

KITTERY TOWN COUNCIL

December 14, 2009

Council Chamber

1. CALL TO ORDER

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

2. INTRODUCTORY

Chairperson Spiller read the introductory.

3. PLEDGE OF ALLEGIANCE

The Chair led those present in the Pledge of Allegiance.

4. ROLL CALL

Answering the roll were Chairperson Judith Spiller, Vice Chair George Dow, Councilors Gary Beers, Frank Dennett, Jeffrey Thomson, Jeffrey Pelletier and Jeffery Brake. Also present were Town Manager Jonathan Carter, Town Clerk Maryann Place, Recorder Ashley Rodier, members of the press and others.

5. ACCEPTANCE OF MINUTES

The minutes of November 23, 2009 were accepted, as amended.

6. INTERVIEWS FOR THE BOARD OF APPEALS AND PLANNING BOARD

There were none.

7. *THE KITTERY TOWN COUNCIL MOVES TO HEAR AN UPDATE FROM ROBERT BOHLMAN, YORK COUNTY EMA DIRECTOR, POLICE CHIEF EDWARD STRONG, GARY EATON, ASSISTANT KITTERY EMA DIRECTOR AND FIRE CHIEF DAVID O'BRIEN ON EMERGENCY PREPAREDNESS.*

Chief Strong came to the podium and noted that he was also the Emergency Preparedness Director for the Town of Kittery. He continued that Sgt. Eaton of the Kittery PD was the person who did most of the work and was his right hand man in preparing for these events. He continued that the Town was much better prepared at this time than they were a year ago. He stated that they had learned a lot going through the experience of having the ice storm, working through it and all of the meetings that they had afterwards and that the Town did a lot of things right in the situation. He continued that Kittery could be proud of the fire department, the highway department and the police department and that they all worked together to limit the amount of inconvenience to its citizens. He stated that one of the biggest problems that people

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had was with Central Maine Power and that they had a lot of meetings with CMP after the storm. Chief Strong noted that people needed to remember that CMP had a huge job and that the entire lower end of the county was without power. He indicated that the other problem was with shelters and noted that Mr. Bohlman would speak more relative to that. He stated that people needed to remember that the county and the Red Cross were in charge of setting up the shelters and that the town had been working locally to look into opening up warming shelters which would be for the short term but that any money that would be expended would be from the Town. Chief Strong stated that he wanted to ensure the Town that since the storm happened they had been working on preparing for the next storm and that there was a dedicated team in place. Chief Strong then introduced Robert Bohlman who is the York County EMA Director. Mr. Bohlman came to the podium indicated that Chief Strong had answered the question very well and that Kittery was a tremendously responsive town with a lot of good departments and that the departments cooperated with each other very well. He continued that last December, Kittery was faced with an event that was out of the ordinary and that it was very wide spread and caused long term power outages which had not been faced by some residents in the past. Mr. Bohlman noted that the situation was responded to very well and that everything was taken care of as quickly as possible. He continued that shelter-wise, the Town had done as well as it could and now they were working with a regionalized approach on shelters and that staffing was the big issue. Mr. Bohlman stated that staffing was very difficult and that very few people actually used shelters but that a lot of people use the warming shelters as people tend to like to go home at night and look after their house. He indicated that the warming shelters have worked very well. Mr. Bohlman indicated that they had put out press releases relative to the storm but that the information normally went to the Maine media which was the Portland market and that was not who the people of Kittery turn to for information and that it would now be sent to local media. Councilor Dow asked relative to the warming shelters, if there was a way if the electric was done to notify the residents. Chief Strong answered that most people in these emergencies will turn on a radio and found that was the best way to communicate with the residents. He continued that the releases were sent out to radio stations and tv stations but that they tried to get it to the radio stations as quickly as they could. Chief Strong indicated that they were in the process of trying to come up with a database of special needs people. Mr. Bohlman stated that a lot of times the town will use a sign board at a location in town which was open such as coffee shops. Councilor Beers stated that he was very pleased to hear this information and wanted it to be on record because the people in town need to know that these services are available and if we experience another situation like the ice storm the public notice component is crucial. He continued that he would like to see the plan at some point relative to the special needs people and how that would be carried out. Councilor Beers stated that there were no shelters in Kittery last year and that they needed to take care of the residents whatever the cost would be. Mr. Bohlman stated if the disaster becomes a federally declared disaster, if a warming shelter is opened it would be an expense that could be put in for reimbursement through FEMA. Mr. Bohlman indicated that they highly recommended using warming shelters first and decide where to go from there as the warming shelters were very heavily used. Mr. Bohlman indicated that if anyone had any questions they were free to contact him.

8. *THE KITTERY TOWN COUNCIL MOVES TO HEAR AN UPDATE FROM THE TOWN MANAGER ON THE SIGN ORDINANCE.*

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Town Manager Carter noted that Council had a brief memo concerning the sign ordinance project last summer through an intern, Elizabeth Harvey, in their packets. He continued that Ms. Harvey was given parameters to look at the sign ordinance and to go out and seek the violations that she could find and to look at surrounding town and model sign ordinances and come back with a recommendation filled with data that the town could then carry forward. Town Manager Carter noted that the intern looked through the ordinance and came up with different recommendations and filed her report. He continued that the town had begun to put together a policy for progressive enforcement for the violations and wanted to work with the businesses to try to correct the problem. Town Manager Carter noted that the new Planner had taken the sign ordinance to the Planning Board to discuss if they want to look at it further. He indicated that once the Planning Board was done with the Shoreland Zoning ordinance and had gotten caught up they would assist with the review of the sign ordinance but until that time they planned on progressive violation enforcement and talking with the businesses and getting their concerns. He noted that signage was vital in the minds of the businesses and that the town understood the economic conditions and was trying to do its role in carrying out the ordinance as written. Chairperson Spiller noted that at some point in the next year the Planning Board and staff would be looking at the ordinance. Councilor Dow stated that he thought due to the number of violations that the ordinance was very outdated or there were a lot of violations in the town. Town Manager Carter noted that there were sections of the ordinance that should be updated and linked to the design criteria. Town Manager Carter stated that when any commercial establishment came in, they were doing a courtesy walkthrough of the facility to see if there are any blatant violations.

9. THE KITTERY TOWN COUNCIL MOVES TO HEAR A PRESENTATION FROM FORREST BELL, SPRUCE CREEK ASSOCIATION/TOWN COUNSULTANT ON THE GRANT RECEIVED BY UNH ON THE END OF PIPE PROJECT.

Town Manager Carter then introduced Forrest Bell who is a consultant to the Spruce Creek Association and to the town on the broad 319 Water Quality Program as well as the different component parts which the End of Pipe Study has been a part of. Mr. Bell stated that he had been with the town for about three years working on various projects to help clean up the creek. He continued that he was there because of the impairment of Spruce Creek as a bacteria impaired estuary in the State of Maine and the closing of the shellfish beds and that the ultimate goal was to get off the impairment list and open the shellfish beds. He continued that they still needed to assess and figure out what was happening and this project was a step in the right direction. Mr. Bell reiterated that this was an \$8,000.00 grant from the Piscataqua Regional Estuary Partnership and the Town of Kittery matched \$8,000.00 to help with some of the end of pipe sampling. He continued that they did the sampling in the spring, summer and fall of this year and tracking bacteria can be very difficult and expensive so they were trying to employ techniques that were not that expensive to try to find the hotspots. Mr. Bell then explained the report and maps that were given to Council. He noted that even though there were some areas that indicated that they were hotspots, the numbers were still fairly low. Mr. Bell indicated that this study needed to be repeated again as it was done in early October which was not the best time and that it should be done in the late spring or early summer to get the best possible results or the worst possible conditions. He continued that as far as the end of pipe sampling which was taking water and bacteria tests of the stormwater outfalls around the creek, they only worked on about

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six of them and there were about 30 of them around the creek that they would like to test at some time. Mr. Bell noted that the two hotspots were the Mitchell School which had been taken care of and the other was in Admiralty Village. He continued that in dry and wet weather the bacteria hits were off the charts and they were at the maximum levels. Mr. Bell stated that it was good news that they found this spot as it was definitely contributing something to the creek but the question was where exactly this coming from. He continued that there was a whole series of drains that drain into that area from the street and there could possibly be illicit connections. He continued that he wanted to bring that issue to Council's attention and that it was something that they were working on with the Spruce Creek Association and the State of Maine. Mr. Bell indicated that he was not asking for more money at the moment but that end of the pipe testing was something that should happen in the spring or summer of 2010. He continued that there was a sewer sniffing dog named Sabel out of Michigan who was being used in different areas of the country to track the bacteria sources. He indicated that Sabel has about an 85% success rate for tracking these sources. Town Manager Carter indicated that they did not know if what was coming out of the pipe was human or animal waste and that Sabel was trained specifically for human waste. Mr. Bell stated that testing between animal and human waste was very important and that Sabel would be a much less expensive method than having lab samples done. He continued that he was working with some other seacoast communities which also have some bacteria issues to see if Sabel could come down to do all the communities at once. Councilor Dow asked if the 25 other sites were part of the project. Mr. Bell noted that those would be additional and that they only focused in on the 6 or 8 sites that had been previously identified. Phyllis Ford of the Spruce Creek Association stated that Public Works does a visual inspection of all of the outfalls that they knew of which were done over a three year period, and that they had gone through those reports to identify which ones had a bad odor and they pulled the ones that had always had an odor for the sample but there were more that needed testing. Town Manager Carter noted that Public Works did the visual inspection and mapping and that this was the other side of it trying to determine why it smells bad and what is in it. Ms. Ford noted that it was their hope for those 25 other sites to use an intern or student to go through the data to make sure that it is updated and to make sure that there are enough of the closed pipe systems what would warrant more testing. Chairperson Spiller asked if they thought that the Mitchell School problem had been cleared up. Town Manager Carter stated that because of this study the problem was identified and over the summer the school had worked diligently to correct the situation and that they were doing some testing and the counts were dramatically lower.

10. *THE KITTERY TOWN COUNCIL MOVES TO HOLD A HEARING TO DETERMINE THAT THE RESIDENTIAL BUILDING STRUCTURE LOCATED AT 35 WYMAN AVENUE CONSTITUTES CONDITIONS THAT VIOLATE THE DANGEROUS BUILDINGS STATUE, 17 M.R.S. §2851.*

Chairperson Spiller noted that this was relating to an elderly tenant. Town Manager Carter stated that this came before Council by staff indicating through contacts with a relative of the party that lives at the property it was made known that the resident was living in an unhealthy environment. He continued that through their investigation they determined that the building was a dangerous building under the statute and they brought this to Council and made a case for a hearing. He noted that they were working with the town attorney, Attorney MacEachern, who would indicate that there has been some work done to move this off a hearing for that evening

and indicated that Attorney MacEachern would speak to what progress had been made. Attorney MacEachern stated that the reason that they had become before Council to have this property declared a dangerous building was that they had not been able to deal with anyone and the woman who lived in the structure would not let anyone in. He continued that the woman had four adult children and that they were not able to deal with them and the only recourse at the time was to seek this remedy. He noted that after Council signed the order, a copy of the order was served on the adult children and the mother and that was effective in getting a reply. Attorney MacEachern indicated that the property was owned by the mother and the children together and that there was no question that the woman was living in substandard conditions that should not be allowed to continue. He continued that he has been able to deal with one of the children who represents all of the children and the mother and they have a dialogue going on and they are trying to find another location where the mother can live. Attorney MacEachern stated that the children also have had the help of some social agencies in helping them find the woman another place to live. He stated that they felt that this was somewhat under control but that it did not eliminate the structure and that the owners now realize that it either needs to be fixed up or torn down. Attorney MacEachern stated that he thought that they would accomplish this through negotiation rather than from an order from Council and that they were on the right track and asked that Council delay this hearing. He continued that they hoped that it would not be necessary in the long run and would report back. Attorney MacEachern stated that they would advise Council of a time and date if it was necessary but that he was hopeful that it would not be. Town Manager Carter indicated that staff would be working with Attorney MacEachern to move this along quickly as it was an environment that should not continue because it was unsafe and unhealthy and the woman should find another location to live while the long term resolution happens with the property. Attorney MacEachern stated that he thought that the woman now realized that she needed to be out of this property.

COUNCILOR THOMSON MOVED THAT THE KITTERY TOWN COUNCIL POSTPONE ACTION ON THE HEARING TO DETERMINE THAT THE RESIDENTIAL BUILDING STRUCTURE LOCATED AT 35 WYMAN AVENUE CONSTITUTES CONDITIONS THAT VIOLATE THE DANGEROUS BUILDINGS STATUTE, 17 M.R.S. §2851, BASED ON THE INFORMATION PROVIDED BY THE TOWN ATTORNEY UNTIL SUCH TIME AS FURTHER ACTION IS WARRANTED, SECONDED BY COUNCILOR DOW.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 7/0.

11. PUBLIC HEARING

a. *(120109-1) THE KITTERY TOWN COUNCIL MOVES TO HOLD A PUBLIC HEARING ON AN APPLICATION FROM FOOD FIRST LLC, 60 WALLINGFORD SQUARE, KITTERY FOR A VICTUALER'S LICENSE FOR AJ'S WOOD GRILLED PIZZA, 68 WALLINGFORD SQUARE.*

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

COUNCILOR THOMSON MOVED THAT THE KITTERY TOWN COUNCIL APPROVE THE APPLICATION FROM FOOD FIRST, LLC, 60 WALLINGFORD SQUARE, KITTERY FOR A VICTUALER'S LICENSE FOR AJ'S WOOD GRILLED PIZZA, 68 WALLINGFORD SQUARE, SECONDED BY COUNCILOR BRAKE.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 7/0.

Chairperson Spiller noted that the permit 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 local and state codes and ordinances.

b. (120109-2) THE KITTERY TOWN COUNCIL MOVES TO HOLD A PUBLIC HEARING ON THE RENEWAL APPLICATION OF WEATHERVANE SEAFOODS, 306 US ROUTE 1, KITTERY FOR A MALT, SPIRITUOUS AND VINOUS LIQUOR LICENSE FOR WEATHERVANE SEAFOODS, 306 US ROUTE 1.

Chairperson Spiller noted that notice of this hearing was advertised in the Portsmouth Herald on December 4, 2009. Chairperson Spiller opened the public hearing and no response being heard closed the public hearing.

COUNCILOR THOMSON MOVED THAT THE KITTERY TOWN COUNCIL APPROVE THE RENEWAL APPLICATION OF WEATHERVANE SEAFOODS, 306 ROUTE 1 KITTERY FOR A MALT, SPIRITUOUS AND VINOUS LIQUOR LICENSE FOR WEATHERVANE SEAFOODS, 306 ROUTE 1, SECONDED BY COUNCILOR BEERS.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 7/0.

Chairperson Spiller noted that the permit 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 local and state codes and ordinances.

c. (120109-3) THE KITTERY TOWN COUNCIL MOVES TO HOLD A PUBLIC HEARING ON THE RENEWAL APPLICATION OF FOOD FIRST LLC, 60 WALLINGFORD SQUARE, KITTERY FOR A MALT, SPIRITUOUS AND VINOUS LIQUOR LICENSE FOR ANNEKE JANS, 60 WALLINGFORD SQUARE.

Chairperson Spiller noted that notice of this hearing was advertised in the Portsmouth Herald on December 4, 2009. Chairperson Spiller noted that Chairperson Spiller opened the public hearing and no response being heard closed the public hearing.

COUNCILOR THOMSON MOVED THAT THE KITTERY TOWN COUNCIL APPROVE THE RENEWAL APPLICATION OF FOOD FIRST, LLC, 60

WALLINGFORD SQUARE, KITTERY FOR A MALT, SPIRITUOUS AND VINOUS LIQUOR LICENSE FOR ANNEKE JANS, 60 WALLINGFORD SQUARE.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 7/0.

Chairperson Spiller noted that the permit 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 local and state codes and ordinances.

d. (120109-4) THE KITTERY TOWN COUNCIL MOVES TO HOLD A PUBLIC HEARING ON AN APPLICATION FROM ADIYAMAN LLC, 7 ROUTE 236, KITTERY FOR A VICTUALER'S LICENSE FOR ROUTE 236 KITTERY MOBIL, 7 ROUTE 236.

Chairperson Spiller noted that notice of this hearing was advertised in the Portsmouth Herald on December 4, 2009. Chairperson Spiller opened the public hearing and no response being heard closed the public hearing.

COUNCILOR THOMSON MOVED THAT THE KITTERY TOWN COUNCIL APPROVE THE APPLICATION FROM ADIYAMAN LLC, 7 ROUTE 236, KITTERY FOR A VICTUALER'S LICENSE FOR ROUTE 236 KITTERY MOBIL, 7 ROUTE 236, SECONDED BY COUNCILOR BRAKE.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 7/0.

Chairperson Spiller noted that the permit 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 local and state codes and ordinances.

e. (120109-5) THE KITTERY TOWN COUNCIL MOVES TO HOLD A PUBLIC HEARING ON AN APPLICATION FROM JAN EDWARDS, 4 NEWSON AVENUE, KITTERY FOR A VICTUALER'S LICENSE FOR LA PETITE CREPERIE, 4 NEWSON AVENUE.

Chairperson Spiller noted that notice of this hearing was advertised in the Portsmouth Herald on December 4, 2009. Chairperson Spiller opened the public hearing and no response being heard closed the public hearing.

COUNCILOR BRAKE MOVED THAT THE KITTERY TOWN COUNCIL APPROVE THE APPLICATION FROM JAN EDWARDS, 4 NEWSON AVENUE, KITTERY FOR A VICTUALER'S LICENSE FOR LA PETITE CREPERIE, 4 NEWSON AVENUE, SECONDED BY COUNCILOR DOW.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 7/0.

Chairperson Spiller noted that the permit 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 local and state codes and ordinances.

12. DISCUSSION

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

There was none.

13. UNFINISHED BUSINESS

a. *(110109-2) THE KITTERY TOWN COUNCIL MOVES TO AMEND ITS SELECTION PROCEDURES FOR COUNCIL APPOINTMENTS.*

COUNCILOR BEERS MOVED THAT THE KITTERY TOWN COUNCIL AMEND ITS SELECTION PROCEDURES FOR COUNCIL APPOINTMENTS AS PRESENTED, SECONDED BY COUNCILOR BRAKE.

Councilor Dow asked relative to C-4, if people who refuse an interview but wish to stay on the list, where they would go on the list. Councilor Beers noted that the order of precedence is the date that they are put on the list and if someone rose to the top and refused they would be replaced on the list as of the date of refusal which would bring them to the bottom which would be considered the date of a new date, time and receipt of an application. Councilor Dow noted relative to D(b) if Council be voting on all of the applicants and then vote on them individually or whoever was voted on first would be appointed. Councilor Beers noted that this passage applied specifically to applicants for the Planning Board and Board of Appeals which are done with all applicants interviewed all at once and then a motion would be made and an appointment following the interviews. Councilor Beers noted that from the interviewed group, a nomination would be made by motion with second and voted and if the majority favored the motion then that individual would be appointed to the vacancy. Councilor Dennett stated that normally there is a motion, second and vote and that there are no more motions and the process stops there. He continued that it is theoretically possible that all candidates could be moved, seconded and voted. Councilor Dennett noted that it was a theory and hopefully would not happen in practice. Chairperson Spiller noted that these were the rules that Council had been operating by. Councilor Dennett stated that he presumed that there would be a lot of work done on the rules in the future and that it was important to put the rules in their form and place.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 7/0.

b. *(110209-14) THE KITTERY TOWN COUNCIL MOVES TO AMEND THE SCHOOL DEPARTMENT'S POLICY ON DISBURSEMENT WARRANTS FOR SCHOOL EMPLOYEES WAGES AND BENEFITS TO EXPIRE ON NOVEMBER 30, 2010. A COPY OF SAID WARRANT WILL BECOME A PART OF THE MINUTES.*

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Chairperson Spiller noted that at the last meeting the School Committee had not elected a Chair but that Ken Lemont was now the Chair and Council was going to amend their vote to include him on the document.

COUNCILOR DOW MOVED THAT THE KITTERY TOWN COUNCIL AMEND THE SCHOOL DEPARTMENT'S POLICY ON DISBURSEMENT WARRANTS FOR SCHOOL EMPLOYEES WAGES AND BENEFITS TO EXPIRE ON NOVEMBER 30, 2010, TO INCLUDE KEN LAMONT AS CHAIR, SECONDED BY COUNCILOR BRAKE.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 7/0.

c. (090209-1) THE KITTERY TOWN COUNCIL MOVES TO HOLD A PUBLIC HEARING ON A PROPOSED AMENDMENT TO THE MUNICIPAL CODE, CHAPTER 6.04 – DOGS, TO INCLUDE HORSES.

Chairperson Spiller noted that this was postponed from the September 28, 2009 meeting. Councilor Beers stated that it was his understanding that a postponement to an unspecified time would kill the matter. Councilor Dennett stated that the item was not postponed to a certain time but it was postponed until the occurrence of an action, the action being receiving the recommendation of the Ordinance Review Committee which had now been done. Councilor Dennett continued that he thought that it was in order to take care of this at this time as the event had occurred with the Ordinance Review Committee.

COUNCILOR DENNETT MOVED THAT THE KITTERY TOWN COUNCIL INDEFINITELY POSTPONE ACTION ON THE PROPOSED AMENDMENT TO THE MUNICIPAL CODE, CHAPTER 6.04 – DOGS, TO INCLUDE HORSES, SECONDED BY COUNCILOR THOMSON.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 7/0.

d. OTHER

Councilor Thomson noted that the School Committee was looking to put together a committee to analyze the needs at Traip Academy and to see what course of action might be prudent moving forward. He continued that they had announced a makeup structure of the committee and wanted to offer some suggestions regarding the committee in the hopes that if this was to happen it would be a committee that would be open, fair and independent of any influence from faculty and School Committee members. He continued that he believed that there were a very large number of qualified individuals who live in the area that could offer tremendous expertise. Councilor Thomson then listed the names which were as follows: Kent Rossburg who lives in Eliot and is the former Superintendent of SAD 35, Armand DeSilva who lives in Eliot and is the former Superintendent of Dover and Beverly, MA schools, Dr. Kenneth Palmer who lives in Kittery Point and is the Chair of the Personnel Board and a retired University of Maine

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government professor, Robin Burdick who lives in Kittery and was on the School Committee in the 1980's and recently retired as a principal in the Portsmouth school system, Dr. Bob Lister who is the retired PHS principal and Superintendent, Randy Zito who will be retiring as principal Winnacunnet in June, Carl Fitzgerald who is the former principal of Traip Academy, and O'Neil Roy who is a retired Traip coach and teacher. Councilor Thomson noted that there were dozens of parents who had chosen alternative educational opportunities for their children while living in Kittery and that perhaps a few of them would offer valuable insight. Councilor Thomson noted that he had not spoken with any of the individuals but offered them as possible additions to the committee in the hopes that it is independent and can address the situation.

Councilor Beers stated that he echoed Councilor Thomson's comments regarding the committee and noted that he hoped that it was their understanding to examine all aspects of high school education in Kittery, including the fiscal side and not just the academic side.

Councilor Dow stated that the town parade was great and the Kiwanis Group did a great job organizing it.

Chairperson Spiller stated that she echoed Councilor Dow's statement and also wanted to thank the Portsmouth Herald for a very nice article on the parade.

14. NEW BUSINESS

a. (120109-6) *THE KITTERY TOWN COUNCIL MOVES TO APPROVE THE DISBURSEMENT WARRANTS.*

Chairperson Spiller asked Councilor Dennett if he reviewed the town warrants. Councilor Dennett stated that they were in appropriate format for signature. Chairperson Spiller asked Councilor Dow if he reviewed the school warrants. Councilor Dow stated that they were in appropriate format for signature. Chairperson Spiller then read the disbursement warrants which included the School Nutrition warrant in the amount of \$8,827.05, the School Accounts Payable warrant in the amount of \$84,128.54 and the Town Account Payable Warrant No. T 10-24 in the amount of \$437,356.98.

COUNCILOR DENNETT MOVED THAT THE KITTERY TOWN COUNCIL APPROVE THE DISBURSEMENT WARRANTS, SECONDED BY COUNCILOR DOW.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR.

b. (120109-7) *THE KITTERY TOWN COUNCIL MOVES TO ACCEPT HIGHPOINTE CIRCLE AS A TOWN ROAD.*

Chairperson Spiller indicated that the Planning Board had stated that the road met the ordinance for acceptance from the Town Council.

COUNCILOR THOMSON MOVED THAT THE KITTERY TOWN COUNCIL ACCEPT HIGHPOINTE CIRCLE AS A TOWN ROAD PER RECOMMENDATION OF

TOWN STAFF, SECONDED BY COUNCILOR BEERS.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 7/0.

c. (120109-8) THE KITTERY TOWN COUNCIL MOVES TO APPOINT COUNCIL MEMBERS TO ONGOING STANDING, ADHOC AND COUNCIL COMMITTEES.

Chairperson Spiller noted that Council had the list before then but that it was noted that the Service Center Coalition Committee was not filled and that they needed to find a replacement.

COUNCILOR PELLETIER MOVED THAT THE KITTERY TOWN COUNCIL APPOINT COUNCIL MEMBERS TO ONGOING STANDING, AD HOC AND COUNCIL COMMITTEES, SECONDED BY COUNCILOR DOW.

Councilor Dow asked what the Service Center Coalition Committee was. Town Manager Carter responded that it is an organization that the town belonged to and the state planning office designates service center areas and Kittery is one of them. He continued that it was based on a formula that the state puts together for houses, retail, traffic and population. Town Manager Carter noted that he serves as the staff person on the Committee but that the problem was that all of the meetings were in Augusta for an hour at lunch so it was not easy to make the meetings. Councilor Thomson stated that he would join the Committee. Councilor Beers wanted to note that there are 17 different assignments that Council is obligated to participate in. Chairperson Spiller stated that there were a lot of committees and that they played an important role in the work that they do.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 7/0.

d. (120109-9) THE KITTERY TOWN COUNCIL MOVES TO DISCUSS COUNCIL'S OPINION OF ESTABLISHING A YORK COUNTY CHARTER COMMISSION AS REQUESTED BY THE CHAIR OF COUNTY COMMISSIONER.)

Town Manager Carter indicated that Council had a letter from Sallie Chandler from the York County Charter Commission. He continued that for a couple of years the Commissioners had been debating whether or not to support the creation of a charter commission and moving forward in creating a charter or examining the possibility of creating a charter for the county. Town Manager Carter noted that York County does not have one so they function under the state statutes. He continued that they were asking whether Council would support them in moving forward with the startup of a charter commission. Town Manager Carter stated that the town and city managers are supportive of this as they believe through the development of a charter commission all aspects of the county government would be examined and perhaps procedures and formats would be straightened out and made more efficient.

COUNCILOR THOMSON MOVED THAT THE KITTERY TOWN COUNCIL

GO ON RECORD AS BEING SUPPORTIVE OF THE ESTABLISHMENT OF A YORK COUNTY CHARTER COMMISSION, SECONDED BY COUNCILOR DOW.

Councilor Dennett noted that he would oppose the motion because of the broad, general principle that there are no good forms of government and no bad forms of government and that the government functions only as well as the people who run it. He continued that they have a chance to vote for the county commissioners and that was where it lied and that rest could be straightened out through the law.

A ROLL CALL VOTE WAS TAKEN WITH COUNCILOR DENNETT OPPOSED. MOTION PASSES 6/1.

e. (120109-10) THE KITTERY TOWN COUNCIL MOVES TO SCHEDULE A DATE TO HOLD PUBLIC HEARINGS AS RECOMMENDED BY THE PLANNING BOARD ON PROPOSED AMENDMENTS TO TITLE 16: ACCESSORY DWELLING UNITS, DEFINITION OF "STRUCTURE", PLANNING BOARD AND BOARD OF APPEALS DUTIES AND MOBILE HOME SETBACKS IN MOBILE HOME PARKS.

Chairperson Spiller noted that the proposed date for the public hearing was December 28, 2009.

COUNCILOR DENNETT MOVED THAT THE KITTERY TOWN COUNCIL SCHEDULE A PUBLIC HEARING AS RECOMMENDED BY THE PLANNING BOARD ON PROPOSED AMENDMENTS TO TITLE 16: ACCESSORY DWELLING UNITS, DEFINITION OF "STRUCTURE", PLANNING BOARD AND BOARD OF APPEALS DUTIES AND MOBILE HOME SETBACKS IN MOBILE HOME PARKS FOR DECEMBER 28, 2009, SECONDED BY COUNCILOR THOMSON.

Councilor Dow asked if this was something that was going to take a long time to get through which Councilor Beers responded that it would not. Councilor Beers pointed out that this was going to need at least two separate public hearings as he was going to have to recuse himself from the mobile home part of the question and the others could be combined into one hearing with one motion. Councilor Thomson asked if one public hearing would suffice but through the motion process action could be split and Councilor Beers could meet his needs that way. Councilor Dennett stated that they could have one public hearing but have four separate votes.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 7/0.

f. (120109-11) THE KITTERY TOWN COUNCIL MOVES TO APPOINT JEFFREY THOMSON TO THE MARY SAFFORD WILDES TRUST UNTIL 2/28/12 (REPLACING FRANK CROTTY).

COUNCILOR BEERS MOVED THAT THE KITTERY TOWN COUNCIL APPOINT JEFFREY THOMSON TO THE MARY SAFFORD WILDES TRUST UNTIL

2/28/12, SECONDED BY COUNCILOR BRAKE.

Councilor Beers noted that Councilor Thomson had a thoroughly positive interview and was strongly recommended by the Chairman of the Trust and the Council interviewer.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 7/0.

g. (120109-12) THE KITTERY TOWN COUNCIL MOVES TO APPOINT KELLY PHILBROOK TO THE PORT AUTHORITY UNTIL 8/31/14 (REPLACING MILTON HALL).

COUNCILOR PELLETIER MOVED THAT THE KITTERY TOWN COUNCIL APPOINT KELLY PHILBRICK TO THE PORT AUTHORITY UNTIL 8/31/14, SECONDED BY COUNCILOR DOW.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 7/0.

h. (120109-13) THE KITTERY TOWN COUNCIL MOVES TO APPOINT THOMAS SMITH TO THE PORT AUTHORITY UNTIL 8/31/11 (FILLING GUY PETTY'S UNEXPIRED TERM).

CHAIRPERSON SPILLER MOVED THAT THE KITTERY TOWN COUNCIL APPOINT THOMAS SMITH TO THE PORT AUTHORITY UNTIL 8/31/11, SECONDED BY COUNCILOR THOMSON.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 7/0.

i. OTHER

Councilor Dennett noted that Council had received in their packets the monthly allocations for the town reserve funds. He continued that relative to the special reserve fund account which totaled approximately \$196,000.00, that the town only received \$.39 per month in interest. Town Manager Carter responded that the interest was all pooled together and that he would look into it and report back.

15. COMMITTEE AND OTHER REPORTS

a. Communications from the Chairperson

Chairperson Spiller stated that she wanted to wish everyone a happy and safe holiday season. She also wanted to encourage people to donate to the Fuel and More Account which needed money.

b. Town Manager's Report

KITTERY TOWN COUNCIL APPROVED MINUTES OF 12/14/09

- 1.) *Hiring of new Public Works Commissioner*
- 2.) *Steve Tapley's Retirement and process to fill his position*

Town Manager Carter indicated that he wanted to introduce Maryann Conroy who was the appointment to be the new Public Works Commissioner. He continued that Ms. Conroy came from Old Orchard Beach as the Public Works Director and that she would be starting with Kittery on January 4th. Town Manager Carter stated that prior to Ms. Conroy working for Old Orchard Beach she worked for the City of Portland as their traffic engineer for several years. He continued that she had a varied background and wanted to welcome Ms. Conroy to the department heads for the Town of Kittery and that she would bring a lot of skills to the community.

Town Manager Carter stated that they were saying goodbye to Steve Tapley, the Superintendent of Sewers who was a longtime town employee who was going to retire on February 1st. Town Manager Carter stated that he had been placing ads and receiving applications with a deadline of December 22nd for his replacement. He wished Steve well and stated that he had been a very capable employee of the town and had overseen the 4 million dollar plant and infrastructure update.

Town Manager Carter noted relative to the bridges that there was a meeting scheduled for December 16th at the Portsmouth High School for the connectivity study. He continued that this was going to be the study that would end up being the body that would recommend to both DOTs with what to do with the Memorial and Sarah Long bridges. He stated that this was the only option unless the TIGER grant funds came through and that it was vital that they understand where the committee is going. Town Manager Carter stated that all of the different options are taken into account for each bridge and then would combine those options for the two bridges and at the end of the process come up with an option or options to move forward. He continued that the options were based on a huge number of factors. He noted that both bridges were down to 20 different options and it would be laid out for the general public to look at and understand.

Town Manager Carter wanted to recognize that the town had done a very good job with its healthy beach program. He continued that the healthy beach program was a statewide initiative through the State of Maine and the University of Maine to look at the water quality on beaches and that the town had this for five years now. He stated that there were a number of dedicated volunteers who go out and test the waters of the swim beaches and it was a lot of work. He continued that the committee did so willingly and that they went out in all sorts of climates to do the testing. Town Manager Carter noted that they looked forward to 2010 for another round of testing and that it was a process that would ensure the beachgoers that they were in swimmable quality water. He noted that there was a website that posted the chemical analysis of the water on a weekly basis.

Town Manager Carter noted that he wanted to wish everyone Happy Holidays.

- c. *Committee Reports*
- d.

KITTERY TOWN COUNCIL APPROVED MINUTES OF 12/14/09

Chairperson Spiller wanted to give an update on the Frisbee Revitalization Committee and that the last time Council had met there were 15 consultants who put in proposals and they had been narrowed down to 5. She continued that they would be interviewing them in January and coming back with a recommendation and would look for some help from Council.

Chairperson Spiller noted in regards to the Superintendent of Schools Search Committee had reduced the number of candidates and they would be interviewing them in the second full week of January and would be sharing the results with the School Committee at their next meeting.

Chairperson Spiller stated that the Shared Services Committee was trying to schedule a meeting sometime in early January.

Councilor Dow indicated that the Building Committee was meeting on December 2nd and that they were continuing to make great strides in getting both the sites finalized. He continued that parking had been finalized at Shapleigh and Mitchell. He indicated that the renovation scope was continuing to place inside and that they had been able to weed out some of the areas that did not need any work and that it was going along very well.

16. ADJOURNMENT

The Chair took a consensus to adjourn the meeting, with all in favor.

MEETING ADJOURNED: 8:47 P.M