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1. Call to Order

Chairperson Beers called the meeting to order at 7:00 p.m.

2. Introductory

Chairperson Beers read the introductory.

3. Pledge of Allegiance

Chairperson Beers led those present in the Pledge of Allegiance.

4. Roll Call

Answering the roll call were Chairperson Gary Beers, Vice Chairperson Charles Denault, Councilors Frank Dennett, Russell White, Jeffrey Thomson, Judith Spiller, and Kenneth Lemont.

5. Agenda Amendment and Adoption

Councilor Dennett requested that original Item 9 be marked as Item 9b and current Item 13n be marked as Item 9a to more accommodate the Finance Director.

Vice Chairperson Denault requested to move Item 13s to Item 13c.

Agenda was adopted as amended.

6. Town Manager's Report

Town Manager Granfield reviewed her written report.

She received four proposals in response to the solicitation for construction project management services for the Kittery Community Center East Wing improvements. The proposals ranged from \$30,000 to \$90,000. Two firms were interviewed and as a result DeStefano & Associates, Inc. was chosen.

A request for proposal was released for Emery Field Multi-Use Fields and Pathways Design Services with a proposal submission deadline of April 20, 2016 at 2:00 PM EST. She has met with about half of all departments to gain a better understanding of their operations.

Japanese foreign exchange students will be visiting Kittery from April 22, 2016 to April 27, 2016. Town Manager Granfield scheduled a meeting on March 29, 2016 with school staff and community to seek any guidance on what agenda schedules, services, or entertainment was offered to those students in the past. She welcomed any suggestions from the Town Council. She added that typically the Town and school did not fund this program. She requested any guidance

48 for alternative ways to seek funding.

49

50 The police selection committee group has been excellent and making great progress toward
51 selecting a qualified candidate.

52

53 Town Manager Granfield is working to organize and build continuity of internal operations to
54 ease the transition process for any new employee. That includes improving the process for
55 Request for Information or Freedom of Information for the Town Clerk.

56

57 Pamela Plumb informed Town Manager Granfield the 4-hour council training could be
58 administered on Saturday mornings, Monday evenings, and possibly Tuesday evenings. She
59 confirmed availability on:

60 • Saturday, April 9, 2016

61 • Monday, May 16, 2016

62 • Any Tuesday, based on room availability

63 The training is geared towards the seven councilors plus the town manager and would be listed
64 as a public workshop. She requested the Town Council's preferences for training dates.

65

66 Town Manager Granfield asked the Council their plan for recruitment of a new Town Manager
67 to include what direction it will be sought and when to proceed.

68

69 In regards to tax lien properties, Town Manager Granfield suggested to consider writing off
70 outdated tax bills because after a certain date they would not be collected.

71

72 Councilor Thomson noted the Japanese students are arriving the week of school vacation. Town
73 Manager Granfield added that the superintendent did relay the message this was poor timing. She
74 suggested in the future their trip dates be scheduled outside a vacation week and school
75 examinations. Councilor Thomson mentioned that Council involvement was very minimal in
76 years past. Town Manager Granfield questioned how the program was founded and Councilor
77 Thomson responded that Judy and Mori Mitsui, Kittery residents, helped found the program.
78 Councilor White added that Shapleigh teachers and community members collaborated to initiate
79 this effort. He offered to attend the welcome dinner scheduled for this year to represent the Town
80 Council. Chairperson Beers planned on attending the Saturday ceremony as well. He was
81 surprised to learn that funding for this program is solely voluntary and asked that the Town
82 Manager research the possibility of using Town discretionary funds to sponsor the program in
83 part.

84

85 After discussion amongst the Town Council, it was requested that confirmed availability for the
86 Plumb training session on any Tuesday be provided by e-mail and fax.

87

88 Chairperson Beers asked the Council whether the discussion of town manager replacement be
89 postponed until the training or addressed in a future agenda. Vice Chairperson Denault suggested
90 that the process be started as soon as possible. Councilor Spiller suggested that the council
91 training be conducted and then used as the foundation for determining the plan for town manager
92 replacement. Councilor Thomson concurred with Councilor Spiller and noted his understanding
93 was this discussion would begin after the budget season concluded. Chairperson Beers responded
94 to Town Manager Granfield that this topic be postponed until after the training is conducted.

95
96 Councilor White expressed the budget is top priority. Other priorities he identified included the
97 search for a new Chief of Police renovations at the Kittery Community Center, ongoing projects
98 under active contract management, Emery field, and more.

99
100 Vice Chairperson Denault added to Councilor White's recommendations to consult with Randy
101 Buccini on Channel 22 initiatives identified by former Town Manager Puff.

102
103 Chairperson Beers asked that the Sewer Betterment Fee issue be clarified so that those involved
104 have a better understanding of what that entails.

105
106 7. Acceptance of Previous Minutes

107
108 Town Council Meeting Minutes 3/14/2016
109 Hearing no corrections; the minutes were adopted, as amended. Councilor Lemont requested that
110 the record reflect his abstention as he was not present for that meeting.

111
112 8. Interviews for the Board of Appeals and Planning – None.

113
114 9. All items involving the town attorney, town engineers, town employees or other town
115 consultants or requested officials.

116
117 a. (030316-19) The Kittery Town Council moves to authorize the acceptance of funds in the
118 amount of \$3,424.08 from USAA General Indemnity Co. and to appropriate said funds to be paid
119 out of account #101740-68427 Expense Self-Insurance Claims, to pay the costs associated with
120 damage to the pedestrian crosswalk signal at the intersection of Whipple Road and Woodlawn
121 Ave occurring on February 5, 2016.

122
123 Ms. Cindy Saklad, Kittery Finance Director, noted her memorandum addressed the purpose for
124 the proposed motion as it pertains to an outside insurance agency paying for insurance damages.
125 She requested guidance on whether it is appropriate to bring forth this type of action and
126 entertained any questions.

127
128 Councilor Dennett stated his understanding of Ms. Saklad's memorandum to expense outside
129 insurance claims into the Expense Self-Insurance Claims account and no Council action would
130 be necessary. The standard deductibles would have to be appropriated from surplus, and then be
131 handled by the Finance department. This could all be managed internally which expedites the
132 current process. The Council concurred with this notion.

133
134 **A MOTION WAS MADE BY COUNCILOR DENNETT TO APPROVE CURRENT**
135 **AGENDA ITEM 9A, SECONDED BY COUNCILOR THOMSON. MOTION CARRIED**
136 **7/0/0 BY VOICE VOTE.**

137
138 b. (030316-1) The Kittery Town Council moves to receive a presentation from Forrest Bell of
139 FB Environmental Associates on the 2016 Spruce Creek Sampling Proposal.

140
141 Mr. Bell's presentation included the following statements:

- 142 • The content in the one-page fact sheet provided was covered in the presentation.
- 143 • The 2016 Spruce Creek Sampling Proposal handles the 10-square mile Spruce Creek
- 144 watershed which makes up half the Town of Kittery. Its outlet flows into the Piscataqua
- 145 River.
- 146 • Mr. Bell explained why the proposal is necessary. Spruce Creek is federally-listed as
- 147 impaired due to Nonpoint Source (NPS) pollution. As a result, a marine fishery has been
- 148 compromised. The federal government and Maine DEP could begin to pressure the Town
- 149 and other stakeholders to put the creek into attainment. The work of Mr. Bell’s team has
- 150 been working toward that goal.
- 151 • He identified the main problem to be bacteria due to several human factors.
- 152 • Mr. Bell recalled the Council gave his team a charge to return the results of their findings.
- 153 He presented the following diagnostic tests that took place to address the NPS pollution:
- 154 ○ Since 2009, both action and baseline oriented monitoring has been conducted to
- 155 detect hotspots in streams and outfalls.
- 156 ○ DNA testing and canines have helped to identify the human-only factors
- 157 attributing to the bacteria. Main channel readings of water quality have been
- 158 captured every 30 minutes since 2012.
- 159 ○ Physical NPS pollution surveys were completed in 2005 and 2013.
- 160 ○ The Watershed Management Plan was updated in 2014.
- 161 ○ Smoke and dye testing in sewers and storm waters was conducted in 2013.
- 162 ○ A septic and sewer database and priority risk mapping was updated in 2016 to
- 163 identify potential septic failures.
- 164 • Mr. Bell explained how his team is currently addressing the issues as follows:
- 165 ○ The team worked with Maine DEP to obtain 319 grants to execute Phase 4. Total
- 166 Grant Funds of \$225,300 originated from US EPA and coordinated by Maine
- 167 DEP. The total match from Town and citizen volunteers amounted to \$322,118
- 168 and over 4,700 volunteer hours have been recorded.
- 169 ○ 319 Grant Restoration resulted in 64 different projects installed to test best
- 170 management practices. About 5 tons per year of sediment was prevented from
- 171 going into the land from the creek. Phosphorus and nitrogen levels were reduced
- 172 by 5 and 15 pounds per year, respectively. Each year, 567 billion bacteria colonies
- 173 were eliminated.
- 174 • Mr. Bell noted the results of the 2015 water quality monitoring as follows:
- 175 ○ Fecal indicators were derived from an analysis of DNA sampling. Picott Road
- 176 showed only bacteria from goose fecal matter. Chicory Creek recorded human
- 177 markers. Manson Avenue recorded human and canine markers.
- 178 ○ Data loggers deployed in the main channel revealed dissolved oxygen levels
- 179 consistent with previous years, which often is a result of excess nutrients.
- 180 • The 2016 proposal focuses on the following efforts:
- 181 ○ To build continuity in data collection, especially within the main channel. It is
- 182 easiest to make predictions based on a 30-40 year data set.
- 183 ○ To further research other potential sources for pollution. This includes testing for
- 184 bovine DNA and agricultural runoff on Picott Road and testing the upstream cross
- 185 connections considering the January 2016 Kittery Wastewater Department
- 186 investigation.
- 187 ○ To monitor the impact of extending the Chickering Creek sewer line.
- 188 • The 2016 proposal costs \$5,000 less than the 2015 proposal. He reiterated the “tracking

189 and remediating pollutants in the Spruce Creek watershed will be an ongoing effort to
190 ensure public safety, economic well-being, and environmental health”.

- 191 • He thanked all the partners and resources provided that supported his team’s efforts.

192

193 Vice Chairperson Denault asked when the last grant was received for solely Kittery. Mr. Bell
194 responded in Fall of 2015. He confirmed to Vice Chairperson Denault that the match grant
195 consists of volunteer hours.

196

197 Vice Chairperson Denault asked if the Planning Board’s requirements could have contributed to
198 the positive findings of Mr. Bell’s team. Mr. Bell responded in the affirmative and noted that the
199 results are a cumulative impact.

200

201 Vice Chairperson Denault expressed his concern that the presentation did not present any drastic
202 changes since previous years. He asked if Mr. Bell’s team considered the swamps feeding into
203 the Picott Road field that may have resulted in the goose markers. Mr. Bell noted that this
204 hypothesis was tested, but he could not attest to geese being the only source.

205

206 Vice Chairperson Denault asked if Stanley Tanger, Ram Management, Kittery Trading Post,
207 Robert’s Maine Grill and The Weathervane have been contacted regarding the work performed
208 this year. Mr. Bell was unsure if all those businesses have been contacted this year.

209

210 Councilor Lemont expressed his understanding that the goal is to open and regenerate the clam
211 flats of Spruce Creek. His concern is in a best case scenario the resolution would occur in two
212 years because the Town of Portsmouth is moving from a primary to secondary sewage plant. The
213 DMR reported that the water is clean and is ready for harvesting clams, but no action can take
214 place until the City of Portsmouth finalizes their sewage plans. Councilor Lemont asked if Mr.
215 Bell’s organization could provide any credence to the City of Portsmouth to support the Shellfish
216 Conservation Committee’s arguments to that situation. Mr. Bell noted he sits in the Piscataqua
217 Region Estuaries Partnership and recommended that a representative attend the next Kittery
218 Shellfish Conservation Committee meeting to express their views. He expressed his personal
219 viewpoint that pollution is coming from both the watershed and also back flushing from the
220 treatment plants.

221

222 Councilor Lemont asked how Mr. Bell’s team was able to remove 5 tons of sediment. Mr. Bell
223 responded that they trapped the most contaminated areas and directed the infiltration into the
224 ground since the soil can treat the pollutants naturally. He noted that the Department of Public
225 Works and both private and public land owners have helped to construct the setups.

226

227 Councilor Spiller realized human waste is likely due to failed septic systems, but asked where the
228 canine markers could have come from. Mr. Bell responded that it could come from lack of
229 canine waste removal.

230

231 Chairperson Beers expressed his satisfaction with the progress of reducing the sediment and
232 pollutants in Spuce Creek since 2009. He noted that the 2016 proposal be incorporated into a
233 future agenda item for Town Council approval.

234

235 10. PUBLIC HEARINGS

236

237 a. (030316-2) The Kittery Town Council moves to hold a public hearing and hereby ordains an
238 amendment to Title 13 Sewer Service System of the Kittery Town Code.

239

240 Chairperson Beers opened the floor for public hearing; seeing none the public hearing was
241 closed.

242

243 **A MOTION WAS MADE BY VICE CHAIRPERSON DENAULT TO ORDAIN AN**
244 **AMENDMENT TO TITLE 13 SEWER SERVICE SYSTEM OF THE KITTEY TOWN**
245 **CODE, SECONDED BY COUNCILOR LEMONT. ROLL CALL TAKEN WAS ALL IN**
246 **FAVOR. MOTION CARRIED 7/0/0.**

247

248 b. (030316-3) The Kittery Town Council moves to hold a public hearing on an application from
249 Kittery Trading Post Shops, LLC, 301 US Rt. 1, Kittery, Maine for a Victualer's License for The
250 Lobster Pot, 301 US Rt. 1.

251

252 Chairperson Beers opened the floor for public hearing; seeing none the public hearing was
253 closed.

254

255 **A MOTION WAS MADE BY COUNCILOR THOMSON TO APPROVE THE**
256 **APPLICATION FROM KITTEY TRADING POST SHOPS, LLC, 301 US RT. 1,**
257 **KITTEY, MAINE FOR A VICTUALER'S LICENSE FOR THE LOBSTER POT, 301**
258 **US RT. 1, SECONDED BY COUNCILOR WHITE. ROLL CALL TAKEN WAS ALL IN**
259 **FAVOR. MOTION CARRIED 7/0/0.**

260

261 c. (030316-4) The Kittery Town Council moves to hold a public hearing on an application from
262 Maine Ocean Lobster, LLC, 301 US Rt. 1, Kittery for a Victualer's License for The Pointe, 31
263 Badger's Island West.

264

265 Chairperson Beers opened the floor for public hearing.

266

267 Edward Beevers, 27 Badger's Island West

268 Mr. Beevers commented his opposition of approving both applications from Maine Ocean
269 Lobster, LLC, on behalf of three other residents in his neighborhood. He felt that traffic
270 increased and parking was limited once The Weathervane restaurant had opened. He asked that a
271 parking and traffic study be considered during the summer months that the restaurant would be
272 open.

273

274 Mary Karalekas, 27 Badger's Island West

275 Mr. Karalekas noted she lives in the same condominium association as Mr. Beevers. She noted
276 that when The Weathervane restaurant opened they expressed their concerns for parking since
277 only 29 spaces were made available. Her other concern was deep fryer grease vented towards the
278 condominium units. The entertainment will bother the residents. The rules state the decibel levels
279 from 7:00 AM – 9:00 PM not to exceed 55 dbs. and from 9:00 AM – 7:00 PM not to exceed 45
280 dbs. Acoustic or amplified music would have to be vetted through the union.

281

282 Chairperson Beers closed the public hearing

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A MOTION WAS MADE BY VICE CHAIRPERSON DENAULT TO APPROVE THE APPLICATION FROM MAINE OCEAN LOBSTER, LLC, 301 US RT. 1, KITTERY FOR A VICTUALER’S LICENSE FOR THE POINTE, 31 BADGER’S ISLAND WEST, SECONDED BY COUNCILOR THOMSON.

Vice Chairperson Denault reviewed the complaints from Portsmouth with noise from fireworks and Prescott Park and determined that proper safeguards are in place for Code Enforcement to reinforce the town ordinance.

Councilor Thomson asked if extension of hours would require consideration by Planning Board or Board of Appeals under Expansion of Use. Chairperson Beers confirmed that according to Maine Law Court case law adding hours or days is not considered an Expansion of Use.

Councilor Thomson added that traffic and parking issues may not be solely and directly related to The Weathervane restaurant.

ROLL CALL TAKEN WAS ALL IN FAVOR. MOTION CARRIED 7/0/0.

d. (030316-5) The Kittery Town Council moves to hold a public hearing on an application from Maine Ocean Lobster, LLC, 301 US Rt. 1, Kittery for a Special Activity Amusement Permit for The Pointe, 31 Badger’s Island West.

Chairperson Beers opened the floor for public hearing; seeing none the public hearing was closed.

A MOTION WAS MADE BY VICE CHAIRPERSON DENAULT TO APPROVE THE APPLICATION FROM MAINE OCEAN LOBSTER, LLC, 301 US RT. 1, KITTERY FOR A SPECIAL ACTIVITY AMUSEMENT PERMIT FOR THE POINTE, 31 BADGER’S ISLAND WEST, SECONDED BY COUNCILOR LEMONT.

Councilor Dennett requested that the Planning Board review the applicant’s seating and parking plans.

Vice Chairperson Denault felt that the Code Enforcement inspection determined it is in compliance with Town Code.

A MOTION WAS MADE BY COUNCILOR DENNETT TO REMAND THE APPLICATION FROM MAINE OCEAN LOBSTER, LLC, 301 US RT. 1, KITTERY FOR A SPECIAL ACTIVITY AMUSEMENT PERMIT FOR THE POINTE, 31 BADGER’S ISLAND WEST TO THE CODE ENFORCEMENT OFFICER FOR FURTHER REVIEW, SECONDED BY COUNCILOR THOMSON.

Councilor Thompson concurred with Councilor Dennett’s statement and additionally asked that live music be held inside the establishment to provide a sound barrier. He questioned the deck’s ability to handle the proposed activity.

330 Chairperson Beers concurred with Councilor Thomson, but noted that decibel levels are
331 enforceable. It is unlikely that a live, outdoor band could achieve the 55 dbs. requirement.

332
333 Vice Chairperson Denault noted that The Weathervane restaurant did obtain special permits in
334 the past to host events of this nature and is in support of the previous motion.

335
336 Councilor Lemont did not feel it is appropriate to question the Code Enforcement inspection.

337
338 Councilor Thomson emphasized that the motion only requests more information.

339
340 Councilor Lemont asked when this information could be earliest available. Chairperson Beers
341 suspected the information would be available before April 11, 2016 Town Council meeting.

342
343 **ROLL CALL WAS TAKEN WITH COUNCILOR WHITE, COUNCILOR LEMONT,
344 AND VICE CHAIRPERSON DENAULT OPPOSED. MOTION CARRIED 4/3/0.**

345
346 e. (030316-6) The Kittery Town Council moves to hold a public hearing on an application from
347 The Dance Hall, 7 Walker Street, Kittery for a Special Activity Amusement Permit for The
348 Dance Hall, 7 Walker Street.

349
350 Chairperson Beers opened the floor for public hearing; seeing none the public hearing was
351 closed.

352
353 **A MOTION WAS MADE BY COUNCILOR THOMSON TO ACCEPT THE
354 APPLICATION FROM THE DANCE HALL, 7 WALKER STREET, KITTERY FOR A
355 SPECIAL ACTIVITY AMUSEMENT PERMIT FOR THE DANCE HALL, 7 WALKER
356 STREET, SECONDED BY COUNCILOR SPILLER. ROLL CALL TAKEN WAS ALL IN
357 FAVOR. MOTION CARRIED 7/0/0.**

358
359 11. DISCUSSION

360
361 a. Discussion by members of the public (three minutes per person).

362
363 Willie Goodson, Martin Road
364 Mr. Goodson received a bill along with 152 of his neighbors which amounted to an average
365 \$18,000 in individual sewer betterment assessment fees. He couldn't recall in the original voting
366 a statement requiring the homeowner's responsibility for sewer betterment costs. He expressed
367 his opinion that these fees are wrong and imposes financial hardship to several of the residents at
368 lcharge. He felt that the 10-year payment plan does not help the situation since it equates to
369 payments per month of about \$180. He questioned why the Town of Kittery is not fully
370 responsible for costs he considers to be Town improvement.

371
372 Mr. Goodson provided a letter to Town Council composed by the association of the homeowners
373 and invitation to the association's next meeting.

374
375 Jim Forbes, Mill Pond Road
376 Mr. Forbes recited excerpts from Normal Albert's, Commissioner of Kittery Public Works, cover

377 letter which endorsed the efforts of FB Environmental Associations. He noted that last year
378 Councilor Denault requested more data and Councilor Thomson asked if an endpoint was
379 foreseen. Mr. Forbes wondered what kind of science does not include trend data. He asked if the
380 water and shellfish is more or less polluted than in years past and where the data lies to support
381 those answers. He asked if the identified areas of serious pollutants have been fixed yet. He
382 asked whether there have been reported sicknesses from the shellfish from the pollution.

383
384 George Dow, Bartlett Road

385 Mr. Dow's statement addressed Item 13l regarding Wood Island sub-committee appointment. He
386 encouraged Chairperson Beers to have a working group with Councilor Spiller and Councilor
387 White based on 4/3/0 vote to proceed with the concession agreement. The town attorney was not
388 given the opportunity to raise his concerns.

389
390 Mr. Dow believed that Chairperson Beers inadvertently separated himself from seeing the matter
391 fairly. He encouraged Chairperson Beers to consider that prior to making a decision.

392
393 Don Gagnon, 33 Pinkhams Lane

394 Mr. Gagnon statement addressed Item 13c regarding Fort Foster Passes for Kittery school
395 employees. He mentioned the school employees were excited and appreciative to find the topic
396 became an agenda item. He thanked Vice Chairperson Denault for initiating that action. Mr.
397 Gagnon felt it is a luxury for Town employees and should be for school employees as well.

398
399 Mr. Gagnon expressed his concern that residents are soliciting their homes for 1-3 night stays
400 resulting in serious parking issues. He witnessed one evening roughly 30 cars parked near his
401 home. He has not contacted Code Enforcement personally since he would rather open the
402 discussion up to public forum. He felt this issue will continue to worsen and that other residents
403 have been told by Code Enforcement it is not in their purview to be addressed.

404
405 Niles Pinkham, 25 Pinkhams Lane

406 Mr. Pinkham's statement advocated Mr. Gagnon's stance. He noted that traffic has become
407 dangerous and noise levels have increased on these occasions. He sought guidance from Code
408 Enforcement and was told they had larger issues to handle. He is concerned that the homes are
409 advertised to sleep 20 people at \$400 per night which is only encouraging boisterous parties
410 instead of families for longer stays.

411
412 b. Response to public comment directed to a particular Councilor – None.

413
414 c. Chairperson's response to public comments

415
416 Chairperson Beers requested that Mr. Forbes provide a written list of his questions and that
417 Town Manager Granfield work with FB Environmental Associates and Mr. Albert to formulate a
418 response to Mr. Forbes' questions.

419
420 Chairperson Beers responded to Mr. Dow that it is evident in the work group proposal what he
421 authored as his opinion to establish three positions: Chairperson of the Town Council, President
422 of the Wood Island Life Saving Station Association and the National Parks Service Program
423 Manager. This work group would meet and examine issues, then report back to their respective

424 bodies. It is nothing more than examination and an information gathering effort with results to be
425 reviewed by the concerned parties.

426

427 Chairperson Beers noted that school Fort Foster passes is on the current agenda.

428

429 Chairperson Beers responded to Mr. Gagnon that over a year ago he advised Mr. Pinkham of
430 various violations the circumstances represent in the Pinkhams Lane neighborhood which are
431 clearly code enforcement issues. Chairperson Beers asked Town Manager Granfield to examine
432 the issues with the Code Enforcement and Police Department to ensure the advertised homes
433 have an approved inn use permit by the Kittery Planning Board.

434

435 12. UNFINISHED BUSINESS – None.

436

437 13. NEW BUSINESS

438

439 a. Donations/gifts received for Council disposition. – None.

440

441 b. (030116-5) The Kittery Town Council moves to approve the disbursement warrants.

442

443 Town accounts payable of \$148,863.10. Sewer account payable of \$14,167.78. School accounts
444 payable of \$313,007.03. Total of all disbursement warrants of \$476,037.91. Councilor Dennett
445 stated that the Town and Sewer warrants are in order. Councilor Lemont stated that the School
446 warrants are in order.

447

448 **A MOTION WAS MADE BY COUNCILOR THOMSON TO APPROVE THE**
449 **DISBURSEMENT WARRANTS, SECONDED BY COUNCILOR SPILLER. MOTION**
450 **CARRIED BY VOICE VOTE 7/0/0.**

451

452 c. (030316-24) The Kittery Town Council moves to discuss providing Fort Foster stickers to
453 School employees.

454

455 **A MOTION WAS MADE BY VICE CHAIRPERSON DENAULT TO DISCUSS**
456 **PROVIDING FORT FOSTER STICKERS TO SCHOOL EMPLOYEES, SECONDED BY**
457 **COUNCILOR SPILLER.**

458

459 Councilor Thomson felt this process should follow the appropriate channels. The Town Code
460 states the Town is to provide one free annual pass to Fort Foster to employees. He reminded that
461 the Town Code applies to only municipal government. He noted that the attachment
462 accompanying the agenda item is directed towards the Horace Mitchell Primary School which
463 does not encompass all Town of Kittery school employees. He added that it is unsuitable
464 precedent to action in response to a petition. He proposed that school employees approach the
465 school committee to unanimously vote on requesting a Town Council agenda item.

466

467 Chairperson Beers noted that the motion called for only discussion of the topic.

468

469 Councilor Dennett cited two sections of the Town Code:

470 • Title 2.3.17.20 Use of Facilities. The Town is to provide employees with one free annual

471 pass to Fort Foster.

- 472 • Title 2.3.3 Scope and Coverage. A. The provisions of the personnel classification and
473 compensation plan apply to all positions in the Town except as follows: 2. Employees
474 under the control of the school committee;

475

476 Councilor Dennett felt that any action granting school employees a free annual pass to Fort
477 Foster would be illegal under the personnel ordinance.

478

479 **A MOTION WAS MADE BY COUNCILOR THOMSON TO POSTPONE ANY ACTION**
480 **ON PROVIDING ONE FREE ANNUAL PASS TO EACH SCHOOL EMPLOYEE UNTIL**
481 **SUCH TIME COMMUNICATION IS RECEIVED FROM KITTERY SCHOOL**
482 **COMMITTEE, SECONDED BY CHAIRPERSON BEERS.**

483

484 Vice Chairperson Denault drafted this agenda item and included correspondence from one school
485 out of three received. He agreed with the merits of Councilor Thomson and Councilor Dennett,
486 but felt that the situation has changed over time. In his experience, he has witnessed J1 students,
487 military members, and part-time Town employees receive free Fort Foster passes. He interpreted
488 the Town Code to read free annual Fort Foster passes be provided to all employees, not
489 specifically municipal. The school department employees are paid for by the Town of Kittery. He
490 recognized both viewpoints of the argument. Vice Chairperson Denault felt it wouldn't impose
491 disservice for the Council to amend the Town Code and in the interim provide this benefit to the
492 school employees.

493

494 Councilor Lemont served on the school committee and saw that every year free passes were
495 requested, but could not be granted without Town Council approval. It was not a top priority in
496 the school committee budget to fund the passes, but he emphasized that this did not negate the
497 desire for it. He asked whether the ordinance directly prohibits the school employees. Councilor
498 Dennett reiterated Title 2.3.3.

499

500 Councilor Dennett added that exceptions to Title 2.3.3 included all elected officials and members
501 of boards and commissions; and positions which involve seasonal or part-time employment. He
502 welcomed any change in this ordinance.

503

504 Councilor Thomson agreed with Councilor Dennett that a public hearing be scheduled to amend
505 the Town Code. He proposed a more expeditious alternative solution for the Town Manager to
506 suggest to the superintendent a request be made from the school committee.

507

508 Vice Chairperson Denault asked if the ordinance noted an exception for J1 students. Councilor
509 Dennett responded in the negative.

510

511 Councilor White felt two possible courses of action had been identified and suggested to proceed
512 with voting.

513

514 **ROLL CALL WAS TAKEN WITH VICE CHAIRPERSON DENAULT OPPOSED.**
515 **MOTION CARRIED 6/1/0.**

516

517 Councilor White thanked Vice Chairperson Denault for reinstating the agenda item.

518
519 d. (030316-8) The Kittery Town Council moves to approve an application from Kittery Trading
520 Post Shops, LLC, 301 US Rt. 1, Kittery, ME for a Malt and Vinous Liquor License for The
521 Lobster Pot, 301 US Rt. 1.

522
523 **A MOTION WAS MADE BY COUNCILOR THOMSON TO APPROVE AN**
524 **APPLICATION FROM KITTEY TRADING POST SHOPS, LLC, 301 US RT. 1,**
525 **KITTEY, ME FOR A MALT AND VINOUS LIQUOR LICENSE FOR THE LOBSTER**
526 **POT, 301 US RT. 1, SECONDED BY VICE CHAIRPERSON DENAULT. ROLL CALL**
527 **TAKEN WAS ALL IN FAVOR. MOTION CARRIED 7/0/0.**

528
529 e. (030316-9) The Kittery Town Council moves to approve an application from Maine Ocean
530 Lobster, LLC, 301 US Rt. 1, Kittery, ME for a Malt, Spirituous and Vinous Liquor License for
531 The Pointe, 31 Badger's Island West.

532
533 **A MOTION WAS MADE BY COUNCILOR THOMSON TO APPROVE AN**
534 **APPLICATION FROM MAINE OCEAN LOBSTER, LLC, 301 US RT. 1, KITTEY, ME**
535 **FOR A MALT, SPIRITUOUS AND VINOUS LIQUOR LICENSE FOR THE POINTE, 31**
536 **BADGER'S ISLAND WEST, SECONDED BY COUNCILOR WHITE. ROLL CALL**
537 **TAKEN WAS ALL IN FAVOR. MOTION CARRIED 7/0/0.**

538
539 f. (030316-10) The Kittery Town Council moves to approve a renewal application from
540 Badger's Island Pizza, LLC, 30 Remicks Lane, Kittery, ME for a Malt and Vinous Liquor
541 License for Badger's Island Pizza, 3 Island Ave.

542
543 **A MOTION WAS MADE BY COUNCILOR THOMSON TO APPROVE A RENEWAL**
544 **APPLICATION FROM BADGER'S ISLAND PIZZA, LLC, 30 REMICKS LANE,**
545 **KITTEY, ME FOR A MALT AND VINOUS LIQUOR LICENSE FOR BADGER'S**
546 **ISLAND PIZZA, 3 ISLAND AVE, SECONDED BY VICE CHAIRPERSON DENAULT.**
547 **ROLL CALL TAKEN WAS ALL IN FAVOR. MOTION CARRIED 7/0/0.**

548
549 g. (030316-11) The Kittery Town Council moves to approve amending the current Liquor
550 License for Tributary Brewing Co., LLC, 5 Winding Brooke Ln., South Berwick, ME doing
551 business as Tributary Brewing Co., 10 Shapleigh Road, Suite A, to extend service of beer to a
552 permanent deck adjacent to the building.

553
554 **A MOTION WAS MADE BY COUNCILOR THOMSON TO APPROVE AMENDING**
555 **THE CURRENT LIQUOR LICENSE FOR TRIBUTARY BREWING CO., LLC, 5**
556 **WINDING BROOKE LN., SOUTH BERWICK, ME DOING BUSINESS AS TRIBUTARY**
557 **BREWING CO., 10 SHAPLEIGH ROAD, SUITE A, TO EXTEND SERVICE OF BEER**
558 **TO A PERMANENT DECK ADJACENT TO THE BUILDING, SECONDED BY**
559 **COUNCILOR SPILLER. ROLL CALL TAKEN WAS ALL IN FAVOR. MOTION**
560 **CARRIED 7/0/0.**

561
562 h. (030316-12) The Kittery Town Council moves to authorize the Kittery Trading Post to hold
563 three special events at their facility for their 2016 "Summer Concert Series" from 6:00 pm to
564 9:00 pm on August 5th, 19th and 26th.

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A MOTION WAS MADE BY COUNCILOR THOMSON TO AUTHORIZE THE KITTERY TRADING POST TO HOLD THREE SPECIAL EVENTS AT THEIR FACILITY FOR THEIR 2016 “SUMMER CONCERT SERIES” FROM 6:00 PM TO 9:00 PM ON AUGUST 5TH, 19TH AND 26TH, SECONDED BY COUNCILOR WHITE.

Councilor Dennett questioned why the agenda item and two following items exist since to his knowledge no requirement stands in State Law, Town Charter, or Town Code for the Town Council to authorize or reject these types of events on private property. He submitted that the items are not the purview of the Town Council.

Councilor Thomson asked if this could be considered sidewalk sales which are approved by Town Council. Councilor Dennett responded in the negative. Chairperson Beers yielded to Councilor Dennett’s statement.

COUNCILOR THOMSON PULLED THE MOTION, SECONDED BY COUNCILOR LEMONT. THIS ITEM WAS WITHDRAWN FROM THE AGENDA BECAUSE NO ACTION WAS NECESSARY.

i. (030316-13) The Kittery Town Council moves to authorize the Kittery Trading Post to hold a special event on June 11, 2016, until approximately 7:00 pm, to allow the State of Maine Inland Fisheries and Wildlife to hold its Moose Hunting Lottery.

THIS ITEM WAS WITHDRAWN FROM THE AGENDA BECAUSE NO ACTION WAS NECESSARY.

j. (030316-14) The Kittery Town Council moves to authorize Bob’s Clam Hunt to hold a special event under a tent on the lawn of the Kittery Trading Post on Thursday, June 9th between the hours of 5:00 pm and 9:00 pm to celebrate the 60th Anniversary of Bob’s Clam Hut.

THIS ITEM WAS WITHDRAWN FROM THE AGENDA BECAUSE NO ACTION WAS NECESSARY.

k. (030316-15) The Kittery Town Council moves to authorize the Kittery Fire Station Association to post road signs at locations in the community to advertise the Annual 5K Road Race on Saturday, May 21st and Sunday May 22nd, 2016, and to hang a banner across Rogers Road advertising the 5K Road Race and a banner on York Hospital’s outside wall on the corner of Walker Street and Route 1 to advertise both events from May 1st through May 22nd.

A MOTION WAS MADE BY COUNCILOR THOMSON TO AUTHORIZE THE KITTERY FIRE STATION ASSOCIATION TO POST ROAD SIGNS AT LOCATIONS IN THE COMMUNITY TO ADVERTISE THE ANNUAL 5K ROAD RACE ON SATURDAY, MAY 21ST AND SUNDAY MAY 22ND, 2016, AND TO HANG A BANNER ACROSS ROGERS ROAD ADVERTISING THE 5K ROAD RACE AND A BANNER ON YORK HOSPITAL’S OUTSIDE WALL ON THE CORNER OF WALKER STREET AND ROUTE 1 TO ADVERTISE BOTH EVENTS FROM MAY 1ST THROUGH MAY 22ND, SECONDED BY COUNCILOR SPILLER. MOTION CARRIED BY VOICE VOTE 7/0/0.

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1. (030316-16) The Kittery Town Council moves to appoint a Wood Island sub-committee.

A MOTION WAS MADE BY VICE CHAIRPERSON DENAULT TO APPOINT THE WOOD ISLAND SUB-COMMITTEE AS PRESENTED IN THE REPORT TO COUNCIL (RTC) DATED MARCH 15, 2016, SECONDED BY COUNCILOR WHITE.

Councilor Dennett asked to identify the members of the sub-committee. Chairperson Beers noted that the working group sub-committee would be comprised of the Chairperson of the Town Council, President of the Wood Island Life Saving Station Association and the National Parks Service Program Manager dedicated to examine, collect information and report to respective bodies as mentioned in response to public comment. Councilor Dennett expressed his concern that this council does not have authority to appoint the National Parks Service Program Manager to the sub-committee.

Councilor Thomson referenced the Wood Island Life Saving Station repair agreement dated October 18, 2013 when he requested WILSSA to follow through with the plan before discussing forward direction. Instead, the expected positive event for the community has turned muddled and personalized. The Wood Island Life Saving Station response to the January 25, 2016 Town Council Meeting voting satirized the three opposed voters. He felt legal and Town guidance was dismissed in the document submitted to NPS. The document was rejected and Wood Island Life Saving Station Association publicly announced the Town Manager's withholding of information to be the cause. Councilor Thomson felt that the President of the Wood Island Life Saving Station influences any situation in the President's favor.

A MOTION WAS MADE BY COUNCILOR THOMSON THAT ANY FURTHER ACTION OF FUTURE REPAIR OR CONCESSION AGREEMENT BETWEEN THE TOWN OF KITTERY AND WILSSA BE POSTPONED UNTIL THE ACTIONS SPECIFIED IN THE OCTOBER 18, 2013 WOOD ISLAND LIFE SAVING STATION REPAIR AGREEMENT ARE COMPLETED, SECONDED BY COUNCILOR SPILLER.

Vice Chairperson Denault stated he would not support the motion.

ROLL CALL WAS TAKEN WITH COUNCILOR WHITE, VICE CHAIRPERSON DENAULT, COUNCILOR LEMONT, AND CHAIRPERSON BEERS OPPOSED. MOTION DID NOT CARRY 3/4/0.

Councilor Thomson reminded the public the story of the Trojan horse.

Councilor Spiller expressed no support for the original motion. The letter from the National Parks Service advised not to engage in further meetings and discussion.

ROLL CALL WAS TAKEN WITH COUNCILOR DENNETT, COUNCILOR THOMSON, AND COUNCILOR SPILLER OPPOSED. MOTION CARRIED 4/3/0.

m. (030316-17) The Kittery Town Council moves to appoint David Wrocklage to the Parks Commission until 12/31/19.

659

660 **A MOTION WAS MADE BY COUNCILOR LEMONT TO APPOINT DAVID**
661 **WROCKLAGE TO THE PARKS COMMISSION UNTIL 12/31/19, SECONDED BY**
662 **VICE CHAIRPERSON DENAULT. ROLL CALL TAKEN WAS ALL IN FAVOR.**
663 **MOTION CARRIED 7/0/0.**

664

665 n. (030316-18) The Kittery Town Council moves to appoint Nanci Lovett to the Conservation
666 Commission until 12/31/19.

667

668 **A MOTION WAS MADE BY COUNCILOR WHITE TO APPOINT NANCI LOVETT TO**
669 **THE CONSERVATION COMMISSION UNTIL 12/31/19, SECONDED BY COUNCILOR**
670 **THOMSON. ROLL CALL TAKEN WAS ALL IN FAVOR. MOTION CARRIED 7/0/0.**

671

672 o. (030316-20) The Kittery Town Council moves to schedule a public hearing in accordance
673 with 6.09 (4) of the Kittery Town Charter to transfer appropriations between accounts for union
674 increases for salaries/wages and benefits.

675

676 **A MOTION WAS MADE BY VICE CHAIRPERSON DENAULT TO SCHEDULE A**
677 **PUBLIC HEARING TO APRIL 11, 2016 IN ACCORDANCE WITH 6.09 (4) OF THE**
678 **KITTERY TOWN CHARTER TO TRANSFER APPROPRIATIONS BETWEEN**
679 **ACCOUNTS FOR UNION INCREASES FOR SALARIES/WAGES AND BENEFITS,**
680 **SECONDED BY COUNCILOR SPILLER. MOTION CARRIED BY VOICE VOTE 7/0/0.**

681

682 p. (030316-21) The Kittery Town Council moves to sign a Certificate of Settlement in
683 accordance with 36 M.R.S. §763, discharging Nancy Colbert Puff as Tax Collector from further
684 liability or obligation to collect the balance due for the taxable years 2006-2016.

685

686 **A MOTION WAS MADE BY COUNCILOR WHITE TO SIGN A CERTIFICATE OF**
687 **SETTLEMENT IN ACCORDANCE WITH 36 M.R.S. §763, DISCHARGING NANCY**
688 **COLBERT PUFF AS TAX COLLECTOR FROM FURTHER LIABILITY OR**
689 **OBLIGATION TO COLLECT THE BALANCE DUE FOR THE TAXABLE YEARS**
690 **2006-2016, SECONDED BY VICE CHAIRPERSON DENAULT. ROLL CALL TAKEN**
691 **WAS ALL IN FAVOR. MOTION CARRIED 7/0/0.**

692

693 q. (030316-22) The Kittery Town Council moves to re-commit the 2006–2016 taxes to Carol
694 Granfield.

695

696 **A MOTION WAS MADE BY VICE CHAIRPERSON DENAULT TO RE-COMMIT THE**
697 **2006–2016 TAXES TO CAROL GRANFIELD, SECONDED BY COUNCILOR**
698 **THOMSON. ROLL CALL TAKEN WAS ALL IN FAVOR. MOTION CARRIED 7/0/0.**

699

700 r. (030316-23) The Kittery Town Council moves to appoint the election clerks for the ensuing
701 two years (May 2016-2018) as nominated by the local Democratic and Republican Committees.

702

703 **A MOTION WAS MADE BY COUNCILOR THOMSON TO APPOINT THE ELECTION**
704 **CLERKS FOR THE ENSUING TWO YEARS (MAY 2016-2018) AS NOMINATED BY**
705 **THE DEMOCRATIC AND REPUBLICAN COMMITTEES, SECONDED BY VICE**

706 **CHAIRPERSON DENAULT. ROLL CALL TAKEN WAS ALL IN FAVOR. MOTION**
707 **CARRIED 7/0/0.**

708
709 14. COUNCILOR ISSUES OR COMMENTS
710

711 Councilor Lemont raised three issues as follows:

- 712 • Legion Pond property abuts the Dineen property. Two residents in the neighborhood
713 requested to beautify the area at their own cost. He asked whether or not to direct the
714 residents to the Town Manager for Town Council action. Chairperson Beers recalled that
715 Eagle Scout candidate worked with Commissioner of Public Works through the Town
716 Manager.
- 717 • Portsmouth Prescott Park will reorient the stage to divert the noise and citizens of Kittery
718 are concerned that it will increase the volume of noise.
- 719 • There is a sidewalk that abruptly ends and pedestrians have asked Chief of Police the
720 possibility of painting a cross walk. He asked the Town Manager to follow up with the
721 Chief of Police if this is being pursued.

722
723 Vice Chairperson Denault provided his response to an e-mail from Ms. Rollins and Ms. Rue
724 regarding the sidewalks on Whipple Road, landscaping, and questions directed to Vice
725 Chairperson Denault.

726
727 Vice Chairperson Denault recognized those that have passed:

- 728 • Helen Janice Fletcher
- 729 • Alfred "Al" Poulin
- 730 • Kim Baker Fisher
- 731 • John Chick Jr.
- 732 • Pauline Brown
- 733 • Arthur Andrews
- 734 • Viola Wilson
- 735 • Joseph Levesque
- 736 • Jeffrey Rutherford

737
738 Councilor Thomson responded to Councilor Lemont that former Town Manager Puff had at
739 least one meeting with City of Portsmouth officials regarding the repositioning of Prescott Park.

740
741 A presentation on the old, one-room Kittery school houses will be held at Traip Academy on
742 April 12, 2016 at 7:00 PM. Former Maine state senator, Stephen Estes, will lead the discussion.
743 Pictures and stories will be shared.

744
745 Patrick Dorow Productions Presents: Nunsense beginning Friday, April 8, 2016 at 8:00 PM in
746 the Kittery Community Center STAR Theatre.

747
748 The Boston Post Cane selection is in progress and it was noted that Graham Alvord, a seacoast
749 WWII veteran, is turning 100 years old this September.

750
751 Councilor Dennett strongly suggested that Town Council not proceed in any fashion with the

752 Fort Foster passes for school employees unless the ordinance is changed. He felt the Council
753 cannot purposefully violate an ordinance.

754

755 St. Mark's Methodist Church is celebrating their 150th year as a congregation on Sunday, April
756 3, 2016.

757

758 **15. COMMITTEE AND OTHER REPORTS**

759

760 a. Communications from the Chairperson

761 The Council is in possession of the School budget which will be presented by the superintendent
762 of schools on April 11, 2016. They will be looking for a straw vote so that they may entertain
763 new hires.

764

765 Councilor Dennett added that there was bill in the legislature that may reduce general education
766 budget. Chairperson Beers added he received the revised legislative distribution which results in
767 a net increase for the Town of Kittery of \$0.07.

768

769 b. Committee Reports – None.

770

771 **16. EXECUTIVE SESSION**

772

773 **17. ADJOURNMENT**

774

775 **IT WAS MOVED BY COUNCILOR THOMSON, SECONDED BY COUNCILOR**
776 **WHITE TO ADJOURN THE MEETING AT 9:14 P.M. ALL WERE IN FAVOR BY A**
777 **VOICE VOTE. MOTION PASSED 7/0/0.**