

1. Call to Order

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

2. Introductory

Chairperson Beers read the introductory.

3. Pledge of Allegiance

Chairperson Beers led those present in the Pledge of Allegiance.

4. Roll Call

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

5. Agenda Amendment and Adoption

Item 13f was revised to replace “devises” with “devices”. Item 13k was moved on the agenda as Item 9b. The agenda was adopted, as amended.

6. Town Manager’s Report

Town Manager Amaral reviewed her written report.

Fire on Cook Street – On Thursday, May 11th, a fire broke out at the home of School Resource Officer Jay Durgin. All members were able to evacuate safely and the Kittery Fire Department did an outstanding job responding to the incident. The Durgin family will be displaced for some time and the local community immediately supported the family and offered assistance. Aside from this, Traip Academy cafeteria service worker, Melissa Hasty, lost her husband, Michael Daigneault on April 30th. Traip Academy will be hosting a spaghetti dinner from 5:00pm to 7:00pm on Tuesday, May 23rd with all proceeds raised being given to these two community members.

Memorial Day Parade – The Memorial Day Parade begins at the American Ambulance Service at Walker Street on Saturday, May 27th. She asked Council to let her know who will participate.

Flags on State Road – About 47 flags will be placed on State Road from May until mid-July.

Portsmouth Naval Shipyard – On May 17th, a staff meeting with the PNS leadership team was held to discuss traffic and parking concerns. Town Manager Amaral continues to advocate for an overarching transportation plan with respect for traffic patterns generated from the PNS. She appreciates the open and productive conversation with the leadership team.

Absentee Ballots Are Available – Absentee ballots are available in the Town Clerk’s office until Thursday, June 8th. Polls will open on Tuesday, June 13th from 8:00am to 8:00pm at the Kittery Community Center. Residents may register to vote up to and including election day.

Emery Field Phase 1 – Construction of the Emery Field Phase 1 project has begun. This project will result in a multipurpose field that is leveled and aerated. Temporary fencing has been installed so the site can be kept safe during construction. She explained other aspects of the project and how it will impact “Dan’s Path”.

Library Working Group – More than 50 people attended the second Rice Library Building workshop on Saturday, May 13th. The next step is a paper and online survey to gather additional input and indications of preferences.

Upcoming Dates – The following upcoming events were announced:

- Absentee ballots are available in the Town Clerk’s office during Town Hall hours between May 13 to June 8th. Town Hall is open Monday-Thursday from 8:00am – 6:00pm.
- Memorial Day Parade – Saturday, May, 27th 9:00AM, starting at 25 Walker Street
- Polls – Tuesday, June 13th 8:00AM–8:00PM, Kittery Community Center
- Kittery Block Party – Saturday, June 17th 10:00AM-4:00PM, Kittery Foreside

Councilor Spiller suggested an informational sign for the Emery Field Phase 1 project would be beneficial. Councilor Dennett questioned the Right-of-Way at Dan’s Path and suggested to consult with the Town Attorney for clarification.

7. Acceptance of Previous Minutes

The minutes of the May 8, 2017 regular meeting and May 15, 2017 special meeting 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. (050317-1) The Kittery Town Council moves to recognize the recipients of the 2017 Educational Recycling Scholarships.

Mr. Jeffery Brake recognized Councilor Pelletier and Messrs. George Dow and Herbert Kingsbury for their participation on the Selection Committee. He explained how students will collect their second payment of the scholarship. Vice Chairperson Denault and Mr. Brake announced the recipients of the 2017 Educational Recycling Scholarships as follows:

First-time Recipients:

- Jacob Christiansen, \$750
- Ethan Nightingale, \$750
- Amelia Sullivan, \$1,000
- Ryan Stewart, \$1,000
- Rachel Potter, \$1,000
- Barbara Brown, \$1,250
- Emily Jones, \$1,500

Repeat Recipients:

- Emma Kemp, \$750
- Joseph Lombardi, \$750

- Haley Perraria, \$750
- Lynn Moore, \$750
- Hailey Frisbee, \$1,000
- Michael Lombardi, \$1,500

Vice Chairperson Denault noted the annual scholarship is funded by the generous donations of redeemable containers from Kittery residents at the Kittery Resource Recovery Facility. Chairperson Beers added that these are continuing scholarships and students are eligible to reapply each year. He wished them all the best during the college career to their best efforts.

b. (050317-18) The Kittery Town Council moves to authorize an alternative procurement method in accordance with Sec. 3.2.7 of the Kittery Town Code, for the Purchasing Agent/Town Manager to engage EnviroVantage to demolish Mary's Store.

**COUNCILOR SPILLER MOVED TO AUTHORIZE AN ALTERNATIVE
PROCUREMENT METHOD FOR SAID PURPOSE, SECONDED BY COUNCILOR
PELLETIER.**

Chief O'Brien provided a brief statement regarding the necessary permits and qualifications required of the contractor, according to Maine DEP. John Turner Consulting received three quotes that exceeded the \$25,000 threshold requiring formal bidding. The lowest bid received was \$35,675 from EnviroVantage. The authorization for an alternative procurement method will begin the process to remove the building from the property.

Councilor Dennett asked if EnviroVantage would perform backfill and finish grading. Chief O'Brien clarified that the Department of Public Works may have to finish the job with compaction or finish grading since the work proposal from EnviroVantage includes placing loose fill only.

Councilor Thomson provided a brief history of the Mary's Store building when it was the Thomson Bros. Store, a grocery store that opened in 1936. He explained how it later became a restaurant, a barber shop, and a gas station until it was sold to Mary Shupe in 1973. He emphasized that the property was once owned by a man who cared about his neighbors and the community.

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

10. PUBLIC HEARINGS

a. (050317-2) The Kittery Town Council moves to hold a public hearing on an application from Nathaniel R. Wilson, 7 Harvest Drive, Dover, NH for a Victualer's License for Nathaniel's Hotdog's, LLC, Outlets at Kittery, 283 US Route 1.

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

b. (050317-3) The Kittery Town Council moves to hold a public hearing on an application from The Poutine Company, LLC, 155 Saco Ave, Suite 2B, Old Orchard Beach, ME for a Victualer's License for The Poutine Company, Kittery Premium Outlets 4, 345 US Route 1.

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

c. (050317-4) The Kittery Town Council moves to hold a public hearing and hereby ordains proposed amendments to Title 16 of the Kittery Town Code as recommended by the Planning Board.

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

COUNCILOR THOMSON MOVED IN ACCORDANCE WITH TITLE 30-A, M.R.S. §3001, AND TOWN CHARTER SECTIONS 2.07(3) AND 2.14, THE TOWN OF KITTERY, HEREBY ORDAINS REVISION TO TITLE 16, §2.2 DEFINITIONS, §4.4.14, NON-STORMWATER DISCHARGE, §7.3 NONCONFORMANCES, §9.7, NON-STORMWATER DISCHARGE, AND §10.5.2 PLANNER REVIEW AND CONFIRMATION OF SUBMITTAL CONTENT- PRELIMINARY PLAN AS PRESENTED. SECONDED BY VICE CHAIRPERSON DENAULT. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

d. (050317-5) The Kittery Town Council moves to hold a public hearing and hereby ordains proposed amendments to Title 16 of the Kittery Town Code, regarding retail and medical marijuana use.

Chairperson Beers opened the floor for public comment.

Mr. Jim VanKennen, 19 Short Farm Rd, spoke about the importance of slowly embracing the new law rather than turning away from it like other communities have. He encouraged consideration for an additional tax on retail sales that would help offset any additional costs on municipal services.

Ms. Susan Johnson, 14 Tenney Hill Road, spoke about disseminating information regarding marijuana as widely as possible. She questioned whether there will be plans to undertake the economic studies suggested by the National Marijuana Initiative in their presentation at Traip Academy on May 17th.

Ms. Shaye Robbins, 402 Haley Road, spoke about potential conflicts in the agricultural definition of medicinal marijuana with respect to recreational or retail marijuana. She suggested specific verbiage revisions to provide more clarity.

Ms. Elizabeth Burke, 15 Cutts Island Lane and Traip Academy Nurse, encouraged consideration for how the new law will impact the youth population. She wants to see the Town move slowly and thoughtfully in regards to regulating marijuana use.

Seeing no one else rise; Chairperson Beers closed the public hearing.

Town Manager Amaral provided a brief explanation of what this short-term measure is with respect to the larger effort. She noted the current Code does not address medical marijuana even after the law was passed in 2009. She explained how the proposed amendment would change the current procedures and allowed uses.

COUNCILOR THOMSON MOVED TO HEREBY ORDAINS PROPOSED TITLE 16 AMENDMENTS, SECONDED BY COUNCILOR PELLETIER.

Councilor Dennett spoke neither in favor nor opposition of the motion. He felt that voting in favor of the motion would conflict with obeying the federal law regulating marijuana. He requested to divide the question into two and Chairperson Beers ordered as requested. A second motion would be made for proposed amendments to Title 16.8.22.3 separately.

COUNCILOR THOMSON MOVED, IN ACCORDANCE WITH TITLE 30-A MRS §3001, AND TOWN CHARTER §2.07(3) AND §2.14, THE TOWN OF KITTERY HEREBY ORDAINS REVISION TO TITLE 16, §2.2 DEFINITIONS AND §8.22.2 MINOR HOME OCCUPATION, OF THE TOWN CODE, AS PRESENTED.

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

COUNCILOR PELLETIER MOVED, IN ACCORDANCE WITH TITLE 30-A MRS §3001, AND TOWN CHARTER §2.07(3) AND §2.14, THE TOWN OF KITTERY HEREBY ORDAINS REVISION TO TITLE 16, §8.22.3 MAJOR HOME OCCUPATION, OF THE TOWN CODE, AS PRESENTED. SECONDED BY CHAIRPERSON BEERS. THE MOTION PASSED BY A ROLL CALL VOTE 6/1/0, WITH COUNCILOR DENNETT OPPOSED.

e. (050317-6) The Kittery Town Council moves to hold a public hearing and hereby ordains as an emergency ordinance proposed amendments to Title 16 of the Kittery Town Code, regarding retail and medical marijuana use.

Chairperson Beers divided the question in deference to Councilor Dennett's request.

COUNCILOR THOMSON MOVED, IN ACCORDANCE WITH TITLE 30-A MRS §3001, AND TOWN CHARTER §2.15, THE TOWN OF KITTERY HEREBY ORDAINS AMENDMENTS TO TITLE 16 §2.2 DEFINITIONS AND §8.22.2 MINOR HOME OCCUPATION, SHALL BE EFFECTIVE IMMEDIATELY AND SUCH EMERGENCY ORDINANCE SHALL EXPIRE 31 DAYS FOLLOWING ADOPTION, AT WHICH TIME THE TITLE 16 REVISIONS SHALL BE IN EFFECT IN ACCORDANCE WITH TOWN CHARTER §2.14(3), AS PRESENTED. SECONDED BY CHAIRPERSON BEERS.

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

COUNCILOR THOMSON MOVED, IN ACCORDANCE WITH TITLE 30-A MRS §3001, AND TOWN CHARTER §2.15, THE TOWN OF KITTERY HEREBY ORDAINS AMENDMENTS TO TITLE 16 §8.22.3 MAJOR HOME OCCUPATION SHALL BE EFFECTIVE IMMEDIATELY AND SUCH EMERGENCY ORDINANCE SHALL

EXPIRE 31 DAYS FOLLOWING ADOPTION, AT WHICH TIME THE TITLE 16 REVISIONS SHALL BE IN EFFECT IN ACCORDANCE WITH TOWN CHARTER §2.14(3), AS PRESENTED. SECONDED BY CHAIRPERSON BEERS.

THE MOTION PASSED BY A ROLL CALL VOTE 6/1/0, WITH COUNCILOR DENNETT OPPOSED.

11. DISCUSSION

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

Jay Durgin, 2 Cook Street

Mr. Durgin spoke about his history and relation to Mary's Store. He described the devastating fire he and his family experienced at their home and complimented the remarkable response received from the Fire Department. He thanked the Department and the community for all their generous support.

Chairperson Beers responded that the Town is pleased to give back to the family.

Russell White, 59 Goodwin Road

Mr. White complimented the community for the amount of support provided to the Durgin family. He provided a detailed response to the situation involving the censure of the Planning Board Chair. He expressed concerns with the procedures that took place and explained why the Council decision was based on a defective report.

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

In response to Mr. White, he understood the position and noted the Council is prohibited from noting further on the matter. Chairperson Beers emphasized the need to revise the Council procedures manual with Ordinance level criteria for ethics and meeting conduct.

12. UNFINISHED BUSINESS – None.

13. NEW BUSINESS

- a. Donations/gifts received for Council disposition

(050317-7) The Kittery Town Council moves to receive the following donations in a total amount of \$485 to be deposited in account # 2063-43600 Kittery Community Center

Donations:

John and Aila Pratt	\$50.00	Arlene E. Berry & Denise B. Magnant	\$35.00
Donald D. Cook	\$50.00	Carpet By The Yard	\$50.00
Sandra and Anthony Licciardo	\$50.00	East Coast Heating & Air Conditioning	\$250.00

COUNCILOR THOMSON MOVED TO ACCEPT THE DONATIONS WITH THANKS, SECONDED BY COUNCILOR PELLETIER. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

(050317-8) The Kittery Town Council moves to receive a donation in the amount of \$50 from the Kittery Maine Improvement Foundation to be deposited in account #5007-43600

Thresher Memorial Fund.

COUNCILOR THOMSON MOVED TO ACCEPT THE DONATION, SECONDED BY COUNCILOR PELLETIER.

The Council discussed the need for further information regarding the donation.

COUNCILOR SPILLER MOVED TO POSTPONE ACCEPTANCE OF THE DONATION UNTIL THE DONOR QUESTION IS CLARIFIED, SECONDED BY COUNCILOR LEMONT. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

b. (050317-9) The Kittery Town Council moves to approve the disbursement warrants.

Town accounts payable of \$148,821.14.

Sewer account payable of \$30,496.22.

School accounts payable of \$140,123.49.

Total of all disbursement warrants of \$319,440.85.

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

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

c. (050317-10) 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 14, 2016 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 THOMSON MOVED TO AUTHORIZE THE RELEASE OF SAID FUNDS, SECONDED BY COUNCILOR PELLETIER. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

d. (050317-11) The Kittery Town Council moves to authorize the Kittery Block Party Committee to conduct activities as requested for the Block Party.

COUNCILOR THOMSON MOVED TO AUTHORIZE THE REQUEST, SECONDED BY COUNCILOR PELLETIER. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

e. (050317-12) The Kittery Town Council moves to approve the annual renewal list for Victualer's Licenses.

COUNCILOR THOMSON MOVED TO APPROVE THE VICTUALER'S LICENSES RENEWAL LIST AS PRESENTED, SECONDED BY VICE CHAIRPERSON DENAULT. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

f. (050317-13) The Kittery Town Council moves to approve the annual renewal list for Amusement Devices Licenses.

COUNCILOR THOMSON MOVED TO APPROVE THE AMUSEMENT DEVICES LICENSES RENEWAL LIST AS PRESENTED, SECONDED BY COUNCILOR PELLETIER. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

g. (050317-14) 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 Anju, 7 Wallingford Square, from 1:00pm- 11:00pm for the Kittery Block Party on June 17, 2017.

COUNCILOR THOMSON MOVED TO APPROVE THE ONE DAY EXTENSION, SECONDED BY COUNCILOR PELLETIER. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

h. (050317-15) The Kittery Town Council moves to authorize the release of funds in the amount of \$125,00 from unassigned funds (unencumbered surplus) as approved by the voters at the June 14, 2016 Town Meeting, and to deposit said funds into account #2022 Compensated Absences to meet the town's current and future anticipated liability for benefits owed to retiring employees.

COUNCILOR THOMSON MOVED TO AUTHORIZE THE RELEASE OF SAID FUNDS, SECONDED BY COUNCILOR PELLETIER. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

i. (050317-16) The Kittery Town Council moves to appoint Kathi Hatch to the Personnel Board until 12/31/20.

COUNCILOR THOMSON MOVED TO APPOINT KATHI HATCH, SECONDED BY CHAIRPERSON BEERS. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

j. (050317-17) The Kittery Town Council moves to appoint a representative to meet with the Chair of the KCC Board of Directors to interview Maureen Convery for her re-appointment to that Board until 12/31/20.

COUNCILOR THOMSON MOVED TO APPOINT MAUREEN CONVERY WITHOUT BENEFIT OF AN INTERVIEW, SECONDED BY COUNCILOR PELLETIER. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

14. COUNCILOR ISSUES OR COMMENTS

Councilor Lemont thanked Councilor Thomson for highlighting the history of the Thomson Bros. Store. He questioned if the situation regarding Highpointe Circle had been resolved. Town Manager Amaral provided a brief update on the situation and stated it is not ready to come back before the Council. Councilor Lemont asked at what point discussions regarding retail marijuana and social clubs would occur. He encouraged the Council to act proactively on the matter.

Vice Chairperson Denault stated an update on the Wood Island Life Saving Station project was broadcasted at 7PM. He asked whether the Town could provide assistance to the owners at Armour Drive to remove debris from the property and transport to the Resource Recovery Facility. He recognized the names of those that have recently passed.

15. COMMITTEE AND OTHER REPORTS

- a. Communications from the Chairperson

The Council reached consensus that a workshop on the proposed FY'17 budget is unnecessary and any questions from the Council can be directed to the Town Manager.

- b. Committee Reports – None.

16. EXECUTIVE SESSION

- a. (050317-19) The Kittery Town Council moves to go into executive session with the Town Manager in accordance with 1 M.R.S. §405 (6)(E) to discuss a legal matter.

COUNCILOR SPILLER MOVED TO GO IN TO EXECUTIVE SESSION AT 8:28 P.M. WITH THE TOWN MANAGER, SECONDED BY VICE CHAIRPERSON DENAULT. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

VICE CHAIRPERSON DENAULT MOVED TO COME OUT OF EXECUTIVE SESSION, SECONDED BY COUNCILOR THOMSON. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

- b. (050317-20) The Kittery Town Council moves to go into executive session with the Town Manager in accordance with 1 M.R.S. §405 (6)(A) to discuss a personnel matter.

COUNCILOR SPILLER MOVED TO GO IN TO EXECUTIVE SESSION WITH THE TOWN MANAGER, SECONDED BY COUNCILOR THOMSON. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

COUNCILOR SPILLER MOVED TO COME OUT OF EXECUTIVE SESSION AT 8:50 P.M., SECONDED BY COUNCILOR THOMSON. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.

17. ADJOURNMENT

COUNCILOR THOMSON MOVED TO ADJOURN THE MEETING AT 8:51 P.M., SECONDED BY COUNCILOR PELLETIER. THE MOTION PASSED BY A UNANIMOUS VOICE VOTE 7/0/0.

Submitted by Marissa Day, Minutes Recorder, on May 27, 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/locations/kittery-maine>.