

# **APPROVED MINUTES**

## **Kittery Town Council Regular Meeting – Council Chambers December 27, 2017**

1. Call to Order: Chairperson Lemont called the meeting to order at 7:00 p.m.
2. Introductory: Chairperson Lemont read the introductory.
3. Pledge of Allegiance: Chairperson Lemont led all present in the Pledge of Allegiance.
4. Roll Call: Answering the roll were Councilors Jeffrey Pelletier, Gary Beers, Matthew Brock, Charles Denault, Vice-Chairperson and Chairperson Kenneth Lemont. Councilors Frank Dennett and Jeffrey Thomson were absent.
5. Agenda Amendment and Adoption: none
6. Town Manager's Report: Kendra Amaral reported that the "no dogs" sign on Love Lane is on public property and is an unenforceable sign and should be removed.

Town Manager Amaral said that she and Finance Director Patricia Moore met with the Rice Public Library Board of Directors, continuing the discussion on the Library becoming a department of the town. She said the financial analysis report is in the Council's packets.

Town Manager Amaral said that they talked about three options, moving forward: a committee to negotiate the details of incorporating the Library into the town as a department; a design committee to take the next steps on advancing the building project; and a Taylor building committee to develop the disposition strategy for the parcel. She said she was informed on Dec.20<sup>th</sup> the Library Board voted unanimously to support the creation of the Negotiation Committee and the Design Committee.

Town Manager Amaral said she will come to the January 8<sup>th</sup> meeting with a full report and recommendations that Council can act on. She asked if the Council had any questions or comments.

Vice Chairperson Denault said, regarding the Love Lane Dog Sign, it is his understanding that the sign is abandoned property on town property. He said if they (the former owners) came in to claim the sign, it should be looked at as they are violating the town's sign ordinance, and asked if that is correct. Ms. Amaral replied that the sign ordinance covers private property, not public.

7. Acceptance of Previous Minutes: Chairperson Lemont declared the minutes of September 11, 2017 accepted 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.

(120217-1) The Kittery Town Council moves to receive and accept the 2017 Audit Report.

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Ron Smith of RHR Smith & Co. said this is the second year that they have prepared the town audit. Mr. Smith reviewed the audit with his Power Point presentation. He said he likes to see 90 days of operating budget, with 30% sitting in reserve. He reported that the operating surplus went up this year, and combined with the school, it is at 120 days, or \$5.2 million dollars. He said that revenue collections were up, and that the property taxes and excise taxes allowed for the increase.

Mr. Smith reported that the General Fund went down about \$1,000,000 because it was paying for the sewer construction until it was able to get reimbursed from the bond proceeds. He said there is a 3-year Sewer Fund.

Mr. Smith said they met last year to discuss Sewer Department operations, which was struggling in 2014, 2015 and 2016, which went from a minimum surplus to a deficit close to one million dollars. He said sewer fees do not appear to be enough to support the department, and it is time for the Town Council to take a look at that.

Mr. Smith said he is concerned that if the Sewer Dept. does not have enough money to pay for its operations, such as maintenance and repairs, then they will be having the same conversation next year. He said the town has to look at sustainability. He said the town spent over \$1,000,000 to connect people to sewer and it is putting a strain on the cash flow. He said the cash flow in the Sewer Dept. needs to be addressed.

Mr. Smith said that the town is financially sound, but the Town Council needs to do some housecleaning, especially with the Wastewater Treatment facility.

Councilor Beers pointed out that the Sewer Operation rate has not changed in nine years and felt they were long overdue in adjusting that rate. He said the Sewer CIP was created in 2008, but removed in 2014 for another program and they lost sight of it.

Councilor Pelletier asked Mr. Smith, based on his analysis of their finances, did he suspect it was an organizational issue that needs to be addressed to help with concerns of the unfunded liability and the operational aspects.

Mr. Smith replied he did not think it is the staff, but that they went away from the details and the fees need to be looked at. He said it is more of an administrative function. He said they need to look at their house and get it in order. He said they need to look at the organization and their rates and they have outgrown their operations.

Councilor Pelletier thought that Mr. Smith had made a good point about addressing long-term concerns.

Mr. Smith said the Sewer Dept. has contractual obligations regarding benefits. He said the unfunded liability exceeded the in-State money for other benefits paid at retirement. He said the last actuarial report was three million dollars.

Mr. Smith said the town has other priorities and needs, but it has been able to fulfill its obligations. He wanted to make them aware of it, but they should be looking at their immediate intra-structural needs such as roads, schools, and contract negotiations would be a priority. He said the town should have a mechanism in place.

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Town Manager Amaral said that she and the Finance Director have looked at the documents for sewer expenses and the work done by the Councilors and understood that they need to address this issue. She said they have begun working on a plan to develop options to consider long-term. Councilor Brock said that Mr. Smith mentioned the Sewer Dept. several times and asked if part of his report, best practice, mentions how the town can move from where Kittery is now to a sustainable operation. Mr. Smith replied yes.

Chairperson Lemont thanked Mr. Smith and said he appreciated his time.

10. Public Hearings: none

11. Discussion:

a) By members of the public:

Vern Gardner, Kittery, spoke to the issue of how some Councilors should be recusing themselves from voting, and the perception of a conflict of interest by himself and other members of the community.

Milton Hall said he owns a house in Eliot and noted that the sewer bill went up from \$65 to \$180 and wanted to know if Kittery was getting more money from the Town of Eliot. He said he did not catch what was said about the sewer fees.

Mr. Hall said that Mr. Ledgett was appointed to the Planning Board and asked if he still had a conflict of interest. He said he remembers a while back the Port Authority wrote a letter regarding Mr. Ledgett's appointment, but they never heard anything and at the last meeting, Mr. Ledgett was appointed.

b) Response to public comment directed to a particular Councilor: none

c) Chairperson's response to public comments:

Chairperson Lemont said, in reply to Mr. Gardner's allegations, each Councilor can make up his mind whether or not to refrain from voting on a particular item. He said he does own property, and if it does come down to a vote and he felt it is a conflict, he will abstain from voting.

Chairperson Lemont said, in response to Mr. Hall's question regarding the sewer fees, he would defer to Councilor Beers because he was on the Negotiations Committee between the Town of Kittery and the Town of Eliot regarding the sewer user fees.

Councilor Beers said he was on the committee from 1993-2013 and basically Eliot had underpaid the Town of Kittery because of the contract that was in existence at that time. He said the Eliot users enjoyed a reduced rate. He said that in 2013 the rates were all the same for both sewer users in Kittery and Eliot.

Chairperson Lemont said in reply to Mr. Hall's remark about Mr. Ledgett's appointment, at the time he did not feel that he had a conflict of interest when he was appointed to the Planning Board.

12. Unfinished Business:

(120117-4) The Kittery Town Council moves to approve a renewal application from Loyal Order of Moose #444, 76 U.S. Route 1, Kittery for a Special Activity Amusement Permit for Loyal Order of Moose, #444, 76 U.S. Route 1.

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Chairperson Lemont said there was some question about the functions outside of the building. He said Council has a new application, which states there will be no outside activities, just indoor activities.

Councilor Beers said point of order, the item was moved and seconded and postponed. He said the motion is returned to the floor for discussion.

Chairperson Lemont said that it is his understanding it was postponed and he is comfortable moving forward with this item.

Councilor Beers said whomever made the motion and seconded, it should be back on the floor.

**THE MOTION ON THE FLOOR WAS TO POSTPONE THIS ITEM UNTIL THE DECEMBER 27<sup>th</sup> MEETING, MOVED BY COUNCILOR DENNETT, SECONDED BY VICE-CHAIRPERSON DENAULT.**

**COUNCILOR THOMSON MOVED TO APPROVE THE RENEWAL APPLICATION FROM LOYAL ORDER OF MOOSE #444, 76 U.S. ROUTE ONE, KITTERY FOR A SPECIAL ACTIVITY AMUSEMENT PERMIT FOR LOYAL ORDER OF MOOSE, #444, 76 U.S. ROUTE ONE, AND SECONDED BY VICE-CHAIRPERSON DENAULT. ROLL CALL VOTE WAS TAKEN, 5-0. FIVE IN FAVOR, NONE OPPOSED, MOTION CARRIES.**

13. New Business:

a. Donations/gifts received for Council disposition:

(120217-2) The Kittery Town Council moves to accept a donation in the amount of \$120 from Donald and Nicole Kerr to be deposited in account #5007-67500 Thresher Memorial Fund.

**COUNCILOR BEERS MOVED TO ACCEPT THE DONATION IN THE AMOUNT OF \$120 FROM DONALD AND NICOLE KERR TO BE DEPOSITED IN ACCOUNT #5007-67500 THRESHER MEMORIAL FUND AND SECONDED BY VICE-CHAIRPERSON DENAULT. ROLL CALL VOTE WAS TAKEN, 5-0. FIVE IN FAVOR, NONE OPPOSED, MOTION CARRIES.**

b. (120217-3) The Kittery Town Council moves to approve the disbursement warrants.

**COUNCILOR PELLETIER MOVED TO APPROVE THE FOLLOWING DISBURSEMENT WARRANTS: General \$644,904.87; Sewer \$17,375.50; School \$104,308.67 and SECONDED BY COUNCILOR BEERS. ALL WERE IN FAVOR BY A VOICE VOTE, 5-0, AYE. MOTION CARRIES.**

c. (120217-4) The Kittery Town Council moves to receive a report on the 2017 Town Manager and Town Council goals.

Town Manager Amaral read the list of the 2017 Town Council and Town Manager goals, which had been included in their packets, and provided updates on #3 under Town Council:

- Charter 10-yr. review and amendments on the Personnel Board & Port Authority – complete
- Ordinance revisions on the topics of Marijuana (on hold), Home Sharing, Title 2 (Ongoing), 6, 10 – complete, 13, 16 – ongoing, and the Personnel Classification Policy (ongoing)
- Council meeting protocols (in process) and PEG operations policy

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4. Support the Town Manager to achieve greater economy and effectiveness in delivery of services – ongoing; 5., Adopt a budget that is progressive, responsible and visionary – moving the community forward – complete; 6., Conduct quarterly review of Council and Manager progress on annual goals, ongoing.

Town Manager Amaral said the town is currently implementing software for the permitting process; completed the web design; ordinance rules are being implemented by the vote in November; reviewing announcements put out to the public; Economic Development – she has reorganized the Planning Dept. She said they are working on the re-zone of the Business Park.

Town Manager Amaral said the 2016 goals have been completed. She said that Randy, the Channel 22 “guru” has done a lot of work to increase what is available to the community and there is live broadcasting in town for the cable license. She said the Foreside Study will begin in January and she has spoken with the Commissioner of Public Works regarding sharing resources of the Public Works facility; the Rice Public Library Board are looking forward to moving ahead; Emery Field will be done this spring and she has been meeting with Emergency Response services, Dispatch and Fire Chief and they are looking at upgrades to their systems.

Town Manager Amaral said she will put setting goals for 2018 on the January 8<sup>th</sup> Meeting agenda.

Councilor Beers said he is not a twit, he does not twitter and wanted to know what information is available to the public.

Town Manager Amaral replied everything that goes on tweets, goes on-line.

Councilor Beers wanted to know if it is broadcast to other folks.

Vice-Chairperson Denault said when he is posting information on the website, it goes out in one format, all the same, in a main core.

Councilor Beers said he understands but the folks in the audience may not.

- d. (120217-5) The Kittery Town Council moves to approve a renewal application from Weathervane Seafoods, Inc., 306 U.S. Route One, Kittery, Maine, for a Malt, Spirituous and Vinous Liquor License for Weathervane Seafoods, 306 U.S. Route 1.

**VICE-CHAIRPERSON DENAULT MOVED TO APPROVE THE RENEWAL APPLICATION FOR WEATHERVANE SEAFOODS, INC. 306 U.S. ROUTE ONE, KITTERY, MAINE, FOR A MALT, SPIRITUOUS AND VINOUS LIQUOR LICENSE FOR WEATHERVANE SEAFOODS, 306 U.S. ROUTE ONE, SECONDED BY COUNCILOR BEERS. ROLL CALL VOTE WAS TAKEN, 5-0. FIVE IN FAVOR, NONE OPPOSED, MOTION CARRIES.**

- e. (120217-6) The Kittery Town Council moves to approve a renewal application from Loco Coco's Tacos, Corp., 36 Walker Street, Kittery, Maine for a Malt, Spirituous and Vinous Liquor License for Loco Coco's Tacos, 36 Walker Street.

**COUNCILOR BEERS MOVED TO APPROVE THE RENEWAL APPLICATION FROM LOCO COCO'S TACOS CORP., 36 WALKER STREET, KITTERY, MAINE FOR A MALT, SPIRITUOUS AND VINOUS LIQUOR LICENSE FOR LOCO COCO'S TACOS, 36 WALKER STREET. VICE-CHAIRPERSON DENAULT SECONDED THE MOTION. ROLL CALL VOTE WAS TAKEN, 5-0. FIVE IN FAVOR, NONE OPPOSED, MOTION CARRIES.**

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- f. (120217-7) The Kittery Town Council moves to approve a renewal application from The Ares LLC, 68 Wallingford Square, Kittery, Maine for a Malt and Vinous Liquor License for AJ's Wood Grill Pizza, 68 Wallingford Square.

**COUNCILOR BEERS MOVED TO APPROVE THE RENEWAL APPLICATION FROM THE ARES LLC, 68 WALLINGFORD SQUARE, KITTERY, MAINE FOR A MALT AND VINOUS LIQUOR LICENSE FOR AJ'S WOOD GRILL PIZZA, 68 WALLINGFORD SQUARE. VICE-CHAIRPERSON DENAULT SECONDED THE MOTION. ROLL CALL VOTE WAS TAKEN, 5-0. FIVE IN FAVOR, NONE OPPOSED, MOTION CARRIES.**

- g. (120217-8) The Kittery Town Council moves to approve a renewal application from Tasty Thai, Inc., 599 Lafayette Road, #6, Portsmouth, NH for a Malt, Spirituous and Vinous Liquor License for Tasty Thai, 182 State Road.

**VICE-CHAIRPERSON DENAULT MOVED TO APPROVE THE RENEWAL APPLICATION FROM TASTY THAI, INC., 599 LAFAYETTE ROAD, #6, PORTSMOUTH, NH FOR A MALT, SPIRITUOUS AND VINOUS LIQUOR LICENSE FOR TASTY THAI, 182 STATE ROAD. COUNCILOR BEERS SECONDED THE MOTION. ROLL CALL VOTE WAS TAKEN – 5-0. FIVE IN FAVOR, NONE OPPOSED, MOTION CARRIES.**

- h. (120217-9) The Kittery Town Council moves to schedule a public hearing on proposed amendments to Title 2, Administration and Personnel – Town Clerk, of the Kittery Town Code.

**COUNCILOR BEERS MOVED TO SCHEDULE A PUBLIC HEARING ON JANUARY 8, 2018 ON PROPOSED AMENDMENTS TO TITLE 2, ADMINISTRATION AND PERSONNEL, TOWN CLERK OF THE KITTERY TOWN CODE. VICE-CHAIRPERSON DENAULT SECONDED THE MOTION. ROLL CALL VOTE WAS TAKEN, 5-0. FIVE IN FAVOR, NONE OPPOSED, MOTION CARRIES.**

- i. (120217-10) The Kittery Town Council moves to schedule a public hearing on proposed amendments to Title 2, Administration and Personnel – 2.3.4 and 2.3.6 of the Kittery Town Code.

**COUNCILOR BEERS MOVED TO SCHEDULE A PUBLIC HEARING ON JANUARY 8, 2018 ON PROPOSED AMENDMENTS TO TITLE 2, ADMINISTRATION AND PERSONNEL – 2.3.4 AND 2.3.6 OF THE KITTERY TOWN CODE. VICE-CHAIRPERSON DENAULT SECONDED THE MOTION. ROLL CALL VOTE WAS TAKEN 5-0. FIVE IN FAVOR, NONE OPPOSED, MOTION CARRIES.**

- j. (120217-11) The Kittery Town Council moves to approve and sign a three-year labor contract from July 1, 2017 through June 30, 2020 for the Clerical Unit.

**COUNCILOR BEERS MOVED TO APPROVE AND SIGN A THREE-YEAR LABOR CONTRACT FROM JULY 1, 2017 THROUGH JUNE 30, 2020 FOR THE CLERICAL UNIT. VICE-CHAIRPERSON DENAULT SECONDED THE MOTION. ROLL CALL VOTE WAS TAKEN – 5-0. FIVE IN FAVOR, NONE OPPOSED, MOTION CARRIES.**

### 14. Councilor Issues or Comments:

Councilor Beers distributed a copy of his proposed changes to Council Rules, Regular Meeting Times, and the notice in writing is to be considered at the meeting before. He said he would like this to be entertained at the meeting on January 8<sup>th</sup>. He said his issue with the current rules is that

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it specifies that public proceedings must begin at 7:00 p.m., which he thinks is archaic. He said with technology, there is no particular necessity to delay the meeting unless there is an Executive Session or a Workshop at 6 pm and he was asking for a consensus. Chairperson Lemont polled the Councilors and said there was a consensus.

Councilor Brock said he believed there is a workshop with the Planning Board in advance of the January 8<sup>th</sup> meeting on proposed zoning changes in the Foreside to allow for a 30-room hotel in that zone. He requested, through the Chair, that if time permits, the public would be able to provide their comments at the meeting. Chairperson Lemont replied yes.

Vice-Chairperson Denault wanted to follow up, through the Chair to the Town Manager concerning Aroma Joe's, prior to someone getting killed. He said there has been a number of accidents that have occurred, and most recently, a car hit the sign. He said he was wondering about the light at Bolt Hill Road and there was a fatality there. He said he has heard from residents about the line-up at the light and reminded people again to use caution when exiting the Transfer Station.

Vice-Chairperson Denault said he wanted follow up with the trailer on Laurel Avenue and also would like to get follow-up on Martin Road and the complaint forwarded through me from the residents.

Vice-Chairperson Denault said he would like to recognize the following people who recently passed away: Mary Marshall; Doris Blanchette; Susan Allen; Firefighter P.J. Johnson, and a Go fund has been set up and Lester Raynes, who was a long-time janitor at the Horace Mitchell Primary School. He said to their families, our hearts are with you for your loss.

15. Committee and Other Reports: none

16. Executive Session: none

17. Adjournment:

**COUNCILOR PELLETIER MOVED TO ADJOURN THE MEETING AT 8:00 p.m., SECONDED BY VICE-CHAIRPERSON DENAULT. THE MOTION PASSED BY A UNANIMOUS VOICE VOTE 5-0.**

Respectfully submitted,

Barbara Boggiano  
Recording Secretary