

APPROVED MINUTES

KITTERY TOWN COUNCIL

July 28, 2014

COUNCIL CHAMBERS

1. Call to Order

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

2. Introductory

Chairperson Thomson read the introductory.

3. Pledge of Allegiance

Chairperson Thomson led those present in the Pledge of Allegiance.

4. Roll Call

Answering the roll were Chairperson Jeffrey Thomson, Councilors Russell White, Frank Dennett, Chuck Denault and Jeffrey Brake.

5. Agenda Amendment and Adoption –

The agenda was accepted as presented.

6. Town Manager's Report –

Town Manager Puff stated that the bids for the Traip floats came in over what they had originally anticipated. She continued that the state was willing to pay half of the cost of the overage and that the KPA had the money in its budget for the other half.

Town Manager Puff indicated that they were working with the KPA to update the job description and advertise the harbormaster position.

Town Manager Puff noted that she had visited Wood Island to observe the temporary repair work and that work was now complete.

Town Manager Puff stated that the CIP Committee had met the previous Wednesday to discuss its charge to recommend to Council a potential bond issue in the fall.

Town Manager Puff reported that the Rice Public Library was having some of its gables repainted and having some of the woodwork restored, beginning that week. She continued that the RPL Board had met and voted to amend its police to exclude political and religious meetings and events on the property. Chairperson Thomson stated that he was concerned about the amendment and that he was worried about censorship. Town Manager Puff responded that she would look at the changes and report back to Council.

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7. Acceptance of Previous Minutes

The minutes of 7/14/14 were accepted as presented.

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 –

(070214-1) The Kittery Town Council moves to authorize the submission of the Phase IV Grant application for the Spruce Creek Watershed Restoration Project with a town match of \$65,000 (\$45,000 in-kind services and \$20,000 to fund annual water quality sampling for two years).

Forrest Bell of FB Environmental came to the podium and indicated they were now looking to apply for the Phase 4 DEP grant. He continued that to date, a Phase 4 grant had not been funded, so Kittery would be doing something unique. Mr. Bell indicated that they were looking for a town match and that they had great success with the project so far.

**COUNCILOR WHITE MOVED TO AUTHORIZE THE SUBMISSION OF THE PHASE IV GRANT APPLICATION FOR THE SPRUCE CREEK WATERSHED RESTORATION PROJECT WITH A TOWN MATCH OF \$65,000, SECONDED BY CHAIRPERSON THOMSON.**

Councilor Denault asked what they had accomplished over the last four years. Phyllis Ford of the Spruce Creek Association gave a handout to Council which outlined the success they had over the different phases as well as what they were trying to accomplish during Phase 4. Councilor Dennett asked if this project was going to go on forever. Mr. Bell responded that it would be ongoing until they were able to reopen the clam beds and get Spruce Creek off the impaired water bodies list.

**A ROLL CALL VOTE WAS TAKEN WITH COUNCILOR DENNETT OPPOSED. MOTION PASSES 4/1.**

10. PUBLIC HEARINGS -

a. (070214-2) The Kittery Town Council moves to hold a public hearing on an application from Jarrod Spangler, 31 Hill Street, Dover, NH for a Victualer's License for Maine Meat (Meat), 7 Wallingford Square, #104, Kittery.

Chairperson Thomson indicated that this public hearing was advertised in the local, printed media on July 18<sup>th</sup>. Chairperson Thomson then opened the public hearing, and no response being heard, closed the public hearing.

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**COUNCILOR BRAKE MOVED TO APPROVE THE APPLICATION FROM JARROD SPANGLER, 31 HILL STREET, DOVER, NH FOR A VICTUALER'S LICENSE FOR MAINE MEAT (MEAT), 7 WALLINGFORD SQUARE, #104, KITTEERY, SECONDED BY COUNCILOR WHITE.**

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

b. (070214-3) The Kittery Town Council moves to hold a public hearing on an application from The Cajun Lobster LLC, 90 Pepperrell Road, Kittery Point, for a Victualer's License for The Cajun Lobster, 90 Pepperrell Road, Kittery Point.

Chairperson Thomson indicated that this public hearing was advertised in the local, printed media on July 18<sup>th</sup>. Chairperson Thomson then opened the public hearing, and no response being heard, closed the public hearing.

**COUNCILOR WHITE MOVED TO APPROVE THE APPLICATION FROM THE CAJUN LOBSTER LLC, 90 PEPPERRELL ROAD, KITTEERY POINT, FOR A VICTUALER'S LICENSE FOR THE CAJUN LOBSTER, 90 PEPPERRELL ROAD, KITTEERY POINT, SECONDED BY COUNCILOR BRAKE.**

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

c. (070214-4) The Kittery Town Council moves to hold a public hearing on an application from The Cajun Lobster LLC, 90 Pepperrell Road, Kittery Point, for a Special Activity/Amusement Permit for The Cajun Lobster, 90 Pepperrell Road, Kittery Point.

Chairperson Thomson indicated that this public hearing was advertised in the local, printed media on July 18<sup>th</sup>. Chairperson Thomson then opened the public hearing, and no response being heard, closed the public hearing.

**COUNCILOR BRAKE MOVED TO APPROVE THE APPLICATION FROM THE CAJUN LOBSTER LLC, 90 PEPPERRELL ROAD, KITTEERY POINT FOR A SPECIAL ACTIVITY/AMUSEMENT PERMIT FOR THE CAJUN LOBSTER, 90 PEPPERRELL ROAD, KITTEERY POINT, SECONDED BY COUNCILOR WHITE.**

Chairperson Thomson indicated that the application was for Monday through Sunday from 11 a.m. to 2 a.m. The head chef, Andre, from the restaurant came to the podium and stated that could be amended to 11 a.m. to 12 a.m. and that the entertainment would most likely be done by 10 p.m.

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

d. (070214-5) The Kittery Town Council moves to hold a public hearing on an application from Tributary Brewing Co., LLC, 5 Winding Brooke Lane, South Berwick, Maine for a Special Activity/Amusement Permit for Tributary Brewing Company, 10 Shapleigh Road, Suite A, Kittery.

Chairperson Thomson indicated that this public hearing was advertised in the local, printed media on July 18<sup>th</sup>. Chairperson Thomson then opened the public hearing, and no response being heard, closed the public hearing.

**COUNCILOR WHITE MOVED TO APPROVE THE APPLICATION FROM TRIBUTARY BREWING CO., LLC, 5 WINDING BROOKE LANE, SOUTH BERWICK, MAINE FOR A SPECIAL ACTIVITY/AMUSEMENT PERMIT FOR TRIBUTARY BREWING COMPANY, 10 SHAPLEIGH ROAD, SUITE A, KITTERY, SECONDED BY COUNCILOR BRAKE.**

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

11. DISCUSSION

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

Bob Harris came to the podium and indicated that he thought they should hold another workshop on the tax assessments as there were many unanswered questions.

Bob Harris noted relative to Spruce Creek that there was a major leak in the Village that was never fixed and didn't think they should move ahead with other projects until that was fixed.

Bob Harris indicated that there were dead trees on Cutts Road and that someone should get them down before someone is injured.

Andre from The Cajun Lobster stated that there was a light on the building at 90 Pepperrell Road which illuminates the town pier. He continued they were currently receiving the bill for the light which was fine but wanted to make sure that it was okay with Council to keep the light on. Chairperson Thomson indicated that the DPW Commissioner would go down and assess the situation.

Milton Hall stated that light had been under the KPA jurisdiction for years.

Milton Hall indicated that he thought they would get to a point where Spruce Creek could not be improved anymore and they would be wasting their money.

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Milton Hall noted that the harbormaster position had nothing to do with the town manager because the KPA is a state authority and that the KPA should oversee the position.

b. Chairperson's response to public –

Chairperson Thomson responded to Mr. Harris stating that he had asked that people submit their additional questions and that they would probably hold another informational session.

Chairperson Thomson asked that Council receive a report on the leak in the Village.

12. UNFINISHED BUSINESS – None

13. NEW BUSINESS

a. Donations/gifts received for Council disposition - None

b. (070214-6) The Kittery Town Council moves to approve the application from The Cajun Lobster, 90 Pepperrell Cove Road, Kittery Point, for a Malt, Spirituous and Vinous Liquor License for The Cajun Lobster, 90 Pepperrell Road, Kittery Point.

**COUNCILOR WHITE MOVED TO APPROVE THE APPLICATION FROM THE CAJUN LOBSTER, 90 PEPPERRELL ROAD, KITTERY POINT, FOR A MALT, SPIRITUOUS AND VINOUS LIQUOR LICENSE FOR THE CAJUN LOBSTER, 90 PEPPERRELL ROAD, KITTERY POINT, SECONDED BY COUNCILOR BRAKE.**

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

c. (070214-7) The Kittery Town Council moves to approve the request of the Kittery Youth Football League to hold a Tag Day fundraiser at the Resource Recovery Facility on Saturday, August 16<sup>th</sup> between the hours of 9:00 a.m. and 2:00 p.m.

**COUNCILOR BRAKE MOVED TO APPROVE THE REQUEST OF THE KITTERY YOUTH FOOTBALL LEAGUE TO HOLD A TAG DAY FUNDRAISER AT THE RESOURCE RECOVERY FACILITY ON SATURDAY, AUGUST 16<sup>TH</sup> BETWEEN THE HOURS OF 9:00 A.M. AND 2:00 P.M., SECONDED BY COUNCILOR WHITE.**

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

d. (070214-8) The Kittery Town Council moves to accept the resignation from Jenny Wall from the Parks Commission.

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**COUNCILOR WHITE MOVED TO ACCEPT THE RESIGNATION FROM JENNY WALL FROM THE PARKS COMMISSION, SECONDED BY COUNCILOR DENAULT.**

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

e. (070214-9) The Kittery Town Council moves to approve the slate of officers for the 2015 Vice President and members of the Maine Municipal Association Executive Committee.

**COUNCILOR WHITE MOVED TO APPROVE THE SLATE OF OFFICERS FOR THE 2015 VICE PRESIDENT AND MEMBERS OF THE MAINE MUNICIPAL ASSOCIATION EXECUTIVE COMMITTEE, SECONDED BY COUNCILOR BRAKE.**

**A ROLL CALL VOTE WAS TAKEN WITH COUNCILOR DENNETT AND COUNCILOR DENAULT OPPOSED. MOTION DOES NOT CARRY 3/2.**

f. (070214-10) The Kittery Town Council moves to approve the disbursement warrants.

**COUNCILOR WHITE MOVED TO APPROVE THE DISBURSEMENT WARRANTS, SECONDED BY COUNCILOR BRAKE, WITH ALL IN FAVOR. MOTION PASSES 5/0.**

g. (070214-11) The Kittery Town Council moves to authorize the release of funds to supplement the \$20,000 grant received from the Small Harbor Improvement Program for the Traip Float.

Councilor Dennett indicated that he would suggest that they authorize not to exceed a definite amount.

**CHAIRPERSON THOMSON MOVED TO AUTHORIZE THE RELEASE OF FUNDS TO SUPPLEMENT THE \$20,000 GRANT RECEIVED FROM THE SMALL HARBOR IMPROVEMENT PROGRAM FOR THE TRAIPI FLOAT FOR AN AMOUNT NOT TO EXCEED \$5505.00, SECONDED BY COUNCILOR BRAKE.**

**A ROLL CALL VOTE WAS TAKEN WITH COUNCILOR DENNETT OPPOSED. MOTION PASSES 4/1.**

h. (070214-12) The Kittery Town Council moves to accept the resignation from Vern J. Gardner, Jr. from the Comprehensive Plan Update Committee and the Board of Appeals.

**COUNCILOR DENAULT MOVED TO ACCEPT THE RESIGNATION FROM VERN J. GARDNER, JR., FROM THE COMPREHENSIVE PLAN UPDATE**

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**COMMITTEE AND THE BOARD OF APPEALS, SECONDED BY COUNCILOR WHITE.**

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

i. (070214-13) The Kittery Town Council moves to appoint Karen Saltus to the Kittery Conservation Commission, as a regular member until May 31, 2015.

**CHAIRPERSON THOMSON MOVE TO APPOINT KAREN SALTUS TO THE KITTERY CONSERVATION COMMISSION, AS A REGULAR MEMBER UNTIL MAY 31, 2015, SECONDED BY COUNCILOR BRAKE.**

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

j. (070214-14) The Kittery Town Council moves to discuss a proposed charter amendment relating to the qualifications for municipal office.

Councilor Dennett indicated that anyone who is elected or appointed to a position cannot serve unless they are a Maine resident. He continued that there have been a few instances where people could not advance positions because they live in NH. Councilor Dennett stated that he thought it would benefit the town to be able to have employees who live out of state become municipal officials. He continued this could be done by recommending to amend the charter and bring it to the voters and that he had drafted proposed wording. Chairperson Thomson stated that he agreed with Councilor Dennett and asked that this issue be put on the August 25<sup>th</sup> agenda for a public hearing.

k. (070214-15) The Kittery Town Council moves to sign a Release Deed, releasing the tax liens to J. Michael Correia and Denise Correia of South Berwick, Maine for property located at 9-11 Whipple Road, Kittery, Maine, identified as Assessor's Tax Map 9, Lot 135.

**COUNCILOR WHITE MOVED TO SIGN A RELEASE DEED, RELEASING THE TAX LIENS TO J. MICHAEL CORREIA AND DENISE CORREIA OF SOUTH BERWICK, MAINE FOR PROPERTY LOCATED AT 9-11 WHIPPLE ROAD, KITTERY, MAINE IDENTIFIED AS ASSESSOR'S TAX MAP 9, LOT 135, SECONDED BY COUNCILOR BRAKE.**

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

14. COUNCILOR ISSUE OR COMMENT

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Councilor Dennett asked that Council review his proposed charter amendment and suggest any corrections that may be needed.

Councilor Denault stated that he had measured the sign at the KCC which was 20 feet and state law required that it be 33 feet. He continued that he thought this was a matter of public safety and that it should be addressed.

Councilor Denault asked what the status was on possibly sharing a CEO with the Town of Eliot. Chairperson Thomson responded that Eliot decided that it wanted its own CEO.

Councilor Denault asked if anyone had given any thought to the sewer expansion project in terms of making it generate some revenue. Town Manager Puff responded that some communities were trying to extend natural gas into their towns and had asked the DPW to get in touch with Unitil to discuss trying to do so at the business park.

Councilor Denault indicated that the Town Charter needed to be reviewed every ten years and that it was two years overdue. He then asked what the review entailed. Chairperson Thomson responded that he did not think that a formal review was needed every ten years and that past amendments and future amendments could be considered a review. He continued they could the town attorney for a legal opinion on the matter. Councilor Denault indicated they could hold the issue for now.

Councilor Brake noted that there were traffic issues and backups near the Navy Yard and that if there was an emergency, police and fire vehicles would not be able to get through. Chairperson Thomson stated that he thought the police chief and fire chief should meet and discuss setting up patrols in the area.

### 15. COMMITTEE AND OTHER REPORTS

#### a. Communications from the Chairperson –

Chairperson Thomson indicated that he had sent Council an email outlining where they were going over the next few weeks and went over the workshops and executive sessions that were scheduled.

Chairperson Thomson asked that Shaw Brothers be contacted to address the litter at the Walker and Government Street intersection now that they were back working in town.

Chairperson Thomson stated that Friday from 5 – 8 the KCC would be holding Kittery Fest.

#### b. Committee Reports –

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Councilor White noted relative to the Comprehensive Plan Update Committee, that they had lost Vern Gardner and wanted to thank him for his leadership over the years. He continued they had held a good meeting the previous week and were moving ahead. Councilor White noted that they hoped the end was in sight.

16. EXECUTIVE SESSION – None

17. ADJOURNMENT

**COUNCILOR WHITE MOVED TO ADJOURN, SECONDED BY COUNCILOR BRAKE WITH ALL IN FAVOR. MEETING ADJOURNED AT 8:32 P.M.**