

APPROVED MINUTES

KITTERY TOWN COUNCIL

September 24, 2012

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

Chairperson Spiller led those present in the Pledge of Allegiance.

4. Roll Call

Answering the roll were Chairperson Judith Spiller, Vice Chairperson George Dow, Councilors Frank Dennett, Jeffrey Pelletier, Jeffrey Thomson and Leo Guy.

5. Agenda Amendment and Adoption –

CHAIRPERSON SPILLER MOVED TO MOVE ITEM 13B AFTER ITEM 5 AND TO CHANGE 13I TO 12A UNDER UNFINISHED BUSINESS, SECONDED BY COUNCILOR DOW.

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

The agenda was accepted as amended.

13b. (090212-6) The Kittery Town Council moves to sign a proclamation proclaiming September 28, 2012 as Prescription Drug Abuse Awareness Day.

Chairperson Spiller read the proclamation.

COUNCILOR THOMSON MOVED TO SIGN THE PROCLAMATION PROCLAIMING SEPTEMBER 28, 2012 AS PRESCRIPTION DRUG ABUSE AWARENESS DAY, SECONDED BY COUNCILOR DOW.

Lauren Moffett, a senior at Traip, came to the podium and indicated that students were concerned with the growing number of prescription abuse rates and they want to proclaim September 28th as Prescription Drug Abuse Awareness Day and September 29th as Drug Take Back Day.

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

6/0.

6. Executive Session - None

7. Acceptance of Previous Minutes – 9/10/12

The minutes of 9/10/12 were accepted as amended.

8. Interviews for the Board of Appeals – None

9. All items involving the town attorney, town engineers, town employees or other town consultants or requested officials - None

10. PUBLIC HEARINGS -

a. (090212-1) The Kittery Town Council moves to hold a public hearing on a renewal application from Captain & Patty's, LLC, 153 Pepperrell Road, Kittery Point for a Special Activity Amusement Permit for Captain & Patty's, 90 Pepperrell Road.

Chairperson Spiller noted this public hearing was advertised in the Portsmouth Herald on September 14th. Chairperson Spiller then opened the public hearing and no response being heard, closed the public hearing.

COUNCILOR THOMSON MOVED TO APPROVE A RENEWAL APPLICATION FROM CAPTAIN & PATTY'S, LLC, 153 PEPPERRELL ROAD, KITTERY POINT FOR A SPECIAL ACTIVITY AMUSEMENT PERMIT FOR CAPTAIN & PATTY'S, 90 PEPPERRELL ROAD, SECONDED BY COUNCILOR DOW.

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

6/0.

b. (090212-2) The Kittery Town Council moves to hold a public hearing on proposed amendments to Title 16, Part 1 – Article XI Cluster Residential and Cluster Mixed Use Development and Part 2 – Chapter 16.2 Definitions and Article II, Zone Definitions, Uses, of the Kittery Town Code.

Chairperson Spiller noted this public hearing was advertised in the Portsmouth Herald on September 14th. Chairperson Spiller then opened the public hearing.

Tom Emerson, Chair of the Planning Board, indicated that the town already had cluster development in the code but wanted to make it the preferred method of development. He continued it was in greater compliance with the comprehensive plan and would help protect the environment and help keep the small town feel. Craig Wilson, member of the Open Space

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Advisory Committee, stated that it would require a special circumstance to allow for traditional development. Chairperson Spiller then closed the public hearing.

COUNCILOR THOMSON MOVED TO ORDAIN AMENDMENTS TO TITLE 16, PART 1 – ARTICLE XI CLUSTER RESIDENTIAL AND CLUSTER MIXED USE DEVELOPMENT AND PART 2 – CHAPTER 16.2 DEFINITIONS AND ARTICLE II, ZONE DEFINITIONS, USES, OF THE KITTEERY TOWN CODE AS PRESENTED, SECONDED BY COUNCILOR DOW.

Councilor Dennett indicated his major concern was that there would be too many inspections that needed to take place and that they would not happen. Mr. Emerson responded that inspections would be done by an independent source, not by town employees.

COUNCILOR DENNETT MOVED TO AMEND THE MAIN MOTION TO ELIMINATE ALL REFERENCES TO KITTEERY POINT VILLAGE AND RESIDENTIAL VILLAGE/RV ADMIRALTY VILLAGE, SECONDED BY COUNCILOR DOW FOR DISCUSSION.

Councilor Dennett stated his reason for the amendment was that there was little land left to develop in the area of Admiralty Village and that he did not think this would keep with the character of Kittery Point.

A ROLL CALL VOTE WAS TAKEN WITH COUNCILOR DOW, COUNCILOR PELLETIER AND CHAIRPERSON SPILLER OPPOSED. MOTION DOES NOT CARRY 3/3.

COUNCILOR DENNETT MOVED TO AMEND THE MAIN MOTION TO ELIMINATE REFERENCES TO RESIDENTIAL VILLAGE/RV ADMIRALTY VILLAGE, SECONDED BY COUNCILOR GUY.

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

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

c. (090212-3) The Kittery Town Council moves to hold a public hearing on proposed amendments to Title 16 of the Kittery Town Code to address miscellaneous corrections and updates.

Chairperson Spiller noted this public hearing was advertised in the Portsmouth Herald on September 14, 2012. Chairperson Spiller then opened the public hearing.

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Tom Emerson came to the podium and indicated that this was in reference to a series of miscellaneous items that have come up including redundancies, grammatical changes and minor updates. Chairperson Spiller then closed the public hearing.

COUNCILOR DOW MOVED TO ORDAIN THE PROPOSED AMENDMENTS TO TITLE 16 OF THE KITTERY TOWN CODE, SECONDED BY COUNCILOR GUY.

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

d. (090212-4) The Kittery Town Council moves to hold a public hearing on proposed amendments to Title 13, Chapter 13.1 Sewer Service System, Article V, Private Sewage Disposal of the Town of Kittery.

Chairperson Spiller noted this public hearing was advertised in the Portsmouth Herald on September 14, 2012. Chairperson Spiller then opened the public hearing.

Amber Harrison, Shoreland Resource Officer, came to the podium and gave a presentation on the sewer system in town. She indicated that 46% of the town was on sewer and 54% were on septic. She continued they were looking to implement a new program in town which would require residents on private septic systems to pump every 3 years and would require an inspection whenever the property changed ownership. Ms. Harrison then went over how the changes would be phased in and indicated that the ordinance would mimic a similar ordinance in York.

Emily DeFranco of FB Environmental, came to the podium and stated that Kittery was mandated to clean up Spruce Creek and that the failure of septic systems and leach fields were a big source of bacteria in the creek.

Phyllis Ford of the Spruce Creek Association came to the podium and indicated she thought that the septic systems in town needed to be regularly inspected and pumped. She continued they were working on putting together septic socials to better inform residents on the importance of pumping and maintenance.

Leslie Hines, Assistant CEO of York, came to the podium and stated that York was doing a similar campaign which had been very effective. She continued that residents had been very willing to comply with the changes.

Rich Folser came to the podium and stated that he had done some research into how often septic systems should be pumped. He continued there were two main factors which were the size of the system and the size of the household. Mr. Folser indicated he thought this ordinance would impose a burden on some residents in town and that the ordinance should be amended to take into consideration the size of the system and household.

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Craig Wilson came to the podium and noted that he had built his own system which was to the highest standard. He continued he thought this would be a burden to residents who were already being responsible and that he was opposed to the idea.

Will Brucer came to the podium and stated he had conducted some septic socials and thought this was a community issue and not a freedom issue.

George Varney came to the podium and indicated that he was opposed to the idea. He continued he lived on the water and paid the highest taxes and this would be an additional burden on the town and there were more important things to spend tax money on.

Robert Harris came to the podium and noted that he had been responsible for maintaining his septic and did not want to be told what to do.

Milton Hall came to the podium and stated that he had questions about this issue and thought residents should be responsible for themselves.

Shea Robbins came to the podium and noted that she had her system pumped every three years but that she was concerned about the residents who were not taking care of their systems. She continued that she thought the education factor was important.

Debbie Driscoll came to the podium and indicated that she thought this was a big expense for the town to take on. She continued this was an individual responsibility and was not in favor of the ordinance.

Ms. Harrison came back to the podium and stated that the town had already received a grant to start the program and no additional staff would be required and no taxpayer money would be going into the project. She continued they were willing to amend the ordinance. Chairperson Spiller then closed the public hearing.

CHAIRPERSON SPILLER MOVED TO ORDAIN AMENDMENTS TO TITLE 13, CHAPTER 13.1 SEWER SERVICE SYSTEM, ARTICLE V, PRIVATE SEWAGE DISPOSAL OF THE TOWN OF KITTERY, SECONDED BY COUNCILOR DOW.

Councilor Dennett indicated that the format was not correct and it would be illegal for Council to pass the item that evening.

COUNCILOR DENNETT MOVED TO POSTPONE THE ITEM INDEFINITELY, SECONDED BY COUNCILOR THOMSON.

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

11. DISCUSSION

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- a. Discussion by members of the public (three minutes per person) – None
- b. Chairperson’s response to public – None

12. UNFINISHED BUSINESS –

- a. (090212-13) The Kittery Town Council moves to appoint Heather Ross as the Building Official until April 20, 2013.

Heather Ross came to the podium and indicated that the state mandated that the municipal officers in town appoint a building official. She continued she was asking that Council appoint two building officials which would allow both to do inspections. Ms. Ross indicated that she would like this item to be deferred until after 10/10 so that she and Rochelle Bishop could take the test to certify them to do occupancy permits. Councilor Dennett stated that the town did not have a position called building official and asked how they could appoint someone to a position that did not exist. Town Manager Markel indicated that some changes would have to be made.

COUNCILOR THOMSON MOVED TO POSTPONE UNTIL THE REGULAR MEETING SCHEDULED FOR OCTOBER 22, 2012, SECONDED BY CHAIRPERSON SPILLER.

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

Chairperson Spiller indicated that Council had recently scheduled a public hearing on the dangerous building statute for November 12th but as that was Veteran’s Day the meeting would be held on November 14th and the hearing needed to be rescheduled for that date.

CHAIRPERSON SPILLER MOVED TO RESCHEDULE A PUBLIC HEARING SCHEDULED FOR NOVEMBER 12TH TO BE HELD UNDER THE DANGEROUS BUILDING STATUTE FOR THE PROPERTIES LOCATED AT 35 STERLING ROAD AND 120 ROUTE 1 BYPASS FOR NOVEMBER 14TH, SECONDED BY COUNCILOR DOW.

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

13. NEW BUSINESS

- a. (090212-5) The Kittery Town Council moves to read and sign a proclamation of congratulations and acknowledgement of Kittery’s oldest resident, Wilma Edwards, as being named the recipient of the Boston Cane Post.

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Chairperson Spiller read the proclamation.

COUNCILOR DENNETT MOVED TO SIGN A PROCLAMATION OF CONGRATULATIONS AND ACKNOWLEDGEMENT OF KITTERY'S OLDEST RESIDENT, WILMA EDWARDS, AS BEING NAMED THE RECIPIENT OF THE BOSTON CANE POST, SECONDED BY COUNCILOR THOMSON.

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

c. (090212-7) The Kittery Town Council moves to approve the disbursement warrants.

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

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

d. (090212-8) The Kittery Town Council moves to appoint Jude Flynn to the Board of Assessment Review until 11/30/14.

COUNCILOR DENNETT MOVED TO APPOINT JUDE FLYNN TO THE BOARD OF ASSESSMENT REVIEW UNTIL 11/30/14, SECONDED BY COUNCILOR DOW.

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

e. (090212-9) The Kittery Town Council moves to accept a dividend check in the amount of \$14,647 from Maine Municipal Association Risk Management Services as a result of the Town of Kittery's good loss experience and loss prevention programs.

COUNCILOR DOW MOVED TO ACCEPT A DIVIDEND CHECK IN THE AMOUNT OF \$14,647 FROM MAINE MUNICIPAL ASSOCIATION RISK MANAGEMENT SERVICES AS A RESULT OF THE TOWN OF KITTERY'S GOOD LOSS EXPERIENCE AND LOSS PREVENTION PROGRAMS INTO ACCOUNT 103-000-65101, SECONDED COUNCILOR THOMSON.

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

f. (090212-10) The Kittery Town Council moves to appoint Joyce Tobey as Warden and Sandra Lutts as Deputy Warden and the opening of the polls at 7:00 A.M. and closing at 8:00

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P.M. for the November 6, 2012 State and Municipal Election, as recommended by the Town Clerk.

COUNCILOR DOW MOVED TO APPOINT JOYCE TOBEY AS WARDEN AND SANDRA LUTTS AS DEPUTY WARDEN AND THE OPENING OF THE POLLS AT 7:00 A.M. AND CLOSING AT 8:00 P.M. FOR THE NOVEMBER 6, 2012 STATE AND MUNICIPAL ELECTION, AS RECOMMENDED BY THE TOWN CLERK, SECONDED BY COUNCILOR PELLETIER.

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

g. (090212-11) The Kittery Town Council moves to sign the municipal warrant for the November 6, 2012 Municipal Election.

COUNCILOR THOMSON MOVED TO SIGN THE MUNICIPAL WARRANT FOR THE NOVEMBER 6, 2012 MUNICIPAL ELECTION, SECONDED BY COUNCILOR PELLETIER.

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

h. (090212-12) The Kittery Town Council moves to appoint Maryann Place as Acting Town Manager from October 6 – 10, 2012, during the Town Manager's absence.

COUNCILOR DOW MOVED TO APPOINT MARYANN PLACE AS ACTING TOWN MANAGER FROM OCTOBER 6-10, 2012, DURING THE TOWN MANAGER'S ABSENCE, SECONDED BY COUNCILOR PELLETIER.

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

j. (090212-14) The Kittery Town Council moves to designate Robert Markel as the official voting delegate and Maryann Place as the alternate voting delegate for Kittery for the Maine Municipal Association Annual Business Meeting to be held October 3, 2012.

COUNCILOR DOW MOVED TO DESIGNATE ROBERT MARKEL AS THE OFFICIAL VOTING DELEGATE AND MARYANN PLACE AS THE ALTERNATE VOTING DELEGATE FOR KITTEERY FOR THE MAINE MUNICIPAL ASSOCIATION ANNUAL BUSINESS MEETING TO BE HELD OCTOBER 3, 2012, SECONDED BY COUNCILOR PELLETIER.

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

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14. COUNCILOR ISSUES OR COMMENT

Councilor Thomson stated that he had been contacted by a resident of Lynch Lane who stated that residents were under the impression that they had met the standard on making the road a public way and asked for an update on that.

Councilor Thomson indicated that the signs regarding dogs at Memorial Field still needed to be addressed.

Chairperson Spiller noted that a packet of letters had been left at her home about the firewood operation on Tenney Hill Road. She continued the CEO had been notified and asked for some additional information on the issue.

15. COMMITTEE AND OTHER REPORTS

a. Communications from the Chairperson - None

b. Town Manager's Report

Town Manager Markel indicated they were still working on the private way issue and had been in contact with the residents. He continued that the town attorney was working on a resolution.

Town Manager Markel stated the finance director was in her third week of work and was preparing for the annual audit.

Town Manager Markel noted he had met with the KCC and their main concern was regarding creating an alcohol policy. He continued they were going to work on a draft and would be bringing it before Council.

c. Committee Reports –

Councilor Thomson stated relative to the KCC, a group was planning to meet on 10/10 to work on the draft alcohol policy.

16. EXECUTIVE SESSION - None

17. ADJOURNMENT

COUNCILOR PELLETIER MOVED TO ADJOURN, SECONDED BY COUNCILOR DOW WITH ALL IN FAVOR. MEETING ADJOURNED AT 9:06 P.M.