

**Kittery Town Council
Regular Meeting – Council Chambers
February 26, 2018**

1. Call to Order: Chair pro tempore Thomson called the meeting to order at 6:00 p.m.
2. Introductory: Chairperson Thomson read the introductory. He said before the pledge, he wanted everyone to join him and pause briefly for a moment of silence, remembering the children, teachers and citizens from Parkland, Florida.
3. Pledge of Allegiance: Chairperson Thomson led all present in the Pledge of Allegiance.
4. Roll Call: Answering the roll were Councilors Frank Dennett, Jeffrey Pelletier, Matthew Brock, Gary Beers, and Chairperson, Jeffrey Thomson. Chairperson Ken Lemont and Vice-Chairperson Charles Denault were absent.
5. Agenda Amendment and Adoption: Chairperson Thomson said he had one amendment to the agenda under "i" of New Business. He said the Chair will make a motion to postpone this item until May 28th, after the budget. Chairperson Thomson cast one vote to accept the agenda as amended.
6. Town Manager's Report: Kendra Amaral said that Councilor Thomson had requested information about the sand/salt pile available to the citizens. She said at this time, they cannot meet the demand because people outside of Kittery have been taking more than the supply allows. She said they are currently down to the amount they need to get through winter.

Town Manager Amaral said they do not have extra sand/salt to put out and currently the salt budget has been overspent by approximately \$65,000. She said they have had a lot of ice events. She said they are looking at putting out a sand mix next year, which may reduce the demand. She said they are trying to find a solution.

Town Manager Amaral said that the Library Board cancelled their meeting on Feb. 20th due to lack of a quorum. She said it was school vacation week and that she and Finance Director Patricia Moore are planning on attending the March 20th Board meeting to make sure they are all on the same page and resolve issues so they will be able to move forward with Council to establish the three committees.

Town Manager Amaral said that Maryann Place's retirement party is next Thursday, the 8th, and she hopes that everyone will come and thank Maryann for her service.

Town Manager Amaral said that the 10th annual KCC auction is on April 6th at 6:30 in the Regatta Room.

Chairperson Thomson asked if anyone had any questions of the Town Manager. He wanted to know if the Board had mentioned having a special meeting with the Council prior to March 20th regarding the project. Town Manager Amaral replied they did give her a date for this week but she is completely booked.

7. Acceptance of Previous Minutes – none
8. Interview 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.

Chairperson Thomson said that on the agenda it states Maine Dept. of Transportation, but the presentation says "Maine Turnpike Authority" and wanted to know which one is it. Mr. Norwood replied "Maine Turnpike Authority."

Chairperson Thomson said this involves work to be done on the Dennett Road overpass or bridge.

(020218-1) The Kittery Town Council moves to hear a presentation from Maine Dept. of Transportation on the Dennett Road Bridge.

Ralph Norwood Project Manager of the Maine Turnpike Authority said that he was here tonight, along with Bruce VanNeault, also from the Maine Turnpike Authority to give an overview of the timeframe and what was involved with the Dennett Road construction project. He said this involves both the northbound and southbound ramp as well as repairs to the bridges. He said the project includes new pavement on the Northbound bridge, reconstruction on bridge railings, upgrading the guard rails and also the guardrail between the Northbound and Southbound bridges.

Mr. Norwood said that there will be joint repairs and one of the steel girders got damaged and this will be repaired as well. He said they will also be adding a snow fence.

Mr. Norwood said they advertised the bid and it came in for \$1.3 million dollars, which includes the work on Dennett Road for \$900,000. He said they will be starting sometime in March and substantial completion of Dennett Road would be done by June 22nd. He said if the contractor does not finish, they will incur penalties. He said they want to start right off the bat this Spring before the summer traffic picks up.

Mr. Norwood said there will be some traffic impacts as there will be lane closures, but they will try to do the work when it is not peak times. He said the Exit 1 Northbound ramp will be closed from March through June and they did try to minimize the impact as much as they could. He said the Southbound ramp will be closed for 28 days.

Mr. Norwood showed Phase 1, how they will be shifting mainline traffic toward the outside of the bridge and the ramp will have to be closed because this will be the acceleration lane. He said the 2nd Phase they will be working in the middle of the roadway and Phase 3 they will be working on the right side of the bridge, shifting traffic toward the median of the bridge. He said Phase 4 they will be working in the median, shifting toward the outside and will close the Southbound ramp for 28 days. He said they will assign detour routes around the construction. He said they will use Rte. 236, exit 2, and then turn by the Irving station and head back to Dennett Road.

Mr. Norwood said the Southbound traffic will be similar – vehicles will use Exit 2, and they will also have a Message Board further out on Dennett Road when the Southbound ramp is closed so people will have notice to find another way around.

Mr. Norwood said he would answer any questions from the Council.

Chairperson Thomson said he hoped the contractor that was chosen will be able to complete the project in less time than Cianbro with the Sarah Mildred Long bridge.

Mr. Norwood said he hopes so, and that is why they got the contract out early.

Chairperson Thomson asked Mr. Norwood if the MTA or DOT received a letter from the Town Manager requesting that with the Sarah Mildred Long bridge being closed, could this project be delayed to the Fall.

Mr. Norwood replied no, they have coordinated with DOT for some time and the Maine Dept. of Transportation is also planning a project with the high-level bridge. He said that is why they are trying to get this done in the Spring before the high-level bridge project. He said the Fall traffic volumes are high, especially Columbus Day weekend.

Councilor Dennett said since this is public information, he wanted to know who is the contractor for this project?

Mr. Norwood replied CPM Constructors out of Freeport, Maine.

Councilor Dennett said he hoped that the penalties are significant enough for them to stick to their schedule and complete it by 2020.

Mr. Norwood said the Bridge appears to have your name on it and wanted to know if it was named after Councilor Dennett.

Councilor Dennett replied half are from one side, half his family is from the other side.

Mr. Norwood said CPM spoke with Bob Taylor at DOT and found out they are getting the bridge open as soon as possible. He said the Sarah Mildred Long project should open May 10th and the middle bridge is being closed. He said that Exit 1 will be closed and assured them there will be as little an overlay as possible. He said they will have to look at that closely.

Chairperson Thomson asked that Mr. Norwood convey to the DOT the message that the Meeting has been scheduled for March 12th at the Library in Portsmouth to discuss the I-95 project, and that is a regular Council meeting for us. He said the Town Manager was not informed of this meeting until after the date was set. He said this will affect our community, and it appears that communication is falling off the table with the Town of Kittery.

Mr. Norwood said he brought some hand-out's as well.

Chairperson Thomson thanked Mr. Norwood and Mr. VanNeault for coming to the meeting.

10. PUBLIC HEARINGS

a. (020218-2) The Kittery Town Council moves to approve an application from Stateline Restaurant LLC, One Middle St., Suite 1, Portsmouth, NH for a Victualer's License for Ornell's BBQ, 2 Badger's Island West.

Chairperson Thomson said that the Code Enforcement Officer has completed the inspection and the establishment is in compliance with Town codes. He said that the notice was posted as required including the town's website.

Chairperson Thomson opened the public hearing and asked if anyone wished to speak to, for or about the matter, to please approach the lectern and state your name. Hearing none, he closed the public hearing.

COUNCILOR BEERS MOVED THE KITTERY TOWN COUNCIL APPROVE THE APPLICATION FROM STATELINE RESTAURANT LLC, ONE MIDDLE ST., SUITE ONE, PORTSMOUTH, NH FOR A VICUTALER'S LICENSE FOR ORNELL'S BBQ, 2 BADGER'S ISLAND WEST.

COUNCILOR PELLETIER SECONDED THE MOTION. ROLL CALL VOTE WAS TAKEN, 5-0, FIVE IN FAVOR, NONE OPPOSED, MOTION CARRIES.

b. (020218-3) The Kittery Town Council moves to approve an application from Stateline Restaurant LLC, One Middle St., Suite One, Portsmouth, NH for a Special Activity Amusement Permit for Ornell's BBQ, 2 Badger's Island West.

Chairperson Thomson opened the public hearing and asked if anyone wished to speak to, for or about the matter. Hearing none, he closed the public hearing.

COUNCILOR BEERS MOVED THE KITTERY TOWN COUNCIL APPROVE THE APPLICATION FROM STATELINE RESTAURANT LLC, ONE MIDDLE ST., SUITE ONE, PORTSMOUTH, NH FOR A SPECIAL ACTIVITY AMUSEMENT PERMIT FOR ORNELL'S BBQ, 2 BADGER'S ISLAND WEST. COUNCILOR PELLETIER SECONDED THE MOTION.

Chairperson Thomson asked if there was any discussion.

Councilor Dennett asked if the representative was here this evening, and if so, please go up to the podium as he had some questions regarding inside and outside live music during the summer. He said the building is not in a residential zone, it is in the business zone, but there are residences nearby and they have had problems in the past.

Councilor Dennett asked Mr. David Vargas if he planned to have local artists performing, nothing too crazy.

Mr. Vargas replied they would be performing, with guitars, mostly acoustic.

Mr. Vargas replied they are open until 10 pm on weekends and the artists would be playing 8:30 – 9:00 p.m. at night.

Councilor Dennett wanted to know, if granted, will Mr. Vargas be certain of that, because the permit will be for certain hours, days and place, and the hours listed on the application state 6:00 p.m. – 9:00 p.m. on Thursday night.

Mr. Vargas responded okay, that sounds great, it will be Thursdays, 6:00 – 9:00 pm. He said he looked at what night they already had for entertainment.

Councilor Dennett said do not let the noise get out of hand. He said that Mr. Vargas signed the application and wanted to know what authority or legal relationship he has with the establishment, because that was left blank.

Mr. Vargas apologized and said he is the Assistant Manager and a member of the LLC.

Councilor Dennett asked him to put that information on the application.

Mr. Vargas agreed.

ROLL CALL VOTE WAS TAKEN, 5-0. FIVE IN FAVOR, NONE OPPOSED, MOTION CARRIES.

c. (020218-4) The Kittery Town Council moves to approve a renewal application from The Dance Hall, 7 Walker Street, Kittery, ME for a Special Activity Amusement Permit for The Dance Hall, 7 Walker Street.

Chairperson Thomson said the CEO has completed the inspection and the establishment is in compliance with Town codes. He said the public hearing notice has been posted as required.

Chairperson Thomson asked if anyone wished to speak to, for or about the matter and opened the public hearing at 6:30 p.m. Hearing none, he closed the public hearing.

COUNCILOR BEERS MOVED THAT THE KITTERY TOWN COUNCIL APPROVE THE RENEWAL APPLICATION FROM THE DANCE HALL, 7 WALKER STREET, KITTERY FOR A SPECIAL ACTIVITY AMUSEMENT PERMIT FOR THE DANCE HALL. COUNCILOR PELLETIER SECONDED THE MOTION. ROLL CALL VOTE WAS TAKEN, 5-0, FIVE IN FAVOR, NONE OPPOSED, MOTION CARRIES.

11. DISCUSSION

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

Chairperson Thomson asked if any member of the public wished to speak, please stay within the three-minute limit.

Vern Gardner asked the Councilors to guard against taking remarks delivered from the lectern personally. He said as they know when he is in public he treats each of them with dignity and a good sense of humor. He said on February 12th, Councilor Beers' told us all his misdeeds...

Chairperson Thomson interrupted and said please refrain from using the term, "misdeeds". He said if you would like to use the word, "actions", fine but you are denoting a character to an individual's behavior that we have no knowledge of.

Mr. Gardner said he will establish a foundation and move to that. He said Councilor Beers told us he no longer held the title as Manager but was employed by Hynes to serve the needs of the Mobile Home Park. He said that, on October 17, 2017, the date in question, Councilor Beers, personally, while serving as Chair, and employed by Hynes, solicited building permits for his employer. He said there is a perceived financial conflict of interest as outlined in Sec. 12.1 (1) of the Town Charter because he attempted to extract a fee from the town of \$3,000 when he knew full well the correct fee was \$213.

Mr. Gardner said according to Sec. 12.1 (2) of the Town Charter, indirect control of real estate, Councilor Beers admitted that, part of his responsibilities, was getting building permits. He said Councilor Beers was caught and attempted to hoodwink the taxpayers of Kittery. He said the permits were denied. He said Councilor Beers' rebuttal shows a violation of Sec. (12)(2) (2). He said Title 15 had not been adopted by the Town Council and wanted to know why does it take an ordinance to bring Councilor Beers into ethical posture.

Chairperson Thomson asked if there was anyone else who wished to speak. Hearing none, he closed the public portion of the meeting.

c. Chairperson's response to public comments

Chairperson Thomson said to Mr. Gardner that he hates to get in the middle of this "cat" fight and terms like "caught" and "hoodwinked" and so forth are inflammatory. He said we all know we have

free speech, but he is again concerned with the terminology used and he wished that Mr. Gardner would engage in a civil dialogue.

Chairperson Thomson asked Councilor Beers if he would like to respond.

Councilor Beers thanked Chairperson Thomson, but he did not want to comment.

12. UNFINISHED BUSINESS – none

13. NEW BUSINESS

a. Donations /gifts received for Council disposition – none

b. (020218-5) The Kittery Town Council moves to approve the disbursement warrants.

Chairperson Thomson asked Councilor Beers if the Town and Sewer payable warrants were in due form. Councilor Beers replied they were.

Chairperson Thomson asked Councilor Pelletier if the School payable warrant was in order. Councilor Pelletier replied it was.

CHAIRPERSON THOMSON MOVED TO APPROVE AND THAT TOWN WARRANT IN THE AMOUNT OF \$175,964.68 AND SEWER PAYABLE WARRANT IN THE AMOUNT OF \$78,187.17 AND SCHOOL PAYABLE WARRANT IN THE AMOUNT OF \$253,284.01 BE PAID, SECONDED BY COUNCILOR PELLETIER. ALL WERE IN FAVOR BY A VOICE VOTE, AYE, 5-0. MOTION CARRIES.

c. (020218-6) The Kittery Town Council moves to accept the resignation from Robert Harris from the Planning Board.

Chairperson Thomson said he has a letter from Mr. Harris to the Chair dated Feb. 9, 2018.

COUNCILOR BEERS MOVED THAT THE KITTERY TOWN COUNCIL ACCEPT THE RESIGNATION FROM ROBERT HARRIS WITH THANKS FOR HIS SERVICE, SECONDED BY COUNCILOR PELLETIER. ROLL CALL VOTE WAS TAKEN, 5-0, FIVE IN FAVOR, NONE OPPOSED, MOTION CARRIES.

d. (020218-7) The Kittery Town Council moves to approve an application from Stateline Restaurant LLC, One Middle St., Suite 1, Portsmouth, NH for a Malt, Vinous and Spirituous Liquor License for Ornell's BBQ, 2 Badger's Island West.

COUNCILOR BEERS MOVED THAT THE KITTERY TOWN COUNCIL APPROVE AN APPLICATION FROM STATELINE RESTAURANT LLC, ONE MIDDLE STREET, SUITE ONE, PORTSMOUTH, NH FOR A MALT, VINOUS AND SPIRITUOUS LIQUOR LICENSE FOR ORNELL'S BBQ, 2 BADGER'S ISLAND WEST, SECONDED BY COUNCILOR PELLETIER.

Chairperson Thomson asked if there was any discussion.

Councilor Dennett wanted to know if the Town Clerk had any information for Council. He said question #4 on the corporation was left blank. He said he had gone on-line to check the status.

Ms. Place replied that is correct, the applicant's lawyers did mail the application to the Secretary of State on February 22nd, and they did get the paperwork.

Councilor Dennett said that the license hasn't been granted, but it has been requested.

Ms. Place responded that is correct.

Councilor Brock asked if he could follow-up on Councilor Dennett's comment. He wanted to know if the restaurant is authorized to do business.

Councilor Dennett answered that is correct. He said the State has spoken with Mr. Vargas, but his license has not yet been approved. He said that will be acceptable as it is in process.

Councilor Brock thanked Councilor Dennett.

Chairperson Thomson asked Councilor Dennett if he heard him correctly, and did he say he went online.

ROLL CALL VOTE WAS TAKEN, MOTION PASSED 5-0, FIVE IN FAVOR, NONE OPPOSED, MOTION CARRIES.

e. (020218-8) The Kittery Town Council moves to approve a renewal application from The Dance Hall, 7 Walker Street, Kittery, ME for a Malt and Vinous Liquor License for The Dance Hall, 7 Walker Street.

COUNCILOR BEERS MOVED THAT THE KITTERY TOWN COUNCIL APPROVE THE RENEWAL APPLICATION FROM THE DANCE HALL, 7 WALKER STREET, KITTERY, ME FOR A MALT AND VINOUS LIQUOR LICENSE FOR THE DANCE HALL, 7 WALKER STREET. COUNCILOR PELLETIER SECONDED THE MOTION. ROLL CALL VOTE WAS TAKEN, 5-0, FIVE IN FAVOR, NONE OPPOSED, MOTION CARRIES.

f. (020218-9) The Kittery Town Council moves to authorize the Harbourside Garden Club to place 10 signs in various locations alongside Route 1, 103, 236 and the Route 1 By-pass in Kittery, seven to ten days prior to the event, to advertise their annual plant sale, which will be held on May 26, 2018.

Chairperson Thomson said the Chair had received correspondence from the Club.

COUNCILOR BEERS MOVED THAT THE KITTERY TOWN COUNCIL AUTHORIZE THE HARBOURSIDE GARDEN CLUB TO PLACE 10 SIGNS IN VARIOUS LOCATIONS ALONGSIDE ROUTES ONE, 103, 236 AND THE ROUTE 1 BYPASS IN KITTERY, 7 TO 10 DAYS PRIOR TO THE EVENT TO ADVERTISE THEIR ANNUAL PLANT SALE, WHICH WILL BE HELD ON MAY 26, 2018. COUNCILOR PELLETIER SECONDED THE MOTION. ROLL CALL VOTE WAS TAKEN, 5-0, FIVE IN FAVOR, NONE OPPOSED, MOTION CARRIES.

g. (020218-10) The Kittery Town Council moves to authorize the Coastal New England Baseball League to hang a banner across Rogers Road in front of the Community Center from March 10th – 26th 2018 to advertise their league.

Chairperson Thomson said the Chair received correspondence from them.

COUNCILOR BEERS MOVED THAT THE KITTERY TOWN COUNCIL AUTHORIZE THE COASTAL NEW ENGLAND BASEBALL LEAGUE TO HANG A BANNER ACROSS ROGERS ROAD IN FRONT OF THE COMMUNITY CENTER FROM MARCH 10TH – 26TH 2018 TO ADVERTISE THEIR LEAGUE. COUNCILOR PELLETIER SECONDED THE MOTION.

Chairperson Thomson asked if there was any discussion.

Councilor Dennett said he has no objection but hoped the Town Clerk was keeping track with banners hanging over Rogers Road.

Ms. Place replied yes, she is keeping track on a spreadsheet.

ROLL CALL VOTE WAS TAKEN, 5-0, FIVE IN FAVOR, NONE OPPOSED, MOTION CARRIES.

h. (020218-11) The Kittery Town Council moves to approve a renewal application from BNKittery LLC, 57 State Road, Kittery, ME for a Malt, Vinous and Spirituous Liquor License for The Farm Bar & Grille, 57 State Road.

COUNCILOR BEERS MOVED THAT THE KITTERY TOWN COUNCIL APPROVE THE RENEWAL APPLICATION FROM BNKITTERY LLC, 57 STATE ROAD, KITTERY, ME FOR A MALT, VINOUS AND SPIRITUOUS LIQUOR LICENSE FOR THE FARM BAR & GRILLE, 57 STATE ROAD. COUNCILOR PELLETIER SECONDED THE MOTION.

Chairperson Thomson asked if there was any discussion.

Councilor Dennett said he does not think that the Council is looking at the applications. He said line 5 indicates yes, but they do not have a Special Activity permit. He said he spoke with the Town Clerk, who spoke with the people involved that if they intend to do this, they would have to apply for a permit. He said also, line 13, the answer is "no" – this is a renewal application.

Ms. Place said she will check into this.

Chairperson Thomson said it has been changed.

ROLL CALL VOTE WAS TAKEN, 5-0, FIVE IN FAVOR, NONE OPPOSED, MOTION CARRIES.

i. (020218-12) The Kittery Town Council hereby ordains Title 15, Code of Ethics of the Kittery Town Code, as presented.

Chairperson Thomson noted that this matter was postponed this evening. He said the Town Manager has communicated that work still needs to be done.

CHAIRPERSON THOMSON MOVED THAT THIS ITEM BE POSTPONED UNTIL THE MEETING OF MAY 28TH, SECONDED BY COUNCILOR DENNETT. ALL WERE IN FAVOR BY A VOICE VOTE, AYE. FIVE IN FAVOR, NONE OPPOSED, MOTION CARRIES.

14. COUNCILOR ISSUES OR COMMENTS

Councilor Dennett said, through the Chair, he would appreciate it if the Town Manager would make arrangements, that when applications come in, someone would please vet them to make sure they are in reasonable order so as not to waste her time, and the Council's time.

Chairperson Thomson said duly noted.

Chairperson Thomson said that there was a new residence built last year at 6 Newmarch St., and when they put in the structure, they tied into the sewer and water. He said now there is a large dip where the asphalt was torn up to connect the house to the sewer and water mains. He wanted to know who is responsible for that and can someone make the pavement even with the road.

Town Manager Amaral asked if it was a sinkhole.

Chairperson Thomson said maybe, but he thought what it was is that the asphalt has now settled.

Chairperson Thomson said regarding upcoming events, on March 26th there will be an agenda item to appoint a Council rep to the KCC Board of Directors. He said he is finishing his second term at the end of March and a lot has been accomplished. He felt that this is an opportunity for someone else on the Town Council to be on the Board. He said it is his understanding that Councilor Brock has expressed an interest in that and asked him to speak with Janice to see what is involved.

15. COMMITTEE AND OTHER REPORTS - none

16. EXECUTIVE SESSION - none

17. ADJOURNMENT

COUNCILOR PELLETIER MOVED TO ADJOURN THE MEETING AT 6:48 P.M., SECONDED BY COUNCILOR BEERS. ALL WERE IN FAVOR BY A VOICE VOTE, AYE. MOTION CARRIES.

Respectfully submitted,

Barbara Boggiano
Recording Secretary

Approved 3-26-18