

1. Call to Order

Chairperson Beers called the meeting to order at 7:01 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, Kenneth Lemont, Judith Spiller, and Jeffrey Thomson.

5. Agenda Amendment and Adoption

Chairperson Beers stated that Item 13i under New Business was withdrawn after further details were received. He requested to replace said item to read as follows: "The Kittery Town Council moves to accept resignation of Peter Whitman from the Kittery Port Authority."

Chairperson Beers requested that Item 16 be modified to read as "The Kittery Town Council moves to go into executive session with the Town Manager in accordance with 1 M.R.S. §405 (6) C, to discuss a land acquisition."

Agenda was adopted as amended.

6. Town Manager's Report

Town Manager Granfield reviewed her written report.

**Secretary to Town Manager** –Town Manager Granfield was informed that the applicant whom was offered the part-time Secretary to Town Manager position withdrew her acceptance. Town Manager Granfield noted that a volunteer intern will be beginning work soon on a parking and cemetery project.

**Sewer Betterments** – Based on various feedback, staff is moving forward with ordinance changes and a meeting is scheduled for August 15<sup>th</sup> at Shapleigh School to discuss the proposal. The workshop held on July 18<sup>th</sup> has been televised on Channel 22 at various days and times, however, there were some technical difficulties with website streaming. The issue is expected to be resolved soon.

**Resident Issue** – It was brought to Town Council's attention by an individual from Operation Blessing Limited Partnership (OBLP) regarding street naming and a recommendation from Planning Board. It is an item that will come before the Town Council for approval. Based on further review, there was not acceptance from all the abutters of the street name. After discussion with the Town Planner and Commissioner of Public Works, the matter is scheduled to be heard by Planning Board on July 24, 2016 and be forth coming on Town Council agenda. At that time,

the history of the status of the road will be explained and the Town Council will review for acceptance.

**Paving work** – Town Manager Granfield was advised that all road paving expected completion last week and striping will commence.

**Fort Foster** – Fort Foster has been very active over the summer months. After a meeting with the Parks Commission to discuss a variety of Town Council items, such as dog waste, senior passes, and drone issues, a workshop is scheduled for August 22, 2016.

Town Manager Granfield reviewed an item not included in her written report.

**Volunteer Citizen Panel** – Eaton Peabody Consulting Group is recruiting volunteers for the Town Manager selection and has already received applications. There is still time through the month of August for any citizen interested in being on the interview panel. Interviews are scheduled for September.

Vice Chairperson Denault received complaints regarding striping on Brave Boat Harbor Road. Many small plastic dividers have been displaced and missing. He requested that the Town Manager Granfield advise the Commissioner of Public Works.

7. Acceptance of Previous Minutes

Regular Meeting – June 27, 2016

The minutes were adopted as presented.

Regular Meeting – July 11, 2016

The minutes were adopted as presented.

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

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

a. (070216-1) The Kittery Town Council moves to approve a resolution entitled “Resolution Authorizing Redemption of Town’s 2006 Bonds and Issuance of Refunding Bonds in Principal Amount not to Exceed \$1,140,000,” as presented and an attested copy of said Resolution is to be included with the meeting minutes.

Cindy Saklad, Kittery Finance Director

Ms. Saklad has had the pleasure of working with Joe Cuetara, Bond Advisor, on this matter. She indicated as noted in her memorandum dated July 11, 2016 to Council, that the 2006 bonds, which finance renovations for the Town’s fire station located at Haley Road and for the new fire station on Gorges Road, have met their 10-year mark and are ready for refinancing. She noted the Town will save approximately \$150,000 since the interest rate will decrease from 4.50% to 2.00%. She noted that Mr. Cuetara has further information regarding financing.

Councilor Dennett expressed concern that 2.00% not be guaranteed and rather considered it an estimation. Ms. Saklad supported that notion.

**A MOTION WAS MADE BY COUNCILOR THOMSON THAT THE RESOLUTION OF**

**THE KITTERY TOWN COUNCIL ENTITLED “RESOLUTION AUTHORIZING REDEMPTION OF TOWN’S 2006 BONDS AND ISSUANCE OF REFUNDING BONDS IN PRINCIPAL AMOUNT NOT TO EXCEED \$1,140,000,” BE APPROVED AS PRESENTED AND AN ATTESTED COPY BE INCLUDED WITH THE MEETING MINUTES, SECONDED BY COUNCILOR SPILLER.**

Councilor Dennett believed when bonds reach their first redemption, it does a job on individual investors to drop from 4.50% to estimated 2.00%. He stated in favor of the motion because it benefits the community. He figured the savings is over the remaining ten-year period of the bond. Ms. Saklad confirmed that statement.

Councilor Thomson understood the expressed concern for the investors.

**THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.**

10. PUBLIC HEARINGS

a. (070216-2) The Kittery Town Council moves to hold a public hearing and hereby ordains and adopts the 2016-2017 Sewer Budget.

Chairperson Beers opened the floor for public comment. Hearing none; Chairperson Beers closed the public hearing.

**A MOTION WAS MADE BY COUNCILOR THOMSON TO ORDAIN AND ADOPT THE 2016-2017 SEWER BUDGET AS PRESENTED, SECONDED BY CHAIRPERSON BEERS. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.**

b. (070216-3) The Kittery Town Council moves to hold a public hearing on an application from Michelle Goodwin, 41 High Street, 1st Floor, Derry NH for a Victualer’s License for Just Chill’n Cool Treats and Beverages, Kittery Premium Outlet, 375 US Route 1.

Chairperson Beers opened the floor for public comment. Hearing none; Chairperson Beers closed the public hearing.

**A MOTION WAS MADE BY COUNCILOR THOMSON TO APPROVE THE APPLICATION FROM MICHELLE GOODWIN, 41 HIGH STREET, 1ST FLOOR, DERRY, NH FOR A VICTUALER’S LICENSE FOR JUST CHILL’N COOL TREATS AND BEVERAGES, KITTERY PREMIUM OUTLET, 375 US ROUTE 1, SECONDED BY COUNCILOR WHITE. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.**

c. (070216-4) The Kittery Town Council moves to hold a public hearing and hereby ordains amendments to Title 16 of the Kittery Town Code.

Chairperson Beers opened the floor for public comment. Hearing none; Chairperson Beers closed the public hearing.

Councilor Thomson requested a detailed explanation of the amendments.

Chris Di Matteo, Kittery Town Planner

Mr. Di Matteo referred to the executive summary prepared for July 11, 2016 Report to Town

Council. He proceeded to explain the amendments as follows:

- Item 1 – This promotes development within the Shoreland Overlay Zone by permitting review and approval by the Code Enforcement Office. Currently, all Shoreland development goes before the Planning Board. The amendment proposes that any plan within the 150-foot setback could be approved by the Code Enforcement Officer.
- Item 2 – This intends to clarify with a definition a provision regarding devegetated area.
- Item 3 – This regards to post construction and storm water management plans. Pertaining to the Municipal Separate Storm Sewer System (MS4) permit, there are clarifications in the amendment that; align the ordinance language and requirements with other Towns, clarify the reference to trigger in Chapter 5 storm water rules, and reference the current maintenance plan agreement as a construction management plan.
- Item 4 – This proposes minor changes to the table guiding street standards to include a street, boundary radius for secondary collectors. The description of a collector conflicts with this language by stating that collectors between 200-800 trips are to be connected to other streets. This is not supposed to insinuate a dead end; thus the proposed amendment would resolve that issue with the definition of a collector.
- Item 5 – The Planning Board decided to remove any reference to the Kittery Foreside Design Committee, but retain the design standards. This would allow the Planning Board or Peer Review to conduct design review, instead of the committee.

**A MOTION WAS MADE BY COUNCILOR THOMSON TO ORDAIN AND ADOPT AMENDMENTS TO TITLE 16 OF THE KITTERY TOWN CODE AS PRESENTED, SECONDED BY VICE CHAIRPERSON DENAULT. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.**

## 11. DISCUSSION

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

Barbara Bean, 87 Martin Road

Ms. Bean thanked all for seeking an alternative, fair and equitable solution to the sewer betterment assessments.

Ms. Bean felt pleasant to drive along newly resurfaced roads. She raised a series of questions as follows:

1. What is the total project cost of the paved roads?
2. Is said cost accounted for in the sewer betterment project?
3. Why are there sections of the road that were paved and not included in the betterment project?
4. If the paving is part of the sewer betterment project cost that is being divided among the residents, why would it be included in the project cost?
5. Was the recent KACTS job on Route 236 conducted because it is a state road?

Ms. Bean felt the sewer betterment project, as indicated in July 2013, intends to bring forth sewer lines, promote economic development and alleviate existing overboard discharge in an effort to provide an expanded tax base and increase tax revenue. As the ballot clearly stated,

there is ultimately a benefit to the Town.

Tricia Robillard, Martin Road

Ms. Robillard echoed Ms. Bean's concerns. She added by reminding all the spirit and commentary of the May 2, 2016. She was most grateful of the proposed reductions and noted even with significant decreases in betterment assessments, it will still liquidate disposable income. She requested that when reviewing terms of a lien, consideration be taken for potential effects on credit and how creditors will account for liens.

Ms. Robillard felt it is difficult in a small Town for Council members to completely avoid direct relationships that may pose a conflict of interest. She hoped that the Council resolves the current agenda item by finding no conflict of interest since the relative in question is not benefiting any more or less than another person.

Jennifer Taylor, Martin Road

Ms. Taylor requested that post cards be sent to Kittery residents to announce details from the August 15, 2016 meeting. Many residents do not watch Channel 22 or read the paper, so the suggested notification would be important to those citizens.

Ms. Taylor asked if the Town is preparing to dig up for natural gas pipelines. Chairperson Beers responded that he could not confirm or deny. She wondered and guessed that the digging would be completed prior to paving. She recalled an ordinance stating that digging a newly paved road cannot occur until a certain number of years, hence why she was questioning the digging.

Sharon Clark, 63-65 Manson Road

Ms. Clark felt that acreage should not be incorporated into the sewer betterment formula. She explained that she owns a small home on her eight acres of property. The land cannot be subdivided and is landlocked. The property value is higher than her neighbors, thus, her final betterment assessment was over \$42,000. She felt it was grossly unfair to punish owners that do not have equal potential for development. She recommended that Council propose a one-acre basis, regardless of the total amount of land area. Ms. Clark cited Councilor Dennett's statement explaining how past practice has assessed those properties in that situation. The assessment would consider the land where the homes are located and disregard the rest.

Ms. Clark proposed that assessments take regard to individual units. She emphasized that each parcel must be evaluated separately since size, occupancy, and income potential varies amongst each unit.

George Dow IV, 1 Bartlett Road

Mr. Dow commended Chairperson Beers for his management and leadership skills in addressing the sewer betterment assessment fees.

Mr. Dow explained from his perspective the history and timeline of the Rice Public Library relocation project. He was concerned that the most recent joint workshop between Council and the library should have aimed to educate, but rather it focused on lost revenues, impact of scenic views, and the Kittery Community Center annex proposal. He requested further clarity on what the straw poll vote mentioned by Council intends to decide.

Mr. Dow thanked the recently retired Kittery Commissioner of Public Works for his service.

Leola Webb, 70 Martin Road

Mr. Webb raised three questions to Council as follows:

1. What is the likelihood of reducing the sewer betterment assessment fees to zero?
2. What is the time period for connection requirements to the sewer system?
3. What action has been taken to reduce or eliminate the construction connection cost for homeowners, which is separate from the betterment fees?

Willie Goodson, 15 Martin Road

Mr. Goodson expressed discomfort with one Councilor acclaiming another Councilor as biased. He felt that citizens should rely on each Councilor being honest and upfront.

Wallace “Bud” Gerry, 27 Route 236

Mr. Gerry indicated that the sewer pipe he was directed to connect to is located on the wrong side of the road from where he lives. The road is not a Town road and passes Route 236 property behind his home. His parcel is located roughly 120 feet away from Route 236 and wondered if he must connect to the newer system, even though his septic is about 50 years old.

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

c. Chairperson’s response to public comments

Chairperson Beers addressed no individual in particular that the sewer betterment is soon reaching resolution. Since the recent workshop, Town Manager Granfield and staff are producing details that will relate to all the parameters in question to include ordinance revisions, appeals processes, deferral time periods for low-income citizens, and allowance for connection.

Chairperson Beers responded directly to public comments.

Ms. Bean – The Town has been paving roads as an upgrade for the past two years under a bond approved by the Town. He will research further an answer for that breakdown.

Ms. Robillard – Her concerns for the conflict of interest were well taken.

Mr. Goodson – The request for determination of a conflict of interest does not indicate any issue of bias. He explained that it is not an impugning of character, but rather a simple and technical consideration. This determination mitigates any potential, future litigation considerations for improper decision making.

Ms. Taylor – Postcards are a great recommendation and he requested that Town Manager Granfield arrange that.

Ms. Clark – He felt that Ms. Clark raised several complicated issues that are interrelated and requests that her documentation be provided to answer her questions.

Mr. Dow – He appreciated the compliment and thanked Mr. Dow for providing his explanation of the library relocation. He could not recall any reference to a straw vote and clarified that the statement he made was to have a discussion on August 18, 2016 regarding next steps for the library proposal.

Mr. Gerry – He requested further geographical details because his particular situation will require examination by staff. Mr. Gerry responded that he would do so.

Mr. Webb – The forthcoming details proposed by staff will provide answers to his questions, which will be available on the website once completed. He mentioned it would be unlikely that fees be reduced to zero because the Council has proposed a decrease to the most minimum level that would still allow the Town to continue paying all other obligations. Chairperson Beers explained that currently the time period for connection requirements is 90 days upon notice and that stipulation would likely remain unchanged. He stated that the scheduled meeting for August 15, 2016 addresses two amendments. First, the connection deferral for up to 10 years for those that have installed new septic within that timeframe. Secondly, the deferral for low income as eligibility for general administration assistance is a small, short-lived group of situations. Low income is less than 80% of area median income, which amounts to annual income of about \$46,000 per individual, and \$96,000 per a family of eight. That would qualify for request for deferment. Chairperson Beers concluded that eliminating the connection requirement all together would not be in best interest of the community since one failed septic can pollute up to ten square miles of ground water.

12. UNFINISHED BUSINESS – None.

13. NEW BUSINESS

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

b. (070116-4) The Kittery Town Council moves to approve the disbursement warrants.

Town accounts payable of \$3,705.81.

Town accounts payable of \$73,908.64.

Sewer account payable of \$34,016.14.

Sewer account payable of \$1,503.85.

School accounts payable of \$50,038.73.

School accounts payable of \$47,403.47.

Total of all disbursement warrants of \$210,576.64.

Councilor Dennett stated that the Town and Sewer warrants are in order. Councilor Lemont that the School warrants are in order.

**A MOTION WAS MADE BY COUNCILOR THOMSON TO APPROVE THE DISBURSEMENT WARRANTS, SECONDED BY COUNCILOR SPILLER. THE MOTION PASSED BY A UNANIMOUS VOICE VOTE 7/0/0.**

c. (070116-5) The Kittery Town Council moves to approve an application from Seacoast Soul Models, 3 Ryle Way, Kittery, ME for a one time outside alcohol serving event, to be held at 60 Old Dennett Road on 8/21/16 from 9:30 a.m. to 12:00 p.m.

**A MOTION WAS MADE BY COUNCILOR WHITE TO APPROVE AN APPLICATION FROM SEACOAST SOUL MODELS, 3 RYLE WAY, KITTERY, ME FOR A ONE TIME OUTSIDE ALCOHOL SERVING EVENT, TO BE HELD AT 60 OLD DENNETT ROAD ON 8/21/16 FROM 9:30 A.M. TO 12:00 P.M., SECONDED BY COUNCILOR SPILLER.**

Councilor Dennett requested further details be presented regarding the application.

Whitney Blethen, Seacoast Soul Models

Ms. Blethen explained the Seacoast Soul Models is a 501(c)(3) non-profit organization based in Kittery. The organization has served mainly for middle school girls for about one year. The event referenced in the application is intended to be a fund raiser event. The event will host a yoga session, offer breakfast foods, and conduct a mimosa tasting. They will not use a caterer because they are receiving donations.

Councilor Dennett indicated that no layout diagram was provided in the application. Ms. Blethen apologized for that omission and welcomed the owner of the property to further explain the layout of the event. She also clarified confusion regarding the business address.

Susan Neilson, Seacoast Soul Models

Ms. Neilson explained that the property is large and includes a wooden path, labyrinth area, and enough space for several yoga mats. She thought that the property abuts Route 236 and suspected the noise level of the event to be low.

Councilor Spiller inquired on a plan for parking. Ms. Blethen expected that most guests will carpool to the event. She added that the road is private and that there is plenty of on-street parking. Vice Chairperson Denault affirmed that parking would not be an issue.

**THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.**

d. (070216-7) The Kittery Town Council moves to vote its nomination for Vice President (1 term) and Executive Committee Members (3 year terms) as proposed by the MMA Nominating Committee.

Chairperson Beers read the report into the record.

**A MOTION WAS MADE BY COUNCILOR THOMSON TO VOTE ITS NOMINATION FOR VICE PRESIDENT (1 TERM) AND EXECUTIVE COMMITTEE MEMBERS (3 YEAR TERMS) AS PROPOSED BY THE MMA NOMINATING COMMITTEE, SECONDED BY COUNCILOR WHITE.**

Councilor Dennett noted there is no choice involved in the voting because all the candidates are predetermined.

Vice Chairperson Denault stated his abstention from the vote as he did not have enough background knowledge of the candidates and wanted to avoid any erroneous vote.

**THE MOTION PASSED BY A ROLL CALL VOTE 4/0/3, WITH VICE CHAIRPERSON DENAULT, COUNCILOR DENNETT, AND CHAIRPERSON BEERS ABSTAINING.**

e. (070216-8) The Kittery Town Council moves to release funds in the amount of \$3,500 from unassigned surplus and to deposit said funds into account #101740-68427 - Expense Self Insurance Claims Coverage, to cover the cost of the deductible for an insurance claim.

**A MOTION WAS MADE BY COUNCILOR SPILLER TO RELEASE FUNDS IN THE AMOUNT OF \$3,500 FROM UNASSIGNED SURPLUS AND TO DEPOSIT SAID FUNDS INTO ACCOUNT #101740-68427 - EXPENSE SELF INSURANCE CLAIMS COVERAGE, TO COVER THE COST OF THE DEDUCTIBLE FOR AN INSURANCE CLAIM, SECONDED BY CHAIRPERSON BEERS.**



Vice Chairperson Denault asked for more information regarding the claim. Chairperson Beers noted that the information is protected under the Privacy Act. Town Manager Granfield responded to Councilor Thomson that nothing can be conveyed since it is a personnel situation.

Councilor Dennett stated the personnel code is designed to protect the individual. However, the information can be provided without the name. He felt it is necessary to at least know what department.

Councilor White asked if any information could be conveyed in a non-public executive session. Chairperson Beers reminded that the identity of the employee is classified.

Councilor White noted that in past practice, the Council usually is provided general information for what the claim is for. He stated his confidence that the Finance Director and Town Manager determined it a necessary and proper payment. Town Manager Granfield confirmed to Vice Chairperson Denault that the payment is necessary.

**THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.**

f. (070216-9) The Kittery Town Council moves to approve a one day extension of the service area of the premises externally on the current liquor license for The Black Birch, from 3:00 p.m. to 10:00 p.m. on July 31, 2016, in celebration of their 5th Anniversary.

**A MOTION WAS MADE BY COUNCILOR WHITE TO APPROVE A ONE DAY EXTENSION OF THE SERVICE AREA OF THE PREMISES EXTERNALLY ON THE CURRENT LIQUOR LICENSE FOR THE BLACK BIRCH, FROM 3:00 P.M. TO 10:00 P.M. ON JULY 31, 2016, IN CELEBRATION OF THEIR 5TH ANNIVERSARY, SECONDED BY COUNCILOR SPILLER. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.**

g. (070216-10) The Kittery Town Council moves to appoint a representative to meet with the Chair of the Parks Commission to interview Richard Brooks for appointment to that board as a full member until 12/31/19.

**A MOTION WAS MADE BY COUNCILOR SPILLER TO APPOINT COUNCILOR THOMSON TO MEET WITH THE CHAIR OF THE PARKS COMMISSION TO INTERVIEW RICHARD BROOKS FOR APPOINTMENT TO THAT BOARD AS A FULL MEMBER UNTIL 12/31/19, SECONDED BY COUNCILOR DENAULT. THE MOTION PASSED BY A UNANIMOUS VOICE VOTE 7/0/0.**

h. (070216-11) The Kittery Town Council moves to appoint a representative to meet with the Chair of the KCC Board of Directors to interview Kristi Mathieson for appointment to that board until 12/31/19.

Councilor Dennett asked if the appointment could be made without interview. Chairperson Beers responded that only the Economic Development Committee members can be appointed without interview.

**A MOTION WAS MADE BY COUNCILOR SPILLER TO APPOINT CHAIRPERSON BEERS TO MEET WITH THE CHAIR OF THE KCC BOARD OF DIRECTORS TO INTERVIEW KRISTI MATHIESON FOR APPOINTMENT TO THAT BOARD UNTIL**

**12/31/19, SECONDED BY COUNCILOR DENAULT. THE MOTION PASSED BY A UNANIMOUS VOICE VOTE 7/0/0.**

i. (070216-12) The Kittery Town Council moves to accept resignation of Peter Whitman from the Kittery Port Authority.

**A MOTION WAS MADE BY COUNCILOR SPILLER TO ACCEPT RESIGNATION OF PETER WHITMAN FROM THE KITTEY PORT AUTHORITY WITH REGRET, SECONDED BY COUNCILOR LEMONT. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.**

j. (070216-13) The Kittery Town Council moves to schedule a public hearing for August 8, 2016, to ordain amendments to Title 13 of the Kittery Town Code.

**A MOTION WAS MADE BY COUNCILOR THOMSON TO SCHEDULE A PUBLIC HEARING FOR AUGUST 8, 2016, TO ORDAIN AMENDMENTS TO TITLE 13 OF THE KITTEY TOWN CODE, SECONDED BY COUNCILOR WHITE. THE MOTION PASSED BY A UNANIMOUS VOICE VOTE 7/0/0.**

k. (070216-14) The Kittery Town Council moves to schedule a public hearing on August 8, 2016 to ordain by ordinance to follow Title 21-A §722-A Determination of Declared Write-in Candidate.

**A MOTION WAS MADE BY COUNCILOR THOMSON TO SCHEDULE A PUBLIC HEARING ON AUGUST 8, 2016 TO ORDAIN BY ORDINANCE TO FOLLOW TITLE 21-A §722-A DETERMINATION OF DECLARED WRITE-IN CANDIDATE, SECONDED BY COUNCILOR WHITE. THE MOTION PASSED BY A UNANIMOUS VOICE VOTE 7/0/0.**

l. (070216-15) The Kittery Town Council moves to resolve a request for conflict of interest determination.

The agenda item was requested by Councilor Thomson due to Vice Chairperson Denault's family member affected by the sewer betterment project.

**A MOTION WAS MADE BY COUNCILOR THOMSON TO EXCLUDE VICE CHAIRPERSON DENAULT FROM FURTHER VOTING ON ANY MATTER PERTAINING TO THE SEWER BETTERMENT ASSESSMENT PROJECT, SECONDED BY COUNCILOR SPILLER.**

Vice Chairperson Denault understood that this request was reviewed and billed by the Town attorney and asked what that total cost was. He noted that the Town attorney determined no conflict of interest. He reminded he has freely admitted and previously stated into the record that his brother was a homeowner affected by the sewer betterment assessments.

Councilor Thomson felt it was not a question of honesty or integrity. The decision would likely not change whether six or seven Councilors voted. He felt that the Charter is clear with its definition of financial conflict of interest and he only wanted to ensure that the decision regarding the sewer betterment is as transparent and clean as possible.

Councilor Spiller saw Vice Chairperson Denault as an effective advocate for residents. She

echoed what Councilor Thomson mentioned regarding the difference in one Councilor voting. She thought it is incumbent on the Council to be as clean and open as can be.

Councilor Lemont explained while serving the legislature, it was explained to him by the State of Maine Attorney General that there must exist a direct benefit for a conflict of interest to exist. He thought that Vice Chairperson Denault could not potentially benefit from the situation.

Councilor White considered the relative as one of a class of beneficiaries. With that, he did not see any conflict of interest and preferred to leave the decision with Vice Chairperson Denault.

Vice Chairperson Denault confirmed to Councilor Dennett that he does not have an interest in his relative's property by deed nor financed the property.

Chairperson Beers respected Councilor Dennett's previous question, which shows that no direct benefit exists. He stated that his vote would be in the negative since at least 10% of a contract or ownership must exist.

Councilor Dennett suggested that Vice Chairperson Denault recuse himself in the event that the relative files for a hearing. Vice Chairperson Denault agreed that would be the right course of action.

**THE MOTION FAILED TO PASS BY A ROLL CALL VOTE 2/4/0 WITH COUNCILOR WHITE, COUNCILOR LEMONT, COUNCILOR DENNETT, AND CHAIRPERSON BEERS OPPOSED.**

m. (070216-16) The Kittery Town Council moves to approve amendments to the Wood Island Repair, Maintenance and Use Agreement.

Chairperson Beers referenced Enclosure 3 in the Report to Town Council dated June 27, 2016.

**A MOTION WAS MADE BY COUNCILOR WHITE TO APPROVE AMENDMENTS TO THE WOOD ISLAND REPAIR, MAINTENANCE AND USE AGREEMENT AS PRESENTED, SECONDED BY COUNCILOR DENAULT.**

Councilor Dennett saw no required bond nor any indication that either party must hold fire or flood insurance. Chairperson Beers confirmed that statement.

Chairperson Beers further explained that the summation of this revision included minor clarifications and revisions derived from Town Council approved changes on the January 25, 2016 document. It was his understanding the bond and insurance requirements related to the contractual obligations held by the Wood Island Life Saving Station Association, as a recipient of those grants, would cover those mentioned provisions. Thus, it was deemed unnecessary to be included in the current agreement.

Councilor Dennett stated his intention to vote in the negative.

Councilor Spiller asked whether any attorney had reviewed this document since it was last proposed and wondered whether that review would be useful. Chairperson Beers replied in the negative because only the National Parks Program Service Manager approval is required for existing agreement modifications. He confirmed to Councilor Spiller that the proposed amendments include only minor changes and no substantive changes.

Councilor Thomson also sought legal review. He expressed various concerns regarding the documentation and asked why the Council did not receive a formal written response, given that it is a federal agency. Chairperson Beers noted in actual fact that the Town attorney expressed no interest in reviewing the agreement after January 2016. The approved agreements were dated January 25, 2016 and the letterhead document from the National Parks Service Program Manager is dated February 19, 2016 upon delivery of signed copies to her, she will conduct final review and ensure they meet the prerequisite conditions via e-mail.

Vice Chairperson Denault considered an e-mail as an official document.

Councilor Spiller added to her previous statement to place emphasis on having an attorney perform review, not only the Town attorney.

Councilor White felt that the agreement was well vetted and understood that Attorney McEachern had the desire to move away from the contract. He thanked the working group, Town Manager Granfield, WILSSA, and Ms. LaForest. He hoped that the amendment is approved, so that the current project can continue.

Councilor Thomson indicated the e-mail provided was dated June 24, 2016, yet the final document June 27, 2016. Chairperson Beers claimed it was an administrative error. He believed that the NPS Program Manager and WILSSA understood the terms of the amendment dated June 27, 2016 and offered to request confirmation, if necessary.

Councilor Thomson cited written language regarding voluntary termination in the event of significant damages from unforeseen circumstances indicated on Page 7, Item 18. Chairperson Beers clarified that if cost for damages exceed 75%, WILSSA can terminate the contract without penalty.

Chairperson Beers reminded that failure to approve the amendment to the contract would result in the existing contract to remain in effect.

**THE MOTION PASSED BY A ROLL CALL VOTE 4/3/0 WITH COUNCILOR SPILLER, COUNCILOR DENNETT, AND COUNCILOR THOMSON OPPOSED.**

n. (070216-17) The Kittery Town Council moves to approve revisions to the Wood Island Concession Agreement.

Chairperson Beers indicated that the reference document is titled Enclosure 2, Report to Town Council. He noted typographical error at lines 314-315 to replace "1,000,000" with "100,000."

**A MOTION WAS MADE BY COUNCILOR DENAULT TO APPROVE AMENDMENTS TO THE WOOD ISLAND REPAIR, MAINTENANCE AND USE AGREEMENT, SECONDED BY COUNCILOR WHITE.**

Councilor Dennett expressed concern that the contract does not indicate it is governed by the State of Maine law. Chairperson Beers indicated that according to the NPS Program Manager, it is governed under federal law. Councilor Dennett recommended that the Town not be at risk for possible exemptions from liability under Maine law, thus, the language should be included in the contract. Chairperson Beers understood that Maine laws would subsequently govern a contract executed between two parties in the State of Maine. Councilor White suggested that the terms be

incorporated into an addendum after voting.

Councilor Thomson stated his concern that the document is dated July 11, 2016 and the e-mail from Ms. LaForest is dated June 24, 2016. He felt there is no substantiating evidence that shows Ms. LaForest reviewed the document on June 24, 2016. Chairperson Beers responded that he would seek confirmation and expressed regret for the document dating errors.

Councilor Thomson cited verbiage on Page 3, Item C and questioned what would result if a maritime museum is not completed. Councilor Beers replied that the concession agreement is not engaged unless the museum is completed under the repair and maintenance contract.

Councilor Thomson referenced and questioned the statement under Item D, Section 4 regarding public access to the pier and limitations on allowed tie up periods. Chairperson Beers indicated that Wood Island would be fully available for public access at all times. The concession agreement does not guarantee mooring docking or other any other than access at large.

Councilor Thomson reaffirmed that the document had not received legal review. Councilor Spiller felt legal review would help to alleviate the issues raised. Chairperson Beers further clarified the detailed terms and conditions of pier mooring and public access times.

Councilor Spiller expected that if WILSSA hosts an event on the island that is not part of the life saving station, then they pledge public access during that event. Chairperson Beers affirmed that to be correct.

**THE MOTION PASSED BY A ROLL CALL VOTE 4/3/0 WITH COUNCILOR THOMSON, COUNCILOR DENNETT, AND COUNCILOR SPILLER OPPOSED.**

**14. COUNCILOR ISSUES OR COMMENTS**

Councilor Lemont requested that concerns regarding activities on Kittery Point bridge be addressed. People fishing off the bridge are reported as leaving litter and being disrespectful. Chairperson Beers asked Town Manager Granfield to research the situation.

Councilor Spiller noted the same complaint mentioned by Councilor Lemont. A number of cars and large groups of people have been reported standing in the middle of Crockett Neck Road.

Vice Chairperson Denault followed up with Town Manager Granfield regarding the manhole on South Eliot Road that he mentioned at the previous meeting. She replied that it was looked at and will be repaired after all work has completed.

Vice Chairperson Denault announced those Kittery residents who have recently passed as follows:

- Evelyn L. Lawrence
- Charles Patrick "Mickey" Gaffney Jr
- Mary Daigle Dennett
- Richard "Rick" Rossiter
- Thomas R. Wenck
- Gerald F. Walker –
- Barbara (Pettigrew) Rowell

- Anne C. Cullen
- Robert Wayne “Bob” Chick
- Carol Scism
- Louise E. Bocchino
- Barbara Rowell
- Barbara A. Nutter
- Raymond Dennis VanGorder, Sr
- Kathleen “Dwane” Battcock
- William J. McLaughlin

Vice Chairperson Denault responded to the concerns raised involving a conflict of interest that he had no specific issues to the statements made.

Vice Chairperson Denault stated his recollection of how the Town handled a federal grant received in 1969 to establish the Kittery Sewer Department. He stated various concerns regarding that project in comparison to the current sewer betterment project.

Councilor White asked whether the Town has researched the potential benefits of combining into one group all the residents that plan seek sewer connection construction.

Councilor White recommended that rank voting be considered for board and commission nominations. He thought it may help to alleviate the difficulties that have been encountered.

Councilor Thomson could not attest to Vice Chairperson Denault’s statement regarding his personal property ownership.

Councilor Thomson asked if MMA or any Town auditing firm could conduct an independent financial review of the sewer betterment process.

Councilor Thomson said that an individual suggested that the sidewalk at the water/inlet side near Gate 2 of PNSY could be removed and turned into a turning lane. He asked if the DPW could consider that recommendation.

Chairperson Beers cited an e-mail from Shawn Harris addressed to Shelley Bishop and Bob Marchi, both Kittery Code Enforcement Officers, to thank the staff for addressing old issues. The letter mentioned that the process went smoothly to resolve issues building permits for a particular parcel.

**15. COMMITTEE AND OTHER REPORTS**

- a. Communications from the Chairperson – None.
- b. Committee Reports – None.

**16. EXECUTIVE SESSION**

- a. (070216-18) The Kittery Town Council moves to go into executive session with the Town Manager in accordance with 1 M.R.S. §405 (6) C, to discuss a land acquisition

**A MOTION WAS MADE BY COUNCILOR WHITE TO GO INTO EXECUTIVE SESSION AT 8:53 P.M. WITH THE TOWN MANAGER IN ACCORDANCE WITH 1**

**M.R.S. §405 (6) C TO DISCUSS A LAND ACQUISITION, SECONDED BY COUNCILOR THOMSON. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.**

**A MOTION WAS MADE BY COUNCILOR THOMSON TO COME OUT OF EXECUTIE SESSION AT 9:05 P.M., SECONDED BY COUNCILOR WHITE. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.**

**17. ADJOURNMENT**

**A MOTION WAS MADE BY COUNCILOR THOMSON TO ADJOURN THE MEETING AT 9:06 P.M., SECONDED BY COUNCILOR WHITE. THE MOTION PASSED BY A UNANIMOUS VOICE VOTE 7/0/0.**

Submitted by Marissa Day, Minutes Recorder, on July 29, 2016.

*Disclaimer: The following minutes constitute the author's understanding of the meeting. While every effort has been made to ensure the accuracy of the information the minutes are not intended as a verbatim transcript of comments at the meeting, but a summary of the discussion and actions that took place. For complete details, please refer to the video of the meeting on the Town of Kittery website at <http://www.townhallstreams.com/locations/kittery-maine>.*