrants were in appropriate format for signature which he answered

APPROVED MINUTES

affirmatively. Vice Chair Spiller indicated that she had reviewed the school warrants and they were in appropriate format for signature.

**COUNCILOR DENNETT MOVED TO APPROVE THE DISBURSEMENT WARRANTS, SECONDED BY COUNCILOR BEERS.**

**A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 4/0.**

*g. (090109-10) THE KITTEERY TOWN COUNCIL MOVES TO FUND THE MUNICIPAL FACILITIES CAPITAL RESERVE ACCOUNT UP TO \$31,000.00 THROUGH THE ALTERNATE PROCUREMENT METHOD PER CHAPTER 3.04.070 TO W.H. DEMMONS, INC. TO REPAIR AND IMPROVE THE HVAC UNIT IN THE POLICE DEPARTMENT.*

Town Manager Carter indicated that he was notified by the Police Chief that the air conditioning and air handler control unit in the police department failed in the last week of August. He noted that they had W.H. Demmons down who indicated to replace the controller, through Semens who manufactured the controller and had maintenance responsibilities on it, would cost \$11,500.00 to reprogram it and put a new one in. He continued that they are attempting to remove the Semens controls and build in more energy efficient equipment to the HVAC system. Town Manager Carter indicated that W.H. Demmons had put in a proposal to replace a number of the ventilation boxes and that it would run a total of \$31,000.00 and it would give the police department control over the back section of the building. He noted that there would be all new digital thermostats on the walls would be linked together to provide different temperatures throughout the police department which was required there because there are different areas where different temperatures are needed. He continued that the equipment that they presently have is not working and that instead of just replacing the broken items, they would put in a new system that would increase the efficiency and increase in payback. He noted that the payback would roughly be about \$6,900.00 on an annual basis and that they believe there would be a total payback within 5 years of the project.

**COUNCILOR BEERS MOVED TO FUND THE MUNICIPAL FACILITIES CAPITAL RESERVE ACCOUNT UP TO \$31,000.00 THROUGH THE ALTERNATE PROCUREMENT METHOD PER CHAPTER 3.04.070 TO W.H. DEMMONS, INC. TO REPAIR AND IMPROVE THE HVAC UNIT IN THE POLICE DEPARTMENT, SECONDED BY COUNCILOR GRINNELL.**

Councilor Dennett asked if there were sufficient funds to cover this expense which the Manager answered in the affirmative.

**A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 4/0.**

APPROVED MINUTES

h. *(090109-11) THE KITTERY TOWN COUNCIL MOVES TO SCHEDULE A PUBLIC HEARING TO RELEASE UP TO \$4000.00 FROM THE GRANT MATCH FUND FOR THE PURPOSE OF CONTINUING THE END OF PIPE SEWER SEPTIC WATER QUALITY IN SPRUCE CREEK.*

Vice Chair Spiller indicated that she thought that this item should be postponed until sometime next year. She noted that there was a delay in some of the logistics and that it should be delayed.

Vice Chair Spiller took a consensus with all in favor.

i. *(090109-12) THE KITTERY TOWN COUNCIL MOVES TO ACCEPT THE RESIGNATION OF SCOTT MANGIAFICO FORM THE PLANNING BOARD.*

Vice Chair Spiller noted that there was an email from Scott Mangiafico and that he had served on the Planning Board and Port Authority for a number of years. Vice Chair Spiller then read Mr. Mangiafico's email.

**COUNCILOR BEERS MOVED THAT THE KITTERY TOWN COUNCIL ACCEPT THE RESIGNATION OF D. SCOTT MANGIAFICO, WITH REGRET, FROM THE PLANNING BOARD, SECONDED BY COUNCILOR GRINNELL.**

**A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 4/0.**

j. OTHER

Councilor Grinnell noted that she would be stepping down at the end of her term ending November 3<sup>rd</sup> after 9 years of being on Council. She indicated that she had a wonderful time serving and hoped that people would run for her seat and that it would be a good contest.

Vice Chair Spiller noted that there were open seats on Council and the School Committee and that people should join to help.

Vice Chair Spiller noted that Town Manager Carter had emailed regarding the Knights of Columbus having a booth at the transfer station on September 19, 2009. She indicated that it was a last minute request but hoped that Council would support them as they had done in the past. Town Manager Carter noted that it had been a policy of Council in the past to vote on the booths.

**VICE CHAIR SPILLER MOVED THAT THE KITTERY TOWN COUNCIL AUTHORIZE THE KNIGHTS OF COLUMBUS TO HAVE A BOOTH AT THE TRANSFER STATION ON SEPTEMBER 19, 2009, SECONDED BY COUNCILOR GRINNELL.**

## APPROVED MINUTES

Councilor Dennett asked what the purpose of the booth was. Vice Chair Spiller indicated that the purpose was to collect funds for the Tootsie Roll Drive Benefit which benefits the mentally and physically challenged.

**A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 4/0.**

Vice Chair Spiller wanted to remind the public to attend the River Dance this weekend and that people could get tickets at the Town Hall or at the door. Town Manager Carter noted that the dance began at 6:00 P.M. at the Badgers Island Weathervane.

### 10. COMMITTEE AND OTHER REPORTS

#### *a. Communications from the Chairperson*

There was none.

#### *b. Town Manager's Report*

Town Manager Carter noted that was a joint workshop scheduled for the accessory dwelling unit on September 24, 2009. He continued that he was working with the planner and that there was one more document to be produced and the information would be distributed the next morning.

Town Manager Carter noted that there had been a surprise retirement party for Public Works Commissioner Rick Rossiter and that it had gone very well. He noted that they had all of the former town managers at the party that Mr. Rossiter had worked under and that they all spoke at the party. Town Manager Carter noted that he would be missed and that there were about 80 people in attendance at the party.

Town Manager Carter noted that the Town had also said goodbye to Gerry Chick who had worked for the town for 39 years. He noted that Mr. Chick was a mechanic with the Public Works Department and that there would be some functions later for him.

Town Manager Carter noted that Thursday at 4:00 P.M. there was going to be an advocacy committee meeting with elected officials and town managers in Sanford. He noted that there was an effort by the York County Manager's Association to pull the legislatures together and to pick 4 or 5 issues of common support in the county. He continued that one of the issues being discussed at that meeting was having the county support the repairs to the bridges. Town Manager Carter noted that there was a list of 5 or 6 items that they were hoping that the delegation would get behind and move them along in the next session. He noted that if this effort was successful it would be repeated

## APPROVED MINUTES

each session to bring a force behind issues of the region that seem to not be addressed on a united effort in the legislature.

Town Manager Carter noted that the Shared Services Committee would be meeting Thursday at 4:30 P.M.

Town Manager Carter indicated that he had placed a link of the town's website to the New Hampshire Department of Transportation's page showing the efforts that they are making towards the TIGER application for the repair of the Memorial Bridge and Sarah Long Bridge using stimulus funds in a grant program that will be awarded sometime in February.

Town Manager Carter noted that they were working with the School Department to make sure that employees have the opportunity to get vaccinated for the regular flu in September and when the H1N1 flu vaccine is available they will begin to work through the priority list as to who can receive that shot.

Town Manager Carter noted that there was a workshop scheduled for September 28<sup>th</sup> at 6:00 P.M. to review fees under the Sewer Department and that they had some scheduling problems and asked that Council reschedule the workshop for October 5<sup>th</sup>. Vice Chair Spiller indicated that was fine.

Town Manager Carter noted that the Frisbee Revitalization Committee had met and that they would be meeting twice in the next week and a half. He noted that they were meeting on Saturday at 9:00 A.M. at the Frisbee School to tour the building with the facilities manager of the School Department and that they would be meeting on September 23<sup>rd</sup> at Town Hall at 7:00 P.M. He continued that you can see the meetings on the town website and that you can subscribe to the agendas and they would be automatically emailed to you.

Town Manager Carter indicated that he was still attempting to set up a Wood Island Committee meeting.

### *c. Committee Reports*

#### 11. ADJOURNMENT

**Vice Chair Spiller took a consensus to adjourn the meeting, with all in favor.**

***MEETING ADJOURNED: 8:35 P.M***