

**TOWN COUNCIL MEETING
COUNCIL CHAMBERS**

**APPROVED
AUGUST 28, 2017**

1. Call to Order

Chairperson Beers called the meeting to order at 5:30 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, Jeffrey Pelletier, Jeffrey Thomson, Judith Spiller and Kenneth Lemont.

5. Agenda Amendment and Adoption.

The agenda was adopted, as presented.

6. Town Manager's Report

Town Manager Amaral reviewed her written report.

Fabulous Find Awarded – Amaral thanks Fabulous Find for selecting the Kittery Community Center as one of the recipients of their July Giving Program and awarding over \$8,000 for the replacement of their existing playground.

Whipple Road – Amaral provided an update on Whipple Road. She advised that the Town is working on the easement issues. An abutters meeting will be scheduled within the next few weeks to discuss potential new pole locations. The project will remain on hold until the CMP situation has been resolved.

Seapoint Beach Parking – The Town is working on installing new resident-only parking signs. The Kittery Police Department has also been focusing on additional presence at the beach and will continue through the Labor Day weekend.

Opening Ceremony of the Sarah Mildred Long Bridge – Discussions began last week between the project team, Maine DOT and NH DOT. The projected ceremony is date is November 10th or November 17th. Details for the event are in the brainstorming process.

Economic Development Opportunities – Amaral provided an overview of efforts working with the Economic Development Committee, focusing on economic development in town as well as working with

the State to discuss grants or programs offering assistance. The Town is also discussing how to best use the TIFF program and seek out opportunities to work with Maine and Company.

Upcoming dates – The following upcoming dates were announced:

- Safford School Future Discussion – September 12th, 6:00 p.m. at The First Christian Church.
- Completed Nomination Forms Due – September 25th, 6:00 p.m. at the Town Clerk's Office.
- Library Working Group Information Session – October 16th, 6:00 p.m. at Traip Academy.

7. Acceptance of Previous Minutes

The regular meeting minutes of August 14th, 2017 were adopted as amended.

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.

a. (080217-1) The Kittery Town Council moves to discuss and place a non-binding referendum question on the November 7, 2017 ballot to consider the location of the Rice Public Library.

Councilor Judith Spiller explained the three options the Library Working Group has decided on after consideration of two previous meetings and a public online survey. Councilor Judith Spiller opened up the floor for comment from members of the Library Working Group.

Library Working Group member George Dow and Citizen Russell White spoke in support of adding the three-option referendum question presented by the Library Working Group to the ballot.

COUNCILOR PELLETIER MOVED TO PLACE THE FOLLOWING REFERENDUM QUESTION ON THE BALLOT:

- **WHICH LOCATION SHOULD THE TOWN CONSIDER FOR THE RICE PUBLIC LIBRARY FACILITY NEEDS, WITH THE FOLLOWING THREE OPTIONS**
 - **REHABILITATE AND BUILD AN ADDITION ONTO THE CURRENT RICE BUILDING.**
 - **BUILD A NEW LIBRARY BUILDING ADJACENT TO ROGERS ROAD AT THE KITTERY COMMUNITY CENTER**
 - **NEITHER OF THE ABOVE**

SECONDED BY COUNCILOR SPILLER

The council discussed the addition of the referendum on the ballot. Councilor Dennett refrained from positive or negative comment, and Vice Chairperson Denault made comments in support of referendum.

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

10. PUBLIC HEARINGS

Town Manager Amaral provided an overview of the questions scheduled for public hearing.

a. (080217-2) The Kittery Town Council moves to hold a public hearing on proposed Town Charter

Review and housekeeping amendments and to place the proposed amendments on the November 7, 2017 ballot.

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

COUNCILOR THOMSON MOVED THE PROPOSED CHARTER AMENDMENTS TO THE NOVEMBER 7, 2017 BALLOT.

Councilor Spiller posed a question regarding Line 10 and Article 9 - Page 823 not matching. Chairperson Beers suggested amending the verbiage so both read, "Port and Harbor".

SECONDED BY VICE CHAIRPERSON DENAULT. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

b. (080217-3) The Kittery Town Council moves to hold a public hearing on proposed Town Manager Town Charter amendments and to place the proposed amendments on the November 7, 2017 ballot.

Chairperson Beers suggested a change in regards to Question 2 on Line 24, changing it from "these rules shall provide for" to "these rules are to provide for". Chairperson Beers opened the floor for public comment. Hearing none; Chairperson Beers closed the public hearing.

COUNCILOR THOMSON MOVED THE PROPOSED CHARTER AMENDMENTS TO THE NOVEMBER 7, 2017 BALLOT. SECONDED BY VICE CHAIRPERSON DENAULT. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

c. (080217-4) The Kittery Town Council moves to hold a public hearing on proposed Port Authority Town Charter amendments and to place the proposed amendments on the November 7, 2017 ballot.

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

COUNCILOR THOMSON MOVED THE PROPOSED CHARTER AMENDMENTS TO BE ON THE NOVEMBER 7, 2017 BALLOT. SECONDED BY VICE CHAIRPERSON DENAULT. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

d. (080217-5) The Kittery Town Council moves to hold a public hearing on the application from Rene Garcia, 2064 Woodbury Ave, Newington, NH for a Victauler's License for EL Rodeo, 375 US Route 1, Premium Outlet's #4.

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

COUNCILOR THOMSON MOVED TO APPROVE THE APPLICATION. SECONDED BY VICE CHAIRPERSON DENAULT. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

e. (080217-6) The Kittery Town Council moves to hold a public hearing on a renewal application from Delta Amusement Inc., 182 State Road, Kittery, ME for a Special Activity Amusement Permit for Navy Yard Bar & Billiard, 182 State Road.

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

COUNCILOR THOMSON MOVED TO RENEW THE APPLICATION. SECONDED BY VICE CHAIRPERSON DENAULT. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

f. (080217-7) The Kittery Town Council moves to hold a public hearing on a renewal of application from Tributary Brewing Company, 10 Shapleigh Road Site A, Kittery, ME for a Special Activity Amusement Permit for Tributary Brewing Company, 10 Shapleigh Road Site A.

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

COUNCILOR THOMSON MOVED TO RENEW THE APPLICATION. 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).

Sally Manninen, Substance Abuse Coordinator for the Choose to Be Healthy Program at York Hospital.

Ms. Manninen spoke about marijuana use and stated that legalization is not socially beneficial and should not be supported by local policy. She also provided data and statistics to support of her remarks. She encouraged Maine legislators to take their time rolling out commercial marijuana, and put public health, youth health and public safety ahead of the interest of the marijuana industry. She urged the Town Council to keep the needs of children and youth in the forefront when making decisions regarding policies, budgets and government practices involving marijuana.

Holly Zurer, 113 Government Street

Ms. Zurer spoke in support of Option 1 on the non-binding referendum question regarding the Rice Public Library. She commented that the building is a historic structure that anchors the downtown area and that restoration respects Arabella Rice's legacy. She also commented that restoration is more cost effective and the 30,000 sq. foot lot provides ample room for a creative addition that would address accessibility issues.

Susan Johnson, Tenney Hill Road

Ms. Johnson expressed concerns regarding the research group working on discussions about the retail and/or commercial manufacturing of marijuana. She asked that the Town Council not ask the research working group to move forward with the task of making decisions on this topic. She feels that the group hasn't been inclusive or transparent. She would like Kittery to be known for its culinary, performing arts, and environmental pursuits as well as a vibrant center for innovative business, and not for marijuana products.

Milton Hall, Bowen Road

Mr. Hall wrote a letter to Fema in 1978 regarding Seapoint Road as it had been washed out due to a large storm. He commented that in 1979, Fema gave the town \$7800 to replace the road, though stones were placed to block the road instead. He doesn't think there should be segregation between residents and non-residents at the Seapoint Road area. He also expressed concern about the Port Authority being put under under the Town's authority, putting more responsibility on the Town Manager.

Mark Alessi, Brave Boat Harbor Road

Mr. Alessi expressed concerns about the Port Authority proposal under consideration. He commented that the Port Authority was established prior to the Town Charter as an independent entity and that the current proposal would remove what autonomy it has and place it under the authority of the Town and Council. He said that would also remove the requirement that a Planning Board member sit on the Port Authority board which he disagrees with. He remarked that this matter had been litigated back in 2010 when then Councilor Beers proposed the Port Authority under Town governance, to which it was discussed and tabled. He stated that he is opposed to the proposed charter amendment. He urged the voters to vote no on the Port Authority proposal.

- b. Response to public comment directed to a particular Councilor – None.
- c. Chairperson's response to public comments.

Chairperson Beers thanked Ms. Manninen for her comments and said that the working group and Council will continue to review questions and issues and will have further discussions later. He thanked Ms. Zurer and commented that he agreed with her perspective on the rehabilitation of the Rice Library. In response to Mr. Alessi, the audio cut out and Chairperson Beers' response could not be heard. No further discussion can be heard until the result of the vote.

12. UNFINISHED BUSINESS – NONE

13. NEW BUSINESS

- a. Donations/gifts received for Council disposition.

(080217-8) The Kittery Town Council moves to accept a donation in the amount in the amount of \$50.00 from Jane K. Lannon & Benjamin M. Lannon, in honor of Casey Savage, to be deposited in account #2063-43600 Kittery Community Center.

COUNCILOR SPILLER MOVED TO ACCEPT THE DONATION IN THE AMOUNT OF \$50.00 FROM JANE K. LANNON & BENJAMIN M. LANNON, TO BE DEPOSITED IN ACCOUNT #2063-43600 KITTEY COMMUNITY CENTER. SECONDED BY COUNCILOR PELLETIER. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

(080217-9) The Kittery Town Council moves to accept a donation in the amount of \$8,163.62 from The Fabulous Find for the new playground fund, to be deposited in account #2063-43600.

VICE CHAIRPERSON DENAULT MOVED TO ACCEPT THE DONATION IN THE AMOUNT OF \$8,163.62 FROM THE FABULOUS FIND TO BE DEPOSITED IN ACCOUNT #2063-43600. SECONDED BY COUNCILOR PELLETIER. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

(080217-10) The Kittery Town Council moves to accept a donation in the amount of \$500.00 from James L. and Elizabeth B. Gamble for the preschool, to be deposited in account #2063-43600.

COUNCILOR PELLETIER MOVED TO ACCEPT THE DONATION IN THE AMOUNT OF \$500.00 FROM JAMES L. AND ELIZABTH B. GAMBLE TO BE DEPOSITED IN ACCOUNT #2063-43600. SECONDED BY COUNCILOR SPILLER. THE MOTION PASSED BY A UNANIMOUS VOICE VOTE 7/0/0.

(080217-11) The Kittery Town Council moves to accept a donation in the amount of \$100.00 from Wayne Bartlett, to be deposited in account #4043 Parks Reserve.

COUNCILOR PELLETIER MOVED TO ACCEPT THE DONATION IN THE AMOUNT OF \$100.00 FROM WAYNE BARTLETT TO BE DEPOSITED IN ACCOUNT #4043 PARKS RESERVE. SECONDED BY COUNCILOR THOMSON. THE MOTION PASSED BY A UNANIMOUS VOICE VOTE 7/0/0.

b. (080217-12) The Town Council moves to approve the disbursement warrants.

Town accounts payable in the amount of \$345,877.11

Town accounts payable in the amount of \$2,550

Sewer accounts payable in the amount of \$3,305.32

School accounts payable in the amount of \$4,492.63

School accounts payable in the amount of \$500,813.16

Total of all disbursement warrants in the amount of \$857,038.22

Chairperson Beers stated that the Town and Sewer warrants are in due form. Councilor Pelletier stated that the School warrants are in due form.

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

c. (080217-13) The Kittery Town Council moves to authorize Tributary Brewing Company to hold two special events, one on Saturday September 9, 2017 from noon to 8:00 p.m. to celebrate its 3rd Anniversary and one on Saturday October 21, 2017 from noon to 8:00 p.m. for the release of Mott the Lesser.

COUNCILOR THOMSON MOVED TO APPROVE THE REQUEST. SECONDED BY COUNCILOR SPILLER. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

d. (080217-14) The Kittery Town Council moves to approve a renewal application from Divine Cuisines, LLC, 20 Walker Street, Kittery, ME for a Malt, Vinous and Spirituous Liquor License for Tuls, 20 Walker Street.

COUNCILOR SPILLER MOVED TO APPROVE THE APPLICATION RENEWAL. SECONDED BY COUNCILOR PELLETIER. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

e. (080217-15) The Kittery Town Council moves to approve a renewal application from Delta Amusement, Inc., 182 State Road, Kittery, ME for a Malt, Spirituous and Vinous Liquor License for Navy Yard Bar & Billiard, 182 State Road.

COUNCILOR SPILLER MOVED TO APPROVE THE APPLICATION RENEWAL. SECONDED BY COUNCILOR THOMSON. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

f. (080217-16) The Kittery Town Council moves to express its sentiment regarding the future of retail sales of Marijuana for recreational use in the community of Maine.

Town Manager Amaral stated that she would like the Town Council's input on whether allowing retail sales of marijuana in the Kittery community is something they would like to explore or not, as it will require the additional expense of legal assistance. She also noted that the state is working on revisions to the legalization act, which they expect to have done in October. She also provided an overview of items in favor of and opposition to retail sales of marijuana for consideration.

Chairperson Beers stated that his position is that the next step is to go forward, considering the September/October legislative activity, and be provided with the detail-related to specific ordinance propositions in context with the framework.

Councilor Dennett stated he has nothing for or against marijuana, as long as those using it don't imperil his life, family or property. He commented that he finds it impossible to vote in favor of any marijuana, as the federal government does not allow it. He stated that his opinion is no.

Councilor Lemont thanked the working group. He expressed concern due to conversations he's had with a member of the Maine Legislature select committee. He remarked that Kittery is in front of the curve on this issue and he commended the planning board for putting ordinances in place to assist with controlling this issue if it comes to fruition. He disagreed with results from the public questionnaire, regarding the positives of retail marijuana, stating that the Town will not see the revenue it is expecting. In closing, he stated that he will support a dry community.

Councilor Pelletier stated that he is a Libertarian at heart. He would prefer that Kittery continue to examine what provisions would need to be in place for retail marijuana. He stated that if a proposal for an ordinance involving retail marijuana were put in place, he would want the entire Town to vote on it, not just the Town Council. He endorsed moving forward.

Councilor Spiller stated that she does not support retail marijuana in Kittery. She commented that Kittery would be referred to as the Marijuana Town. She stated the working group should continue with a quiet review, and the issue could be revisited in 5 years.

Councilor Thomson stated the need for action in aiding the Town Manager in making a decision.

Vice Chairperson Denault stated that the public's vote should be honored. He suggested that a guideline be created instead of doing nothing, as doing nothing may open the Town up to being told what to do by the state.

COUNCILOR THOMSON MOVED THAT THE KITTERY TOWN COUNCIL STAND WITH RECENT CHANGES TO TITLE 16, PERTAINING TO MARIJUANA USE AND DEFINITIONS. THEREFORE, BY DECISION OF THE COUNCIL, BUSINESS ESTABLISHMENTS FOR THE RETAIL/SALE OF MARIJUANA FOR RECREATIONAL USE WILL BE PROHIBITED FROM OPERATING WITHIN THE GEOGRAPHIC TOWN LIMITS OF KITTERY, MAINE.

MOTION BY COUNCILOR THOMSON. SECONDED BY COUNCILOR LEMONT.

Chairperson Beers opened the motion up for discussion.

Councilor Thomson agreed with Councilor Lemont. He expressed skepticism in regards to any positive revenue, job creation and effect it will have on the town.

Councilor Dennett requested the motion be read again before voting.

Chairperson Beers offered an amendment to the motion, suggesting that "retail sale and use, cultivation, manufacturing and testing be added. It was agreed to by the Seconder. He also stated that he prefers to do the research and not rely on evidence presented by other towns. He remarked that there are many questions left to be answered. He supported the motion.

Vice Chairperson Denault asked if the location that currently has marijuana on the Rte. 1 Bypass will be affected by this change moving forward.

Chairperson Beers stated that it will not be affected as it is involved with medical marijuana and also remarked that this change will have no effect on recreational use in town.

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

g. (080217-17) The Kittery Town Council moves to appoint Joyce Tobey as Warden and Sandra Lutts as Deputy Warden for the November 7, 2017 Municipal and State Referendum Election and the opening of the polls at 8:00 a.m. and closing at 8:00 p.m.

COUNCILOR THOMSON MOVED THE APPOINTMENTS. SECONDED BY COUNCILOR PELLETIER. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

h. (080217-18) The Kittery Town Council moves to authorize the release of funds in the amount of \$10,000 from unassigned funds (unencumbered surplus) as approved by the voters at the June 13, 2017 Town Meeting, and to deposit said funds into account #101740-68427 Expense Self-Insurance Claims, to cover the cost of the deductible for an insurance claim.

COUNCILOR PELLETIER MOVED THE RELEASE OF FUNDS IN THE AMOUNT OF \$10,000 FROM UNASSIGNED FUNDS (UNENCUMBERED SURPLUS) AND TO DEPOSIT SAID FUNDS INTO ACCOUNT #101740-68427. SECONDED BY COUNCILOR SPILLER. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

i. (080217-19) The Kittery Town Council moves to authorize the release of funds in the amount of \$1,000 from unassigned funds (unencumbered surplus) as approved by the voters at the June 13, 2017 Town Meeting, and to deposit said funds into account #101740-68427 Expense Self-Insurance Claims, to cover the cost of the deductible for an insurance claim.

VICE CHAIRPERSON DENAULT MOVED THE RELEASE OF FUNDS IN THE AMOUNT OF \$1,000 FROM UNASSIGNED FUNDS (UNENCUMBERED SURPLUS) AND TO DEPOSIT SAID FUNDS INTO ACCOUNT #101740-68427. SECONDED BY CHAIRPERSON BEERS. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

j. (080217-20) The Kittery Town Council moves to authorize the release of funds in the amount of \$1,000 from unassigned funds (unencumbered surplus) as approved by the voters at the June 13, 2017 Town Meeting, and to deposit said funds into account #101740-68427 Expense Self-Insurance Claims, to cover the cost of the deductible for an insurance claim.

COUNCILOR SPILLER MOVED THE RELEASE OF FUNDS IN THE AMOUNT OF \$1,000 FROM UNASSIGNED FUNDS (UNENCUMBERED SURPLUS) AND TO DEPOSIT SAID FUNDS INTO ACCOUNT #101740-68427. SECONDED BY COUNCILOR THOMSON. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

14. COUNCILOR ISSUES OR COMMENTS

Councilor Lemont described a former policy he worked on with then Councilor Grinnell to create a Circuit Breaker Program that provided assistance with tax bills for elderly residents. He commented that North Yarmouth currently has a program called Senior Tax Assistance Program and asked if the Town Council was interested in him getting more information or discussing a similar program.

Chairperson Beers stated that he would be interested in learning about it.

Councilor Spiller stated that she intends to bring a resolution to the next meeting, stating that the Town Council opposes the referendum regarding casinos in York County.

Vice Chairperson Denault expressed concern in regards to the traffic cones in the circle at Rogers Road. He stated that they are not spaced correctly, resulting in damage cones and vehicles. He also asked that the contractors be reminded that the circle is a memorial ground. He also commented on the recent events in Houston and suggested we may be able to use resources from the freebie barn to send some aid for relief efforts. He thanked the Fire Chief for his hard work in addressing fire at the Ark. He remarked and thanked Fabulous Find for their donation to the Kittery Community Center.

Councilor Thomson stated that on Sept 12th at 6:00 PM at the First Christian Church, there will be another meeting for the Safford School Future Discussion. He then responded to an e-mail that was sent to the Town Manager on August 18th, questioning the relevance of a racial equality march that was scheduled to take place on the 19th to express concern regarding recent events in Charlottesville. He stated that the march has local, and personal significance to him as one of the hate groups burned a cross on his grandparent's property in 1920, which is now his property.

Chairperson Beers spoke in response to Councilor Thomson, saying that phrasing he used may have been misinterpreted. He stated that after the march he spoke with multiple people including the Town Manager, stating that for the first time in his life, he considered refusing to do the Pledge of Allegiance because in this country, he sees no justice for all.

15. COMMITTEE AND OTHER REPORTS

a. Communications from the Chairperson

Chairperson Beers stated that the next Town Council meeting scheduled for September 11, 2017, will take place at the regularly scheduled time of 7:00 p.m. There will be a workshop with the Port Authority at their request, beginning at 6:00 p.m.

b. Committee Reports – NONE

16. EXECUTIVE SESSION – NONE

17. ADJOURNMENT

COUNCILOR PELLETIER MOVED TO ADJOURN THE MEETING AT 7:06 P.M., SECONDED BY COUNCILOR SPILLER. THE MOTION PASSED BY A UNANIMOUS VOICE VOTE 7/0/0.

Submitted by Suzanne Esposito, on November 8, 2017.

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/stream.php?location_id=68&id=8115.