

**Kittery Town Council
Regular Meeting
March 11, 2019 – 7:00 p.m.
Council Chambers**

1. Call to Order: Chairperson Spiller called the meeting to order at 6:03 p.m.
2. Introductory: Chairperson Spiller read the introductory.

Chairperson Spiller said at this time she would like to turn the meeting over to Councilor Denault.

Councilor Denault said that on Friday, March 1st, Capt. Barnes lost his life saving others in a fire in Berwick. He said Capt. Barnes served as a per diem medic for the Acton Fire Dept. and with the York Ambulance. He said he would like a moment of silence for Capt. Barnes to reflect on the sacrifices our public safety personnel risk for us.

Everyone paused for a moment of silence.

Chairperson Spiller said she would like to thank the Kittery Fire Dept. as they have provided emotional and other support to Capt. Barnes' family and we deeply appreciate the work they do and thank them.

3. Pledge of Allegiance: Chairperson Spiller led those present in the Pledge of Allegiance.
4. Roll Call: Answering the roll were Councilors Charles Denault, Jeffrey Pelletier, Jeffrey Thomson, Cyrus Clark, Kenneth Lemont, Vice-Chair Matthew Brock and Chairperson Judith Spiller.
5. Agenda Amendment and Adoption: Chairperson Spiller asked if there were any amendments to the agenda, and hearing none, cast one vote to accept the agenda as presented.
6. Town Manager's Report: Town Manager Amaral reported that Chief O'Brien reviewed the contract between Stewart Ambulance Services, which bought out American, to see if the contract would meet our expectations and recommended that the town transfer the remainder of the contract to Stewart Ambulance Services. She said they will abide by the same terms and lease terms for the Walker St. building and her understanding is that there will be no staff turn-over. She said they have the same contact information with them they used to have.

Town Manager Amaral reported that the Library Memo of Understanding Workshop was productive, and based on the discussion, the revision reflects the ideas that were discussed at the workshop. She said they discussed the proposal and is seeking a consensus from Council to bring to the Library Board regarding the disposition of the trust fund.

Town Manager Amaral said that she, the Police Chief, Fire Chief, Director of Planning and Development and the Director of Public Works met with the residents of Badger's Island to discuss the parking issues. She said they will be scheduling meetings and will develop options that may work.

Town Manager Amaral said that Government Street Wharf improvement project has been moving forward – they got all the permits. She said the seawall is being replaced with cast concrete. She said they need to be out of the high-water tide line by April 9th. She said they can work on the decking above the water line and are on schedule. She said it should be substantially completed by May 30th but be done by June.

Town Manager Amaral said, regarding John Paul Jones Park, the Governor signed off and will start their due diligence as required. She said they are moving forward.

Town Manager Amaral said that Dave Rich is not aware of any rule regarding “no idling” at the Resource Recovery Facility that was adopted. She said they do need to idle in the winter and the residents may not be pleased.

Town Manager Amaral read some upcoming dates: March 29th Kittery Has Talent, 4 pm, Shapleigh School, Celebrity Chef April 9th 8:00 am at the Kittery Community Center and April 15th the Recycling Scholarship applications are due as well as the Mooring Renewal applications with the Harbormaster.

Chairperson Spiller asked if the Town Manager wanted input now on the consensus and she replied yes.

Chairperson Spiller said her sense is that they all agree on the items with exception of the remainder of the Arabella Rice Trust.

Councilor Thompson said he believed that was the general consensus of both groups.

Councilor Clark said he thought they were not in agreement with Council.

Chairperson Spiller said they will talk about our agreement regarding the remainder of the trust.

Councilor Thomson said his position is unchanged from last Monday. He said \$62,500 of the original trust fund of Arabella Rice will be turned over to the town on July 1st, and that all assets would be turned over.

Councilor Pelletier said during our conversation it was our general agreement that we maintain the capability, and will ensure that, the Library’s operations would not be negatively impacted. He said it seems we were more or less behind that.

Councilor Thomson said the Board of Directors is a non-profit corporation and would limit activities in the future to fundraising, obtaining grants and final contribution but did not reach an agreement. He said that the Board of Directors wants to maintain the Arabella Rice Trust and the Council felt it came with the building.

Councilor Thomson said that, in his opinion, they should submit to such an active group, working on behalf of the library in the future, it does make sense that the funds remain with them. He said the money is going to be used for Library programs and he supports services or potential repairs long-term. He said the group has been managing the operations for many years and he does not see a problem going forward in that direction.

Councilor Thomson said they are very close to finalizing what ought to be a dear gift to the town and asked Council to help move this forward across the finish line.

Vice-Chair Brock said, as a follow-up to the point made by Councilor Pelletier, he agrees that trust is clearly in the relationship. He said, between the town and the library, he agrees it has been challenged, but the Board of Directors will conclude and the other two items we will accept as discussed. He said if that is the case, he is inclined to support Councilor Pelletier’s comments to allow the Library keep the money. He said it is important that, on the other two items, we have an agreement on trust, it works both ways, and he hopes they will hear from the Board of Directors.

Councilor Denault said he wants to make sure that everyone has spoken to this. He said he agrees with Councilor Thomson and Councilor Pelletier. He said he thought there is a balance and they have to work through the process and allowed \$100,000 on preliminary plans for the library.

Town Manager Amaral pointed out that \$100,000 is for the Library this year and \$400,000 for next.

Councilor Denault said he agrees with the other comments and asked what are the pros and cons? Town vs. Board of Directors, maybe 50-50. He said a lot of ideas have been brought to the table and thought there should be a blended sharing responsibility.

Councilor Lemont wanted to know where did this money actually come from. He said when the Trust was established, has all the money been exhausted. He asked if this money is from fund raising?

Town Manager Amaral said she believed it is the original trust fund money, but she does not know if the funds have been added.

Councilor Lemont said the thought that money is linked with the building and that he shared in Councilor Denault's thoughts.

Chairperson Spiller said she liked Councilor Denault's approach, splitting the difference, and investing ½ a million dollars, which is a lot of money. She said it would be nice to see money that came with the original trust, go back in. She asked the Town Manager where does the money go.

Town Manager Amaral responded it is recommended it goes into another fund that is a revolving reserve account to use for the upkeep until the renovations are done. She said her understanding is that it will stay with the Library.

Chairperson Spiller asked how does Council feel about that.

Councilor Pelletier replied they discussed this and it's like offering their lunch and now we want to make money to go with it. He said they are giving one million dollars-worth of real estate. He thought the funds should be sitting in their account to use to support and fund Library operations and demanding that we control it seems like a bit of a reach.

Chairperson Spiller said the Library benefits from becoming a Town Department and she did not think that they are "taking their lunch."

Councilor Thomson said tomorrow, when the Transition Committee meets, there has to be additional clarity and one question he hopes to get traction on, is the understanding that, after July 1st, the Library Board continue in their 501-c (3) capacity for grants and fundraising, but also the Friends of the Library is another 501-c (3) which does that. He said on the surface, it would look like there are two 501-c 3's going after the same pot of money. He said he is pretty sure that any fundraising firm would tell you is not a good idea.

Councilor Thomson said maybe, during that meeting tomorrow, if that is their desire, they will provide expansive thought on how they see themselves as any different from the Friends of the Library.

Chairperson Spiller asked if there was anything else.

Councilor Thomson replied he had an additional question for the Town Manager, through the Chair, on the MOU and the ambulance contract. He wanted to know when does the remainder of the ambulance contract expire.

Town Manager Amaral answered June 30, 2020.

7. Acceptance of Previous Minutes – None
8. Interviews for the Board of Appeals and Planning Board- None
9. All items involving the town attorney, town engineers, town employees or other town consultants or requested officials.

10. PUBLIC HEARINGS - None

11. DISCUSSION:

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

Julia O'Connell said she is a Board member of the Kittery Energy Savings Advisory Committee (KESAC) and wanted to give an update on the work achieved by the Energy Committee on LED Street Lights conversion.

Ms. O'Connell said that, for the past year, re-created as a committee, and worked on energy-efficient issues. She said they have nine individuals and two members researched options and found the 2000 energy audit of the town as a whole. She said they promoted the LED savings of over \$92,000.

Ms. O'Connell said KESAC created the "Bulb Swap Out" which is a very successful program. She said the NY Times announced a significant decrease in energy use by not replacing light bulbs.

Ms. O'Connell said KESAC coordinated an analysis on solar panels on five Town buildings and noted that the Comprehensive Plan prioritizes energy savings through measures like these.

Ms. O'Connell said she is looking forward to working with the Town as part of the Climate Adaption Change Committee. She said they are looking for five citizen representatives.

Jim Knowles said that he had information from the Dept. of Marine Resources on January 8th that they required a survey of their property. He spoke about a bill sponsored by Rep. Rykerson that will affect 26 land owners. He said it will confiscate private land but all land will be at risk.

Mr. Knowles appreciates the efforts of the Town Manager and thanked Councilor Denault for attending the hearing. He said he will keep the Town Council apprised of this issue as it affects property owners' rights.

Filomena Knowles said that Rep. Dean Rykerson called this draft bill LD723 An Act to Enhance Submerged Resource Management of Lands Beneath Impounded Waters, but added "Spinney Creek Shellfish" but if they get the lease it is in sub-tidal waters which never was disputed.

Mrs. Knowles said that originally it was low water mean tide, and the inter-tidal is owned by us. She said Rep. Rykerson would have to seek legal advice. She read a statement, and quoted that the government cannot take private property without compensation. She said the Maine Forest Product Corp. and MMA have opposed the bill and Rep. Rykerson has requested that the committee postpone their work session on the bill.

Mrs. Knowles said the hearing will be held March 12th at 2:00pm in Rm. 214 of the Cross Building in Augusta.

Kathy Lamoine, One Salt Creek Way, said this act in Augusta is looking to take submerged lands and Council is aware of this. She said this will involve writing a letter, which would mean a lot to us, since it will affect our deeds and property values. She said those of those who have land will have to be notified but there will be issues with tax assessments.

Norm Lamoine said he cannot add much to what Mr. and Mrs. Knowles has said. He said on behalf of the "Friends of Spinney Creek" 400 signatures were on the petition. He thanked the Town Council and Town Manager, who have been very supportive and fair and impartial in this case. He thanked others who have testified at hearings and issued calls to State-wide offices. He said at this point in the process, he is not sure what he can do to protect his property rights.

Jeff Brake said that the Recycling Scholarship applications are available March 15th and closes April 15th. He said they are open to any college student with a GPA from January or December of last year. He said one check will be issued and will go before Council at the last meeting in June. He said people can get applications at the Town Hall from the Deputy Clerk, Rice Public Library or Superintendent's office and that scholarship amounts vary from \$250 to \$1500.

c. Chairperson's response to public comments:

Chairperson Spiller thanked KESAC and informed everyone that the Town Manager is working on a RFP for the wind turbine.

Chairperson Spiller said they are looking for five residents to be on the Climate Adaptation Committee, someone in the fishing industry and business.

Chairperson Spiller asked the Town Manager if she has heard from the Dept. of Marine Resources.

Town Manager Amaral said that she has not received anything from the DMR.

Chairperson Spiller thanked former Councilor Brake for his work in turning recyclable cans and bottles into educational benefits.

12. UNFINISHED BUSINESS: None

13. NEW BUSINESS:

(030119-1) The Kittery Town Council moves to accept a donation from the Kittery Maine Improvement Foundation in the amount of \$104.24 to be deposited in the Thresher Memorial Fund.

COUNCILOR THOMSON MOVED THAT THE TOWN COUNCIL ACCEPT A DONATION FROM THE KITTERY MAINE IMPROVEMENT FOUNDATION IN THE AMOUNT OF \$104.24 TO BE DEPOSITED IN THE THRESHER MEMORIAL FUND. COUNCILOR PELLETIER SECONDED THE MOTION. ROLL CALL VOTE WAS TAKEN WITH ALL VOTING IN FAVOR, 7-0. MOTION CARRIES.

(030119-2) The Kittery Town Council moves to accept a donation from Donald and Nicole Kerr in the amount of \$50.00 to be deposited in the Thresher Memorial Fund.

Chairperson Spiller said this is money from the sale of Don Kerr's book.

COUNCILOR THOMSON MOVED THAT THE TOWN COUNCIL ACCEPT A DONATION FROM DONALD AND NICOLE KERR IN THE AMOUNT OF \$50.00, WITH THANKS, TO BE DEPOSITED IN THE THRESHER MEMORIAL FUND. COUNCILOR PELLETIER SECONDED THE MOTION. ROLL CALL VOTE WAS TAKEN WITH ALL VOTING IN FAVOR, 7-0. MOTION CARRIES.

b. (030119-3) The Kittery Town Council moves to approve the disbursement warrants.

Chairperson Spiller read the amounts: Town = \$119,959.71 and Sewer, \$21,959.71 and asked if Councilor Clark had reviewed the warrants and found them to be in appropriate order and he replied yes.

Chairperson Spiller read the School payables in the amounts of \$444,150.02 and \$38,727.28 for a total of \$624,631.14.

Chairperson Spiller asked Councilor Pelletier if he had reviewed the warrants and found them to be in appropriate order and he responded yes.

COUNCILOR THOMSON MOVED THAT THE DISBURSEMENT WARRANTS BE PAID, SECONDED BY COUNCILOR PELLETIER. ALL WERE IN FAVOR BY A VOICE VOTE, AYE, 7-0, NONE OPPOSED. MOTION CARRIES.

c. (030119-4) The Kittery Town Council moves to approve a Municipal Release Deed for 64 Route 236, Kittery, Maine 03904.

Chairperson Spiller asked the Town Manager to give Council an update.

Town Manager Amaral responded that Map 29, Lot 13-B foreclosed on Fiscal Year 2017 and taxes were not paid. She said it is currently for sale and the closing date is March 15th. She said the Town has to release the claim for non-payment and it will be recorded once the taxes are paid.

COUNCILOR THOMSON MOVED THAT THE KITTEY TOWN COUNCIL APPROVE A MUNICIPAL RELEASE DEED FOR 64 ROUTE 126, KITTEY AS PRESENTED, SECONDED BY COUNCILOR PELLETIER. ROLL CALL VOTE WAS TAKEN WITH ALL VOTING IN FAVOR, 7-0. MOTION CARRIES.

d. (030119-5) The Kittery Town Council moves to appoint Brad Hirst to the Trustees of the Trust Funds, to a term to expire 12/31/2022.

Councilor Lemont said he interviewed him.

COUNCILOR LEMONT MOVED THAT THE KITTEY TOWN COUNCIL APPOINT BRAD HIRST TO THE TRUSTEES OF THE TRUST FUNDS FOR A TERM TO EXPIRE ON 12/31/2022, SECONDED BY COUNCILOR THOMSON. ROLL CALL VOTE WAS TAKEN WITH ALL VOTING IN FAVOR, 7-0. MOTION CARRIES.

e. (030119-6) The Kittery Town Council moves to appoint Drew Fitch to the Economic Development Committee to a term to expire 12/31/2021.

Councilor Denault said he interviewed him.

COUNCILOR DENAULT MOVED THAT THE KITTEY TOWN COUNCIL APPOINT DREW FITCH TO THE ECONOMIC DEVELOPMENT COMMITTEE FOR A TERM TO EXPIRE 12/31/21. COUNCILOR PELLETIER SECONDED THE MOTION. ROLL CALL VOTE WAS TAKEN WITH ALL VOTING IN FAVOR, 7-0. MOTION CARRIES.

f. (030119-7) The Kittery Town Council moves to appoint a representative to interview Linda Cheatham to be appointed to the Rice Public Library Board.

COUNCILOR THOMSON MOVED THAT THE KITTEY TOWN COUNCIL POSTPONE TAKING ACTION ON THIS ITEM UNTIL THE SECOND MEETING IN JULY 2019, SECONDED BY CHAIRPERSON SPILLER FOR DISCUSSION.

Chairperson Spiller asked Councilor Thomson to explain.

Councilor Thomson said this should be held in a state of flux since they are in the final phases of the transition from the Rice Public Library to the Town, effective July 1st which is only 3 ½ months away. He said it would be a different role for the board after that date and they need to clarify what that role is and determine if the individual would be interested in serving in that new role.

Councilor Denault said he supported Councilor Thomson in that one person should not affect the Committee during this time and asked the Chair if that is correct.

Chairperson Spiller responded she would not think so. She said the Board is not clear on what their role would be.

Councilor Pelletier said he did not think that the Council needs to take action on this item.

Councilor Lemont wanted to know if the applicant is aware of what is transpiring this evening?

Chairperson Spiller asked the Town Manager to let the applicant know.

Councilor Lemont said there is only one Council meeting in July and they did not need a motion to postpone.

g. (030119-8) The Kittery Town Council moves to approve a Pole Permit for Northern New England Telephone and Central Maine Power Company to be located at 227/2.75 (LTS 58) on U.S. Route 1, Kittery, Maine.

COUNCILOR THOMSON MOVED THAT THE TOWN COUNCIL APPROVE A POLE PERMIT FOR NORTHERN NEW ENGLAND TELEPHONE AND CENTRAL MAINE POWER COMPANY TO BE LOCATED AT 227.2.75 (LTS 58) ON U.S. ROUTE ONE, KITTERY, MAINE, SECONDED BY CHAIRPERSON SPILLER. ROLL CALL VOTE WAS TAKEN WITH ALL VOTING IN FAVOR, 7-0, MOTION CARRIES.

h. (030119-9) The Kittery Town Council moves to approve a renewal Liquor License application for Maine Beer Café, located at 439 U.S. Route 1, Suite 1, Kittery, Maine 03904.

Chairperson Spiller said that the Code Enforcement Officer has inspected the establishment and has found it to be in compliance with the Kittery Town Code.

COUNCILOR THOMSON MOVED THAT THE KITTERY TOWN COUNCIL APPROVE THE RENEWAL LIQUOR LICENSE APPLICATION FOR MAINE BEER CAFÉ, LOCATED AT 439 U.S. ROUTE ONE, SUITE ONE, KITTERY, MAINE, SECONDED BY COUNCILOR PELLETIER. ROLL CALL VOTE WAS TAKEN WITH SIX IN FAVOR, NONE OPPOSED AND ONE ABSTENTION (COUNCILOR LEMONT). MOTION CARRIES.

i. (030119-10) The Kittery Town Council moves to hold a public hearing on March 25, 2019 to amend Title 2- Fire Chief position.

Chairperson Spiller asked the Town Manager to give Council some background information.

Town Manager Amaral said that David O'Brien reviewed the Fire Chief position and the hours and responsibilities that go into it and they agreed that it should be a full-time position, effective January 1st. She said the Fire Chief will also serve as the Emergency Management Director to be appointed by the Town Council. She said the ordinance would have to be changed to assume the role of Emergency Management Director.

COUNCILOR THOMSON MOVED THAT THE TOWN COUNCIL HOLD A PUBLIC HEARING ON MARCH 25, 2019 TO RECEIVE COMMENTS ON AMENDING TITLE 2 OF THE KITTERY TOWN CODE, FIRE CHIEF POSITION. COUNCILOR DENAULT SECONDED THE MOTION. ROLL CALL VOTE WAS TAKEN WITH ALL VOTING IN FAVOR, 7-0. MOTION CARRIES.

14. COUNCILOR ISSUES OR COMMENTS:

Councilor Denault said he got a call from residents of Cutts Road, asking about "Deer Crossing" signs in the area of Andrews' property to help out the motorists and save the deer. He said the signs would make people aware of deer in the area.

Councilor Denault said he would love to attend the hearing in Augusta, but he cannot make it.

Councilor Denault said he heard from residents on Ox Point Drive with their concerns. He said the property goes out to Spruce Creek as well. He said he had a question from a resident regarding a permit for his boat and the dock extension out into State water/

Councilor Thomson pointed out that his last name is misspelled on the Municipal Deed - there is no "p." He wanted to know when DOT was coming down to speak with them, to the Town Manager through the Chair.

Town Manager Amaral replied she sent them an e-mail following up and it is on their "Reschedule" list.

Councilor Clark said he is disappointed with Rep. Rykerson bringing forth that bill. He said he attended all the Spinney Creek meetings and DMR said they will put out guidelines. He said it looks like they are going to win and they are circumventing the Dept. of Marine Resources. He thought it is outrageous.

Chairperson Spiller said people are asking about a changing station at Rice Public Library, where would it be located.

Town Manager Amaral responded she did not know.

Chairperson Spiller said for the March 25th workshop with local delegates Sen. Lawrence and Rep. Rykerson, Councilors should get their issues to the Town Manager in advance.

- 15. COMMITTEE AND OTHER REPORTS: None
 - a. Communications from the Chairperson
 - b. Committee Reports

- 16. EXECUTIVE SESSION: None

- 17. ADJOURNMENT:

COUNCILOR THOMSON MOVED TO ADJOURN THE MEETING AT 7:10 P.M., SECONDED BY COUNCILOR PELLETIER. ALL WERE IN FAVOR BY A VOICE VOTE, 7-0, MOTION CARRIES.

Respectfully submitted,

Barbara Boggiano
Recording Secretary

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Approved 9-9-19