

TOWN OF KITTERY

200 Rogers Road, Kittery, ME 03904
Telephone: (207) 475-1329 Fax: (207) 439-6806

KITTERY TOWN COUNCIL COUNCIL CHAMBERS

September 25, 2023

6:00PM

Meetings may be watched in person, on Channel 22, the Town's website, or Kittery Channel 22 Facebook page.

The public may submit public comments via email, US Mail, or by dropping off written comments at the Town Hall. Emailed comments should be sent to:
TownComments@kitteryme.org.

The public may participate in person or via Zoom webinar. **To register for the Zoom webinar, click this link:**

https://us02web.zoom.us/webinar/register/WN_Jwt-6s_Tr6-AD_fIOW-fw

Written comments received by noon on the day of the meeting will become part of the public record and may be read in whole or in summary by the Council Chair.

1. Call to Order
2. Introductory
3. Pledge of Allegiance
4. Roll Call
5. Agenda Amendment and Adoption
6. Town Manager's Report
7. Acceptance of Previous Minutes
 - August 21, 2023
8. Interviews for the Board of Appeals and Planning Board

9. All items involving the town attorney, town engineers, town employees or other town consultants or requested offices.
 - a.(090223-01) The Kittery Town Council moves to accept a presentation of the Tribal Flag from the Cowasuck Band of the Pennacook-Abenaki tribe.
 - b.(090223-02) The Kittery Town Council moves to incorporate land acknowledgement language into the Council Introductory Statement.
10. PUBLIC HEARINGS
 - a.(090223-03) The Kittery Town Council moves to hold a public hearing on Title 16 – Septic System amendment.
11. DISCUSSION
 - a. Discussion by members of the public (three minutes per person)
 - b. Response to public comment directed to a particular Councilor
 - c. Chairperson’s response to public comments
12. UNFINISHED BUSINESS -
13. NEW BUSINESS
 - a. Donations/gifts received for Council disposition.
 - b.(090223-04) The Kittery Town Council moves to accept the resignation from E Alan Johnston, from the Kittery Port Authority, effective September 13, 2023.
 - c.(090223-05) The Kittery Town Council moves to appoint Kavika Vargas as the Student Representative to the Diversity Equity and Inclusion Ad Hoc Committee.
 - d.(090223-06) The Kittery Town Council moves to sign the Warrant for the Municipal and School Election.
 - e.(090223-07) The Kittery Town Council moves to accept a request from the Traip Boosters to place signage around Town from October 27 to November 12 for their craft fair.
14. COUNCILOR ISSUES OR COMMENTS
15. COMMITTEE AND OTHER REPORTS
 - a.Communications from the Chairperson
 - b.Committee Reports

16. EXECUTIVE SESSION

- a. (090223-08) The Kittery Town Council moves to go into Executive Session in accordance with 1 M.R.S. §405(6). To Discuss the Town Managers annual performance evaluation.

17. ADJOURNMENT

Posted: September 21, 2023



TOWN OF KITTERY

Office of the Town Manager

200 Rogers Road, Kittery, ME 03904

Telephone: 207-475-1329 Fax: 207-439-6806

kamaral@kitteryme.org

Town Manager's Report to the Town Council September 25, 2023

- 1. Citizen Planner Academy** – The Kittery Housing Committee is pleased to launch the Citizen Planner Academy as a new opportunity to learn how the planning process happens from the landowner and land use regulatory perspectives. This program was developed by the Urban Land Institute for students and volunteers.

The Citizen Planner program is part of the Town's efforts to engage and inform community members about the processes, constraints, and realities of the land use planning and development process in a hands-on way. The Citizen Planner Academy is being held Saturday, October 21, from 9AM to 2:30PM at the Kittery Community Center.

Participants in the academy will spend a half day in a realistic role-playing exercise learning about the fundamental forces that affect development at a local level. Participants will have an opportunity to develop a hypothetical project and work through the challenging issues, private and public sector roles, complex trade-offs and fundamental economics in play when proposing realistic land use solutions.

No experience in land use or development fields is needed to participate in the workshop, however, a commitment to community engagement and interest in Kittery's future is strongly encouraged. The program is limited to 25 participants for the role-playing. Anyone interested in the Academy but not interested in being a part of the role-playing are welcome to come and observe the Academy.

To apply to be a part of the Academy, community members are encouraged to visit www.kitteryme.gov/citizenplanneracademy for information and the application. Applications are due October 2, 2023.

- 2. LED Light Conversion Project** – The LED Light Conversion project is nearly complete at the Kittery Community Center. The project is expected to reduce energy consumption for lighting at the KCC by 70% each year. The project involved a combination of light replacements and retrofits.

The voters also recently funded the LED conversion project for the Town Hall complex for \$97,000. In an effort to try and stretch the funding as much as possible, we applied for Community Resiliency Partnership program for the project as well. If awarded, the Town would have received up to \$50,000 in funding for the project from the State.

Unfortunately, the Town was not successful in the grant application. The state funded primarily "first time applicants". Kittery received a Community Resiliency Partnership grant for its regional climate action plan project in 2022.

- 3. General Grants Update** – Attached please find the updated grant report.

The Town was recently awarded a \$210,000 grant from SMPDC for the hazardous materials removal of the garage and house at 42 – 44 Old Post, and demolition of the garage.

We have submitted a draft application for a National Historic Records Preservation grant to preserve a cache of official Town records recently found in the Kittery Historical and Naval Museum storage, spanning from 1699 to 1832. The application was submitted in partnership with the Kittery Historical and Naval Society. The project, if awarded, will also digitize and make more broadly available official Town records from 1648 to 1988 including oaths of office, official town records, and records of official acts. We are awaiting National Archives feedback on whether the application is greenlighted to move forward to the full application phase.

The Town is also serving as the lead applicant on a \$950,000 grant to the Department of Energy, Energy Efficiency & Conservation Block Grant program for a Southern Maine Energy Navigator program. The program, as designed, will provide gap or upfront funding for qualified homeowners to install energy efficient solutions in their homes including heat pumps, led lighting, and weatherization. The program will also provide navigators to assist those in need with applying for an obtaining Efficiency Maine rebates and incentives.

Finally, we recently applied again for funding for the Stevenson Sidewalk project. This is the third attempt to obtain a grant with MaineDOT for this project. The project, as designed, will add sidewalk infrastructure from the field at Shapleigh Middle School to Route 236. The total estimated project cost is \$967,413, of which we are seeking \$720,000 in state funding.

In the past 20 months we have applied for over \$7.3M in grants and have been awarded \$1.56M for a variety of projects. This number excludes normal annual grants for public safety equipment and funding support received by the Kittery Community Center and Rice Public Library for program sponsorship and donations.

- 4. Paving Projects** – We are fielding a lot of questions and complaints regarding the pavement conditions on Route 236 and Dennett Road from the Town of Eliot line. The paving for these roads are MaineDOT projects. We understand Dennett Road is scheduled for paving next construction year, while Route 236 is still in the design phase.

As the Council may recall, we asked MDOT to incorporate the corridor study recommendations for a center turn lane and center medians into the Route 236 project to address safety concerns raised by Kittery and Eliot at various connecting streets such as Bolt Hill, Mackenzie Lane, and Fernald. MDOT had not originally incorporated these components into their project design. MDOT has since agreed to review the project design for incorporation of the components Kittery and Eliot requested.

MaineDOT is also scheduled to replace the intersection at Gate 1/Walker/Government/Wentworth and install/replace sidewalks on Walker and Wentworth from State Road to Whipple. That project is expected to be bid this fall for construction to begin in the spring. The state will manage the project and coordinate with Kittery. Kittery is responsible for approximately 20% or \$360,000 based on FY21 estimate.

- 5. November 7 Election** –The election will be held on **November 7, 2023 from 8AM to 8PM at the Kittery Community Center**. The ballot will include local elected positions and state referenda.

Absentee ballot applications are available at the Town Clerk's Office.

Candidate Night has been scheduled for October 16, 6:30PM at Town Hall. This is for candidates of local seats, specifically Town Council and School Committee. Candidate Night is hosted by the

Student Government of Traip Academy and their advisor. Candidate Night is not led by any local voter group or newspaper. The format and questions are chosen and managed by the students.

For more information about obtaining nomination papers, registering to vote, or applying for an absentee ballot, please contact Town Clerk Jillian Richards at 207-475-1313 or at jrichards@kitteryme.org.

Upcoming Dates:

- Route 1 Corridor Feasibility Study Info Session – September 27, 6PM, Town Hall
- Freebie Open the Last Saturday of the Month – September 30, 9AM to 1PM
- Temporary Bike/Ped Demonstration Public Input Session – October 4, 6PM Town Hall
- Invasives Management at Fort Foster Volunteer Event – October 4, 5PM to 6:30PM, Fort Foster
- Town Hall Closed in Observance of Indigenous Peoples Day – October 9
- Candidate Night – October 16, 6:30PM, Town Hall
- Halloween Celebration – October 21, 10AM to 1PM, Kittery Community Center
- Community First Non-Profit Fair – October 25, 5PM to 6:30PM, Kittery Community Center
- Trick or Treat – October 30, 5PM to 8PM

Respectfully Submitted,



Kendra Amaral
Town Manager



GRANTS SUMMARY
Applications Since: January 1, 2022

Applied for:	\$7,316,876	23
Awarded:	\$1,562,703	13
Match Required:	\$661,714	16
Awaiting Decision:	\$2,684,212	
Success Rate:		56.5%
Money Multiplier \$	2.36	

Project	Grant Program	Source	REQUEST (w/o match)	Proposed Match	Match Type	Award	Award Amount (w/o match)	Award Match Requirement	Contact	Line Item Match Source
Emery Field Phase 2	Land & Water Conservation	State of Maine	300,000	\$ 350,000	Cash	Yes	\$ 375,000	\$ 350,000	Jessa Kellogg	Capital/Reserve
COVID	American Rescue Plan Act	Treasury	1,037,000	\$ -	N/A	Yes	\$ 1,037,000	\$ -	Kendra Amaral	
Legion Pond	Invasive Aquatic Plant Removal	MaineDEP	60,720	\$ 15,180	Cash	Yes	\$ 40,522	\$ 15,180	Jessa Kellogg	Operating budget
Housing/Transportation/Climate/Comms ¹	Joint Land Use Program	OLDCC (Dept Defense)	499,122	\$ 55,458	Inkind	Yes	\$ 499,122	\$ 55,458	Steph Carver	Inkind
Bullet Proof Vests	BPV Program	Bureau of Justice	6,367	\$ -	N/A	Yes	\$ 6,367	\$ -	Chief Richter	N/A
FT Firefighters	SAFER	Federal	816,000	\$ -	N/A	No	\$ -	\$ -	Chief O'Brien	
Stormwater infrastructure - Route 1	Municipal Partnership Initiative	MaineDOT	234,568	\$ 234,568	Cash	Yes	\$ 234,568	\$ 234,568	Jessa Kellogg	Capital/Reserve
Climate Action Cohort	Community Partnership Program	Maine GOPIF	25,000	\$ -	N/A	Yes	\$ 25,000	\$ -	Karina Graeter	N/A
Route 1 Road Diet/Planning	Planning Partnership Initiative	MaineDOT	70,000	\$ 70,000	Cash	Yes	\$ 70,000	\$ 70,000	Adam Causey	TBD
375th Celebration - Arts Festival	Kennebunk Savings Sponsorship	Kennebunk Savings	4,800	\$ -	N/A	Yes	\$ 4,800	\$ -	Jeremy Paul	N/A
Spruce Creek Watershed-Based Mgmt Plan	Watershed Program	MaineDEB	34,324	\$ 31,508	Inkind & Cash	Yes	\$ 34,324	\$ 31,508	Jessa Kellogg	Inkind/Capital
Outdoor Preschool Program	Congressionally Directed Spending	Federal Congressionally Directed Sp	100,000	\$ -	N/A	Yes	\$ 100,000	\$ -	Kendra Amaral	N/A
Community Outreach Liaison	Congressionally Directed Spending	Federal Congressionally Directed Sp	80,000	\$ -	N/A	Yes	\$ 80,000	\$ -	Kendra Amaral	N/A
Stevenson Road Sidewalk	BikePed Program	MDOT	400,000	\$ 381,712	Cash	No	\$ -	\$ -	Kendra Amaral	TBD
Walker/Wentworth Sidewalk Project	DCIP	OLDCC (Dept Defense)	1,838,677	\$ 180,808	Cash	No	\$ -	\$ -	Kendra Amaral	Capital/Reserve
Whipple Stormwater and Sharrows	Municipal Partnership Initiative	MaineDOT	250,086	\$ 250,086	Cash	Yes	\$ 255,000	\$ 255,000	Jessa Kellogg	Capital/Reserve
FT Firefighters	SAFER	Federal	878,424	\$ -	N/A	Awaiting			Chief O'Brien	N/A
Ergonomics Safety Equipment	Workplace Safety Grant	MMA	3,000	\$ -	Cash	Yes	\$ 3,000	\$ -	Maureen Paro	Operating budget
Whipple Road/Gate 2 Flood Resiliency	National Coastal Resilience Fund	National Fish and Wildlife	TBD	TBD		Awaiting			Abbie Sherwin	TBD
LED Interior Light Conversion	Community Partnership Program	Maine GOPIF	50,000	\$ 50,829	Cash	Awaiting			Kendra Amaral	Capital/Reserve
Southern Maine Energy Navigator Pilot	Energy Efficiency & Conservation Block	DOE	950,000	\$ -	Inkind	Awaiting				
Stevenson Road Sidewalk	BikePed Program	MDOT	720,000	\$ 247,413	Cash	Awaiting			Kendra Amaral	TBD
42 -44 Old Post Haz Materials Abatement	EPA Brownfields	SMPDC	210,000	\$ -	N/A	Yes	\$ 210,000	\$ -	Kendra Amaral	
Hydrogen Cyanide Gas Meters	Workplace Safety Grant	MMA	2,878	\$ -	Cash	Awaiting				
Historic Records Preservation	Archival Projects	National Archives	82,910	\$ 27,579	Inkind & Cash	Awaiting			Kendra Amaral	

- Notes:**
1. Joint Land Use Program Grant is a collaborative effort with SMPDC. SMPDC has agreed to serve as the primary applicant for this round.
 2. Climate Action Cohort Grant is a collaborative effort with SMPDC, Kennebunk, Kennebunkport, and Biddeford. SMDPC is serving as the primary contact.



TOWN OF KITTERY

TRAFFIC AND PARKING AD HOC COMMITTEE



ABOUT THE COMMITTEE

The Town Council has established the Kittery Traffic and Parking Ad Hoc Committee to work alongside a professional traffic engineer, evaluate various traffic and parking control measures and develop a Town policy for how and when desired traffic and parking control measures will be implemented.

GET INVOLVED

The Town is seeking up to five (5) at-large residents and two (2) representatives from the Kittery business community to join the committee.

To learn more about the committee and download the application, please scan the QR code below, or visit us at:

www.kitteryme.gov/trafficandparking.

Completed applications should be sent to the Town Clerk's Office at 200 Rogers Rd, Kittery, ME 03904 or via email to: jrichards@kitteryme.org.

DEADLINE TO APPLY

The deadline to apply is 4:00 PM on Wednesday, September 27, 2023.



SCAN ME



TOWN OF KITTERY



SUMMER 2023

TRAFFIC DEMONSTRATION PROJECT SURVEY

ABOUT THE PROJECT(S)

This summer, the Town of Kittery implemented a series of temporary demonstration projects throughout town, aimed at improving conditions for pedestrians and cyclists.



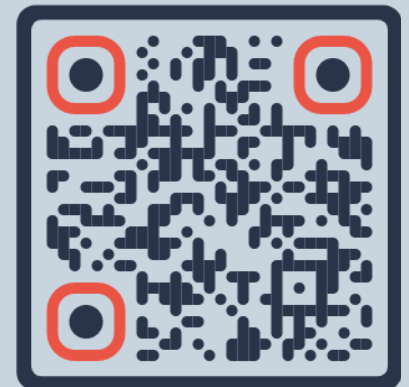
PROVIDE YOUR FEEDBACK

The Town of Kittery has launched the Kittery Moves Together survey to gather feedback and information about how the temporary designs impacted your driving, walking, and cycling experience in the project areas. The survey has 9 questions and takes less than four minutes to complete.

To share your feedback, please scan the QR code below or visit our website at www.kitteryme.gov/kitterymovestgether.

ATTEND OUR NEXT PUBLIC INPUT SESSION

OCTOBER 4, 2023 | 6 PM | COUNCIL CHAMBERS & ZOOM





ROUTE 1 CORRIDOR FEASIBILITY STUDY

PUBLIC INFORMATION SESSION

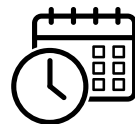
The Town is undertaking a grant-funded study with the Maine Department of Transportation (MaineDOT) to evaluate how Route 1, north of Memorial Circle to the Town of York border, should be improved for traffic safety, and enhanced mobility for pedestrians and cyclists.



WE WANT TO HEAR FROM YOU!

Hear from the project team, get an overview of the study, review existing conditions of the area and provide your valuable feedback.

Feedback gathered at the meeting will be used during the study to help make Route 1 safer and more attractive for those living, working, traveling, and shopping in the area.



September 27, 2023 | 6:00 PM
Council Chambers & Zoom

SCAN ME



For more information, please scan the QR code above or visit:

WWW.KITTERYME.GOV/ROUTE1STUDY



NEW FOR
SUMMER/FALL 2023

The Freebie Barn Keeps Getting Better

The Town of Kittery, in collaboration with the Climate Adaptation Committee and Kittery Climate Action Now (KCAN), reopened the Freebie Barn Program in 2023 with exciting improvements.

Since it reopened, community members have donated and diverted **over 5,000 lbs.** from the waste stream. But we're not done yet!

WHAT IS THE FREEBIE BARN?

The Freebie Barn is a place to drop off, pick up, and swap common, reusable items. The goal of the Freebie Barn is to prevent items that still have a useful life and purpose, from being put into the waste stream and landfills.



WHAT IS NEW AT THE FREEBIE BARN?

The Freebie Barn will continue to focus on its monthly schedule of themed items, but residents are also welcome to donate or take home items outside of the theme, as space allows.

The Freebie Barn will continue utilizing Community Partners to ensure items that still have useful life can be repurposed by those in need.

The Freebie Barn Community Swap will be discontinued at this time, and replaced with adjusted operating hours. **(More on that below!)**



WHEN IS THE FREEBIE BARN OPEN?

We've been collecting data, talking to our volunteers and listening to YOU. Beginning in August, the Freebie Barn will observe extended hours on Wednesdays, and beginning in September, the Freebie Barn will be open on the last Saturday of the month.

Freebie Barn: Open to the public for item drop-offs and pick-ups at the KRRF:

- Wednesdays from 11 AM - 3 PM **(beginning in August!)**
- Last Saturday of the month from from 9 AM - 1 PM **(beginning in September!)**

Note: The Freebie Barn's hours will be dependent on volunteer availability.



DO YOU STILL NEED VOLUNTEERS?

Yes, every month! The Freebie Barn is a volunteer-operated program and requires engaged citizens like YOU to help make it a success.

For more information, or to sign up to be a Freebie Barn volunteer, scan the QR code here or visit:
www.kitteryme.gov/freebiebarn



SCAN ME

INVASIVES MANAGEMENT AT FORT FOSTER

Help the Town of Kittery treat and remove non-native plants and establish habitats for cottontail rabbits as part of the Fort Foster's Invasive Species Management Plan.

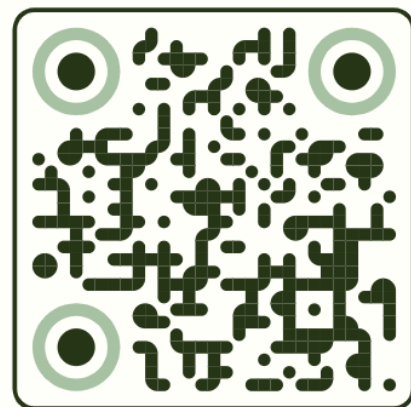


September 20, 2023 & October 4, 2023 | 5 PM - 6:30 PM

Learn about the Invasives Mgmt Plan

Learn to identify invasive plants

Learn to remove invasive plants



SCAN

FMI or to sign up to volunteer, scan the QR code above or visit: www.kitteryme.gov/volunteer.

TOWN OF KITTERY

TRICK
OR
TREAT

OCTOBER 30
5:00 PM - 8:00 PM

HAVE FUN | BE SAFE | GET SPOOKY



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on Instagram @KitteryTownHall



on Twitter (X) @TownofKittery



on LinkedIn @town-of-kittery-maine

For more information, please visit www.kitteryme.gov.

SUBSCRIBE



TO TOWN OF KITTERY E-ALERTS

Subscribe to Town of Kittery e-alerts to receive notifications via e-mail about important Town of Kittery news, announcements, events, and much more!



SCAN ME

1
2 **KITTERY TOWN COUNCIL**
3 **08/21/2023**
4 **6:00PM**

5
6 1. Call to Order

7 Chair Spiller called the meeting to order at 6 PM.

8 2. Introductory

9 3. Pledge of Allegiance

10 4. Roll Call- Councilor's present- Councilor Bragg, Councilor Dow, Councilor Clark,
11 Councilor Hamm, Councilor Stevens, Vice Chair McGuire, Chair Spiller

12 5. Agenda Amendment and Adoption

13 Chair Spiller amended New Business item f. to say 8 acres not 14 acres.

14 Chair Spiller cast one vote in favor of adoption as amended.

15 6. Town Manager's Report

16 Town Manager reported on Pop Up Game Pods, Fort Foster Off Season Operations Starting
17 Early, Freebie Barn Fall Program, November 7 Election and Annual Goals Q2 Report.

18 Upcoming Dates:

19 Applications for Absentee Ballots Available – Beginning August 21, 2023

20 Town Offices Closed in Observance of Labor Day – September 4, 2023

21 Town Council & School Committee Nomination Papers Due –September 8, 2023

22 Shellfish License Issuance Day – September 23

23 Proposed Climate Actions Open House –September 23

24 3rd Annual Taste of Kittery – September 23

25 Route 1 Corridor Feasibility Study Info Session – September 27

26
27 Councilor Clark stated that a self-sustained gate system might be something to consider for
28 Fort foster in the future.

29 Town Manager responded.

30
31 Chair Spiller asked about the rules around dogs and grills in the off season. She also inquired
32 about the revenue impact of closing early.

33 Town Manager responded.

34
35 Councilor Dow stated that he liked the idea of the charging station Councilor Clark mentioned.

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7. Acceptance of Previous Minutes

- May, 22 2023
- June 12, 2023
- June 26, 2023

All were in favor of accepting minutes as presented.

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 offices.

- a.(080123-01) The Kittery Town Council moves to receive a presentation on the Joint Land Use Study.

Town Manager introduced Steph Carver, and Laura Machala who was remote.

Steph Carver and Laura Machala gave a presentation on the Joint Land Use Study.

Councilor Stevens asked when the micro transit report will start and when it was implemented if they would continue tracking data.

Steph Carver responded.

Councilor Hamm thanked the presenters for the detailed presentation. He asked if it would be considered or if it would be possible to convert the prison on the naval base to housing for the military, which would then free up some housing here in town for residents.

Both Steph Carver and Laura Machala responded.

Councilor Hamm also asked for clarification on the ADU information in the presentation.

Laura Machala and the Town Manager responded.

Councilor Dow asked if it would be effective to use a transit system.

Steph Carver responded.

Vice Chair McGuire thanked the presenters for their informative presentation. He asked if there was anything residents can do to help this project.

Steph Carver responded.

Councilor Clark asked the Town Manager about the State laws on ADU's. He also asked how much our cost for the Coast bus is and how long we have the contract for.

Town Manager responded.

78 Councilor Clark stated that there is a worker driver program currently in place on the shipyard
79 and he feels as though the micro transit will be difficult because it is up to the workers as to
80 whether or not they use it. He stated that there is a way already for those people to get into
81 work and they are still choosing to drive themselves so he feels it may not be beneficial.

82
83 Councilor Bragg stated that the prison on the shipyard that Councilor Hamm mentioned, is
84 considered a historical site and that is where the issue lies when talking about tearing it down
85 and rebuilding.

86
87 Chair Spiller asked if they have surveyed navy workers in the outer districts.
88 Steph Carver responded.

89
90 Chair Spiller stated that the number one complaint in the Town is the Navy Yard traffic. From
91 what she is told from people on the yard, it is a loss of productivity getting on and off the base
92 due to the traffic. She believes there is some sort of solution but it does not involve building a
93 parking garage at the water district.

94
95
96

97 10. PUBLIC HEARINGS

98 a.(080123-02) Kittery Town Council moves to hold a public hearing to approve Fiscal
99 Year 2023-year end transfers. **Notice sent out on August 14, 2023.**

100 Town manager gave an overview.

101 Emily Flinkstrom, Executive Director of Fair Tide, thanked Council for considering an allocation
102 of the surplus funds to Mainspring. She mentioned how much this would benefit the
103 community, specifically, one of the major benefits would be the transition of General
104 Assistance to Mainspring.

105 Councilor Dow asked for clarification on the amount of money that was available to distribute.
106 Town Manager responded.

107
108 Councilor Clark wanted to remind everyone that both the Police Department and the Fire
109 Department have requested more money in order to staff their departments.

110

111 Chair Spiller informed Councilor Clark that what he is saying falls under the discussion after
112 the motion has been moved.

113 Councilor Dow moved that in accordance with Title 30A MRS § 3001 in the Town Charter §
114 6.094 and the approved warrant article 8 that the Town of Kittery hereby ordains the fiscal year
115 2023 funds as presented, seconded by Chair Spiller.

116 Councilor Clark stated that a lot of the committees that we are suggesting the surplus funds be
117 distributed are not as vital as our staffing needs for public safety although he supports the

118 other committees.

119 Councilor Clark moves to remove the KCC equipment reserve, housing reserve and the
120 Community Agencies, not seconded.

121 Councilor Stevens stated that this is not the process to staff those departments, but she does
122 support what he is saying.

123 Councilor Stevens asked to amend the motion to remove \$25,000 from the KCC Equipment
124 Reserve and add that money to Mainspring raising their donation to \$100,000, seconded by
125 Councilor Bragg.

126 Chair Spiller asked the Town Manager about the budget for the KCC Equipment Fund.
127 Town Manager responded.

128
129 Councilor Bragg stated that she would like to see the \$25,000 added to Mainspring as it will
130 help to aide so much of the community's needs.

131
132 Motion passes
133 5-2-0

134
135 Councilor Dow moves to take \$20,000 from the affordable housing and move it to Mainspring
136 and taking the remaining \$30,000 to the KCC Equipment Fund, seconded by Councilor Bragg.

137
138 Councilor Hamm stated that he wishes to see the money in the Affordable Housing stay where
139 it is.

140
141 Councilor Stevens asked the Town Manager if there was an estimate on the build out of the
142 teen lounge.

143 Town Manager responded.

144
145 Vice Chair McGuire stated that he believes a lot of effort has gone into the proposed transfers
146 and he feels as though we have a good balance of allocating the funds and in the future
147 maybe to do a better job communicating the desires on these funds ahead of time. He also
148 stated that he believes Mainspring is very important to the community and fully supports them
149 but believes they will continue to raise funds in order to meet their goal.

150
151 Councilor Dow asked the Town Manager if we continue to put money into the Housing
152 Reserve Fund.

153 Town Manager responded.

154
155 Vice Chair McGuire stated that we had 2 grants for the ADUs last year and wanted clarification
156 from the Town was going to try to do this annually.

157 Town Manger responded.

158
159 Chair Spiller stated that she supports Councilor Hamm's statements about how important the
160 Affordable Housing Reserve Fund is and strongly disagrees with this amendment.

161

162 Motion fails

163 1-6-0

164

165 Chair Spiller asks for a roll call on the original motion to move \$25,000 from the KCC
166 Equipment to Mainspring.

167

168 Motion passes

169 6-1-0

170

171 b.(080123-03) The Kittery Town Council moves to hold a public hearing on a new
172 Victualers License for Sunday Supper, 21 Litchfield Road, Kittery. **Notice sent out**
173 **on August 14, 2023.**

174 Vice Chair McGuire moves to accept the license as presented, seconded by Councilor Hamm.

175 Motion passes

176 7-0-0

177

178 c.(080123-04) The Kittery Town Council moves to hold a public hearing on a new
179 Victualers License for Better Management Solutions LLC dba Subway, 290 US
180 Route 1, Kittery. **Notice sent out on August 14, 2023.**

181 Councilor Hamm moves to approve license as presented, seconded by Councilor Stevens.

182 Motion passes

183 7-0-0

184

185

186 11. DISCUSSION

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

188

189 Scott Mason, stated that he is running for the Town Council in the upcoming election and
190 would love to hear from people on their thoughts on how to move forward on the various
191 issues the Town faces.

192

193 Chair Spiller read an email from Tim Norrad, 5 MacDougal Street, where he inquired on the
194 Emery Field Renovation Playground completion.

195

196 Chair Spiller read an email from Dana Rickeridge, thanking the Town and the Council for
197 giving a free pass to Kittery teachers for Fort Foster and how nice it feels as a teacher to be
198 recognized in this way by the town.

199

200 b. Response to public comment directed to a particular Councilor

201 c. Chairperson's response to public comments

202 Chair Spiller asked the Town Manger to answer the timeline on Emery Field question.

203 Town Manager responded.

204 Chair Spiller also asked about the work around for the Pickle Ball noise.

205 Town Manager responded.

206

207 Chair Spiller stated that she was happy to see teachers enjoying Fort Foster for the gem that it
208 is.

209

210 12. UNFINISHED BUSINESS - None

211 13. NEW BUSINESS

212 a. Donations/gifts received for Council disposition. - None

213 b.(080123-05) The Kittery Town Council moves to schedule a public hearing on
214 September 11, 2023 on Title 16 – Septic System amendment.

215 Chair Spiller asked for this to be moved to September 25, 2023 as she will be away for the
216 upcoming meeting.

217 Councilor Dow moved to change the public hearing to September 25, 2023, seconded by Vice
218 Chair McGuire.

219 All were in favor.

220 c. (080123-06) The Kittery Town Council moves to appoint MaryAlice LaPoint to the
221 Conservation Commission for a three-year term to expire December 31, 2026.

222 Councilor Stevens moves to appoint MaryAlice Lapointe to the Conservation Commission for a
223 three-year term expiring on December 31, 2026, seconded by Councilor Bragg.

224 Councilor Stevens stated that it was really great to meet and interview Mrs. LaPointe.

225 Motion passes

226 7-0-0

227

228

229 d.(080123-07) The Kittery Town Council moves to appoint Susan Foster to the Parks
230 Commission for a three-year term to expire December 31, 2026.

231 Vice Chair McGuire moves to appoint Susan Foster to the Parks Commission for a three-year
232 term expiring December 31, 2026, seconded by Councilor Clark.

233 Vice Chair McGuire stated that he believes Susan will be an excellent addition to the Parks
234 Commission.

235 Motion passes

236 7-0-0

237

238

239 e. (080123-08) The Kittery Town Council moves to accept a request from Maine
240 Senior Guide to place signage around Town from October 20, 2023 to November 3,
241 2023 for their Successful Aging Expo.

242 Councilor Clark moves to accept request, seconded by Councilor Dow.

243 Motion passes

244 7-0-0

245

246 f. (080123-09) The Kittery Town Council moves to approve a letter of support for the
247 Kittery Land Trust application for a Maine Natural Resources Conservation Program
248 grant to help acquire and preserve 87 acres of land in Kittery and Eliot owned by the
249 Wollerscheid family.

250 Chair Spiller moves to approve, seconded by Councilor Stevens.

251 Chair Spiller gave a background on the property.

252 Motion passes

253 7-0-0

254

255 g. (080123-10) The Kittery Town Council moves to pledge \$12,000, from the Open
256 Space Reserve fund (2057), for the Kittery Land Trust acquisition of the
257 Wellerscheid property for the purposes of preservation and protection. **Open Space**
258 **Reserve fund has a balance of \$25,000.**

259 Chair Spiller moves to approve, seconded by Vice Chair McGuire.

260 Vice Chair McGuire stated that this is the exact use of this fund that they envisioned and is in
261 full support.

262 Motion passes

263 7-0-0

264

265

266 h. (080123-11) The Kittery Town Council moves to establish an ad-hoc committee for
267 traffic and parking.

268 Councilor Dow moves the establishment of the ad-hoc committee for traffic and parking,
269 seconded by Councilor Stevens.

270 Councilor Clark stated that he plans to participate.

271 Vice Chair McGuire stated that he thinks this committee is appropriate.

272 Councilor Hamm stated that he would like to be on this committee as well.

273 Motion passes

274 7-0-0

275

276

277 i. (080123-12) The Kittery Town Council moves to accept a request from American
278 Cribbage Congress to hold a cribbage tournament on September 24, 2023 at the
279 Kittery Lions Club. **State application and introductory email in your packet.**

280 Councilor Dow moved the request, seconded by Councilor Clark

281 Motion passes

282 7-0-0

283

284

285 14. COUNCILOR ISSUES OR COMMENTS

286 Councilor Bragg stated that she had nothing to add as the Town Manager already went over
287 what is happening in the DEI & Ad Hoc Committees so she had nothing new to add.

288 Councilor Dow stated that he believes that the Council consider property assessments be
289 done yearly to avoid large increases for the tax payers avoiding the shock level.

290 Councilor Stevens had nothing to add at this time.

291 Councilor Hamm stated that he just finished a biography of J Robert Oppenheimer and his
292 take away was the importance of speaking up even when it is against the opposition.

293 Councilor Clark thanked Judy and Julie Dow for the letters that they wrote to the Maine
294 Delegation and that he thinks that we are not given the money we need from the Federal
295 Government.

296 Vice Chair McGuire stated that as of the 14th we no longer have a Chief of Naval Operations
297 and that we are up to 300 nominations that are being blocked in the Senate for military officers.

298 Chair Spiller stated that Hydrological Study was really well done and that the Library
299 Committee has almost finished their outreach to residents. The results are showing is that
300 people really care about the Town and that many want affordable housing but not near them.
301 She stated that as a Council they needed to figure out how to address that issue.

302 15. COMMITTEE AND OTHER REPORTS

303 a. Communications from the Chairperson

304

305 Chair Spiller stated that the Town Managers evaluation is coming up and asked that the Town
306 Manager include the form needed in the next packet and to schedule an executive session on
307 September 25 with a goal of having the evaluation ready early October.

308

309 Chair Spiller also stated that the Chair of the school committee, Julie Dow, sent a letter to
310 Maine Delegation in regards to Federal impact aide for schools. They received a reply from
311 senator King and Pamela Buck, Senator Collins representative locally. Chair Spiller stated that
312 the response was not addressing the issue at all and it is a long-standing issue and she agrees
313 with Councilor Clark that they do need to continue to try to obtain these funds every year.

314

315

316

b. Committee Reports

317

16. EXECUTIVE SESSION

318

17. ADJOURNMENT

319

320 Motion to adjourn by Councilor Bragg, seconded by Councilor Hamm.

321

322 All were in favor.

323

324

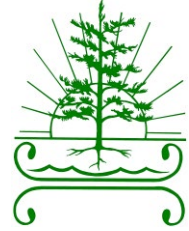
325 Submitted by Jennifer Wheeler

326

327 Disclaimer: The following minutes constitute the author's understanding of the meeting. Whilst
328 every effort has been made to ensure the accuracy of the information, the minutes are not
329 intended as a verbatim transcript of comments at the meeting, but a refer to the video of the
330 meeting on the Town of Kittery website.



Cowasuck Band of the Pennacook - Abenaki People
COWASS North America, Inc.
The Abenaki Nation of Vermont, Inc.
P.O. Box 52
Alton, NH 03809-0052
(603) 776-1090



Tribal Flag Description

The Cowasuck Band of the Pennacook Abenaki People's tribal flag background is dark green to represent the white pines of the forest. The images are in white or in the Abenaki language W8bi which is the root word for the Wabanaki - the "People of the Dawnland."

The central image is a White Pine tree which is a direct reference to the Cowasuck Band - "The People of the White Pines." The Pine Tree has 3 roots which symbolize the 3 major watersheds of – the Connecticut, Merrimack, and Piscataqua rivers. The background image is the "Raising Sun" which is another reference to the Wabanaki Confederation. The Sun has 13 rays that symbolizes the Indigenous year cycle of 13 Moons.

The horizontal line represents the land between the sky and the waters. The waters are shown as the waving line. The two "Curls" represent "Canoes" that we used on our journeys in life. One reflects the other and, in this combination, it becomes a "Wisdom Curl" or reference to the "Keepers of Knowledge."

The four corner designs are modified Wisdom Curls that represent family units or families living in harmony, peace, and in balance throughout N'dakinna – "Our Homelands."





TOWN OF KITTERY

200 Rogers Road, Kittery, ME 03904

Telephone: 207-475-1329 Fax: 207-439-6806

REPORT TO TOWN COUNCIL

Meeting Date: September 25, 2023
From: Kendra Amaral, Town Manager
CC: Meaghan Dunn and Bruce Mallory, Co-Chairs Diversity Equity, and Inclusion Ad Hoc Committee
Subject: Land Acknowledgement
Councilor Sponsor: Chairperson Judy Spiller

OVERVIEW

The Diversity, Equity, and Inclusion Ad Hoc Committee (DEI Committee) is pleased to present the proposed land acknowledgement language to the Town Council for adoption.

The land acknowledgement is being proposed in conjunction with the presentation of the Tribal Flag and is brought forward as a step in a long journey to being the type of diverse, equitable, and inclusive community Kittery desires.

The land acknowledgement was developed by the DEI Com to serve as a moment of reflection and respect, to promote a shared understanding of the people who have called this land home for millennia, and to commit to the stewardship of the land into the future.

At their September 12, 2023, meeting, the DEI Committee voted to unanimously recommend the adoption of the land acknowledgement by the Council. The land acknowledgement language was further refined with the assistance of the representatives of the Cowasuck Band of the Pennacook, Abenaki People.

The Committee knows that this is a first step in the process and expects to propose further refinement or expansion of the acknowledgement in the future.

PROPOSED SOLUTION/RECOMMENDATION

Adopt the land acknowledgement language into the Council Introductory Statement

ATTACHMENTS

- Draft Revised Introductory Statement

INTRODUCTORY

1 **KITTERY IS LOCATED ON LAND OF PENNACOOK**
2 **AND ABENAKI PEOPLES OF THE WABANAKI**
3 **CONFEDERACY, WHO HAVE ONGOING CULTURAL**
4 **AND SPIRITUAL CONNECTIONS TO THIS LAND. WE**
5 **ACKNOWLEDGE AND HONOR WITH GRATITUDE THE**
6 **LAND AND THE PEOPLES WHO HAVE STEWARDED IT**
7 **THROUGH THE GENERATIONS AND RECOGNIZE**
8 **KITTERY'S ONGOING RESPONSIBILITY TO**
9 **MAINTAIN AND PROTECT THESE HOMELANDS FOR**
10 **OUR FUTURE GENERATIONS TO COME.**

11 **WE, THE KITTERY TOWN COUNCIL, DULY**
12 **ASSEMBLED, BEING EVER MINDFUL OF THE**
13 **FRAILTIES OF HUMAN JUDGMENT, SEEK GUIDANCE**
14 **AND DIRECTION AS WE ENTER UPON OUR DUTIES**
15 **THIS EVENING.**



TOWN OF KITTELY
200 Rogers Road, Kittery, ME 03904
Telephone: 207-475-1329 Fax: 207-439-6806

REPORT TO TOWN COUNCIL

Meeting Date: August 21, 2023
Update: September 25, 2023
From: Kendra Amaral, Town Manager
CC: Dutch Dunkelberger, Planning Board Chair
Subject: Title 16 – Septic System
Sponsor: N/A

OVERVIEW

A zoning ordinance change application was received by the Town from applicant James and Tudor Austin to amend Title 16 – Septic Systems to allow variances for first-time septic systems in minimum setback areas. Per Town procedure, the application is reviewed by the Planning Board, through public hearing, for recommendation to the Town Council for action.

The Planning Board held a public hearing on July 13, 2023 on the matter, and voted unanimously not to recommend adoption by the Town Council.

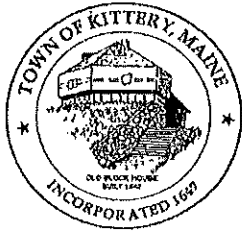
The next phase in the process is for the Council to conduct a public hearing and determine whether or not to adopt the requested amendment.

PROPOSED SOLUTION/RECOMMENDATION

N/A

ATTACHMENTS

- Application
- Staff Review
- July 13, 2023 Planning Board Minutes
- **Draft Enactment**



TOWN OF KITTERY MAINE
TOWN PLANNING AND DEVELOPMENT
200 Rogers Road, Kittery, ME 03904
Telephone: 207-475-1323 Fax: 207-439-6806

Office Use Only	Application Fee: <input type="checkbox"/> \$300.00	Date Submitted: _____	Amount Paid: \$ <u>300.00</u>
-----------------	--	-----------------------	-------------------------------

APPLICANT INFORMATION	NAME	JAMES + TUDOR AUSTIN	MAILING ADDRESS	PO. Box 278 Kittery Point ME 03905
	PHONE	207-439-0593		
	CITY	207-475-4254		

Zoning Amendment Type	<input checked="" type="checkbox"/> Text	<input type="checkbox"/> Map
-----------------------	--	------------------------------

COMPLETE ONLY THE APPLICABLE SECTIONS BELOW

Amendment to Land Use Code (Text Change)

The proposed amendment would be: A new provision to the code A change to the existing code

NEW PROVISION TO THE CODE

Provide proposed ordinance language and code section format and numbering in space below

SEE ATTACHED

Provide a narrative of why the proposed amendment would be beneficial for the Town in the space provided below. Include benefits and hardship this would address.

SEE ATTACHED

ADDITIONS AND MODIFICATIONS TO THE EXISTING CODE

Code section number to be amended

Proposed amendment language

SEE ATTACHED

Provide a narrative of why the proposed amendment would be beneficial for the Town in the space provided below. Include benefits and hardship this would address.

SEE ATTACHED

Amendment to the Land Use Zoning Map

Provide a narrative of the proposed change including benefits for the Town, compatibility to the abutting land uses and any supporting information. Also, attach a sketch of the proposed map change with this application.

ADDITIONS AND MODIFICATIONS TO THE EXISTING CODE

Code section number to be amended: 16.8.10.D.(2)(b)[1]

Proposed amendment language

"§ 16.8.10

Performance standards and approval criteria.

D. Sewage disposal.

(2) Subsurface wastewater disposal systems.

(a) The developer shall submit plans for subsurface wastewater disposal designed by a Maine-licensed site evaluator in full compliance with the requirements of the State of Maine Plumbing Code, Subsurface Wastewater Disposal Rules, and this title. Subsurface wastewater disposal systems (SWDS) must be constructed according to the approved plan.

(b) All first-time subsurface wastewater disposal systems must be installed in conformance with State of Maine Subsurface Wastewater Disposal Rules and this title. The following also apply:

[1] ~~The minimum setback distance for a first-time subsurface disposal system may not be reduced by variance. For a site that does not meet the minimum first-time system setback distances in 10-144, Chapter 241, Table 7B, variances must be processed in accordance with Section 7(B) and submitted to the Maine Department of Health and Human Services for a final determination.~~

[2] Clearing or removal of woody vegetation necessary to site a first-time system, and any associated fill extensions may not extend closer than is allowed in the table in § 16.5.30, Minimum setbacks from wetlands and water bodies, for subsurface sewage disposal."

Provide a narrative of why the proposed amendment would be beneficial for the Town in the space provided below. Include benefits and hardship this would address.

Absolute prohibition of variance for first-time systems would appear to be inconsistent with current technology and unique characteristics of many potential building sites in Kittery (e.g. Wood Island). Consideration of setback limit reductions based on such technology and prospectively eliminate any need for overboard discharge systems.

10-144, Chapter 241, State of Maine, Subsurface Wastewater Disposal Rules, Section 7, Paragraphs B and C (encl 1) delineate the stringent process and criteria set by the Department of Health and Human Services. Engineered design review and reduction limitations to the established setbacks defined in Table 7B (encl 2) offer necessary protection to the environment.

While Local Plumbing Inspector (LPI) review & approval/denial is permitted by these rules with the same criteria, the current ordinance removes any allowance for such consideration. It is submitted that a reasonable compromise in allowing Kittery property owners to, at least, receive consideration of proposals by the LPI, and ensuring external review by the Department sets a fair basis for the owners and environmental protection.

Enclosure 1, Austin Title 16 Amendment Request, 10-144, Chapter 241, State of Maine, Subsurface Wastewater Disposal Rules, Excerpt

SECTION 7 FIRST-TIME SYSTEMS

B. FIRST-TIME SYSTEM VARIANCE REQUESTS

1. Requests for variance: Request for first-time system variance must include a completed application submitted to the Department by the applicant. The completed application must be on a form prescribed by the Department, signed by the LPI and Site Evaluator and accompanied by the appropriate application fee. First time system variances for depth to limiting factor less than nine (9) inches are not allowed.

2. Contents of applications: An application for a first-time system variance must include the following:

(a) permit to install a system or part of a system. It must include complete plans and specifications for the proposed system and other pertinent information as required on the HHE-200 and HHE-204 forms;

(b) Requirements that cannot be met: The application must indicate the section(s) and/or provision(s) of the rules for which a variance is being requested;

(c) Basis for variance request: The reason(s) why the condition(s) set forth in the Rules cannot be met as well as justification for the variance request. Justification must include a discussion of why the variance will not have an impact upon wastewater treatment, including how additional measures may be used to offset reductions to conditions required by the rules;

(d) No conflict with local ordinances: For variances that fall under this Section, the applicant shall provide statement(s) that the completed application has been reviewed and signed by the LPI and Site Evaluator(s) on the HHE-204 form, indicating that the application is complete and does not conflict with local ordinances.

(e) Additional engineering or measures: If pretreatment or additional measures are being proposed the application must show how the proposed system and measures meet applicable sections of the rules, including the pretreatment requirements found in Section 7.

(f) Other information: The Department may request additional information from the applicant for a first-time system variance request. If the applicant fails to provide additional information requested by the Department within 60 days of the request, the variance request will automatically be denied.

3. Municipal Review: This Section authorizes the municipality to review and make a final disposition of a request for a First-Time System Variance through the LPI. The intent of this Section is that all decisions regarding these First-Time System Variances for soil conditions be made at the local level, with no requirement for Department review. However, if a municipality so chooses, it may request, in writing, that the Department make final decisions regarding these First-Time System Variances. When so notified, the Department will review and make final disposition upon all First-Time System Variance requests within a municipality's jurisdiction.

(a) Soil conditions: For a site that does not comply with the minimum soil conditions in Table 4F, the LPI or Department will use the criteria contained in Tables 7C through 7M, to evaluate the potential for a variance, except that sites with less than nine inches over hydraulically restrictive horizon, seasonal water table, or bedrock, will not be considered.

(b) Setbacks: For a site that does not comply with the minimum first-time system setback distances in Table 7B, variances must be processed in accordance with Section 7(B) (Department review required).

4. Disposition by the Department: The Department may approve a variance, deny it, or approve it with conditions. The disposition of the variance request will be in writing and state the specifications and conditions of any approval or the reasons for denial. The conditions may include deed covenants, inspections and mandatory installation of a holding tank if the system fails in the future. The disposition of the variance request comprises authorization, but not an obligation, for the LPI to issue a permit for the subject system design, if approved, or prohibition for the LPI to issue a permit for the subject system design, if denied.

C. CRITERIA USED FOR APPROVAL

1. An application, an HHE-200 Form, a Variance Request Form (HHE-204 Form) and Review Fee must be submitted to the LPI or Department, demonstrating the criteria set forth in this Section.
2. The applicant has demonstrated that there is no practical alternative for wastewater disposal, such as access to public sewer;
3. The applicant has demonstrated that there is no conflict with Shoreland Zoning;
4. The relative suitability of a proposed first-time disposal system is determined by the Department evaluating the potential for malfunctions, well contamination, groundwater contamination or impacts to waterbodies/courses associated with the proposed installation. Tables 7C through 7M will be used as guidance. The phrase "not permitted" means that a property meeting that designation in any Table in this Section is excluded from consideration for a First-Time System Variance. Slopes under the disposal area greater than 33 percent located outside the Shoreland Zone are not permitted. Applications that are determined by the Department to result in unreasonable threats to groundwater quality, drinking water wells, water bodies/courses and public health shall not be approved.
5. Minimum point value for sites within the shoreland zoned areas of major waterbodies/courses: Any proposed first-time disposal system located within the Shoreland Zone must score at least 65 points using Tables 7C through 7M to be considered acceptable, unless a local ordinance requires a higher minimum score. Applications that are determined by the Department to result in unreasonable threats to groundwater quality, drinking water wells, water bodies/courses or public health shall not be approved.
6. Owner's understanding: The owners' signatures affixed on the application for variance means that it is understood that the proposed system is not in total compliance with the Rules. The owner(s) signature also signifies that:
 - (a) The property owner is aware of the variance, its limitations and costs;
 - (b) The property owner is aware that additional engineering has been proposed to overcome limitations of the existing soils, such as increased separation distance for limiting factor, increased design flow, curtain drain, etc.
7. A deed covenant may be required by the Department for any property which obtains additional points for lot size prior to final approval of a First-Time System Variance. The covenant must stipulate that the subject property cannot be subdivided without prior approval from the LPI or the Department.
8. An 8-1/2-by-11-inch-sized map from the Maine Atlas or a U.S.G.S. topographic survey map must accompany each variance request and must indicate sufficient identification to locate the property.
9. A variance must not be approved for a lot that had a disposal site approved during Municipal or Department of Environmental Protection subdivision review unless the applicant can prove that the site requiring a variance will provide equal or better treatment of the wastewater than the previously approved site.

Notes: If the disposal system application meets the requirements of the following note(s) a First-Time System Variance is not required.

[a.] Potable water supply setbacks may be reduced, as prescribed in Section 7(A)(2).

[b.] Additional setbacks may be needed to prevent fill material extensions from encroaching onto abutting property.

[c.] All ground disturbance or clearing of woody vegetation necessary for the installation of a subsurface wastewater disposal system that occurs within 100 feet of the normal high water mark of a major water body/course must maintain a minimum setback of 75 feet from the normal high water mark of the major water body/course and also must comply with these Rules pertaining to work adjacent to or within wetlands and water bodies (for more details see Section 12).

[d.] May be reduced by Site Evaluator to 50 feet, pursuant to water tightness standards found in Section 6(H)(8) or tanks of monolithic construction.

[e.] All ground disturbance or clearing of woody vegetation necessary for the installation of a subsurface wastewater disposal system that occurs within 100 feet of the normal high water mark of a minor water body/course must maintain a minimum setback of 25 feet from the normal high water mark of the minor water body/course, except minor water courses located inside the Shoreland Zone which require a minimum setback for disturbance of 75 feet, and also must comply with these Rules pertaining to work adjacent to or within wetlands and water bodies (for more details see Section 12).

[f.] For sites with sustained slopes steeper than 3 feet horizontal to 1 foot vertical (33%) within 25 feet from a protected natural resource. If a sustained slope of 33% or greater exists less than 25 feet from a protected natural resource, it does not count toward the 25 foot setback. Sustained slopes greater than 3:1 may be part of the 75 foot setback but cannot be counted as part of the 25 foot setback (for more details see Section 12).

[g.] May be reduced to 15 feet, if the disposal area would be located down slope from the lowest point of the foundation footings.

[h.] All ground disturbance or clearing of woody vegetation necessary for the installation of a subsurface wastewater disposal system that occurs within 100 feet of the normal high water mark of a perennial stream must maintain a minimum setback of 25 feet from the normal high water mark of the perennial stream except those perennial streams which have a Shoreland Zone or those located inside the Shoreland Zone of another major waterbody/course which require a minimum setback for disturbance of 75 feet, and also must comply with these Rules pertaining to work adjacent to or within wetlands and water bodies (for more details see Section 12).

[i.] The setback may be reduced to 25 feet if the stormwater structure has an impervious liner and the fill extensions do not encroach onto the stormwater structure.

Enclosure 2, Austin Title 16 Amendment Request, 10-144, Chapter 241, State of Maine,
Subsurface Wastewater Disposal Rules, Excerpt

TABLE 7B
Setback distances for first-time systems

Site features vs. disposal system components of various sizes	Disposal Fields (total design flow)			Treatment Tanks (total design flow)		
	Less than 1,000 gpd	1,000 to less than 2,000 gpd	2,000 gpd or more	Less than 1,000 gpd	1,000 to less than 2,000 gpd	2,000 gpd or more
Wells with water usage of 2000 or more gpd or public water system wells	300 feet	300 feet	300 feet	150 feet	150 feet	150 feet
Potable Water Supply	100 feet [a]	200 feet	300 feet	50 feet	100 feet	100 feet
Water supply line	10 feet	20 feet	25 feet	10 feet	10 feet	10 feet
Water body/course, major [f] [h]	100 feet [c]	200 feet [c]	300 feet [c]	100 feet [d]	100 feet [d]	100 feet [d]
Water body/course, minor [e]	50 feet [e]	100 feet [e]	150 feet	50 feet	50 feet	50 feet
Drainage ditches	25 feet	50 feet	75 feet	25 feet	25 feet	25 feet
Slopes greater than 3:1	10 feet [f]	18 feet [f]	25 feet [f]	N/A	N/A	N/A
No full basement [e.g. slab, columns, posts]	15 feet	28 feet	40 feet	8 feet	14 feet	20 feet
Full basement [below grade foundation, frost walls]	20 feet [g]	30 feet	40 feet	8 feet	14 feet	20 feet
Property lines	10 feet [b]	18 feet [b]	20 feet [b]	10 feet	15 feet	20 feet
Burial sites or graveyard boundaries, measured from the toe of the fill extension	25 feet	25 feet	25 feet	25 feet	25 feet	25 feet
Stormwater infiltration systems	100 feet	200 feet	300 feet	100 feet	100 feet	100 feet
Wetponds, retention ponds, and detention basins (excavated below grade); Soil filters, underdrained swales, underdrained outlets, and similar structures	50 feet [i]	100 feet [i]	150 feet [i]	50 feet [i]	50 feet [i]	50 feet [i]
Stormwater detention basins (basin bottom at or above predevelopment grade)	25 feet	50 feet [i]	75 feet [i]	25 feet	25 feet	25 feet



TOWN OF KITTERY
Planning and Development
200 Rogers Road, Kittery, ME 03904
Telephone: 207-475-1307 Fax: 207-439-6806

TO: PLANNING BOARD
FROM: JASON GARNHAM, DIRECTOR OF PLANNING & DEVELOPMENT
SUBJECT: PROPOSED FIRST TIME SEPTIC VARIANCE AMENDMENT TO TITLE 16: PUBLIC HEARING
DATE: JULY 13, 2023

James and Tudor Austin are requesting a change to Title 16's land use ordinance, specifically to §16.8.10 D. which concerns first-time septic variances. The Town's current ordinance prohibits first time septic system variances sought to reduce setback distances. The State allows an applicant to apply for such a variance. The change proposed by the Austins would align Kittery's ordinance with that of the State by referencing the State's statute as the avenue by which an applicant could apply for such a variance. Please see the additional materials provided by the Austins as well as the letter from Kittery's Code Enforcement Officers.

In Kittery, a first-time septic system permit, which is the permit needed for property that does not have a septic system and is not replacing a septic system, must meet minimum setback distances from drinking water wells, wetlands and waterbodies, and if it cannot, the septic system is not allowed.

The Planning Board advises Town Council regarding proposed changes to Title 16, Kittery's Land Use Ordinances. The Board reviewed this proposal and voted to schedule a public hearing during the June 22, 2023 meeting. At this meeting the Board should hold a public hearing, discuss the implications of the proposed changes for future development in Kittery, and, if appropriate, vote on a recommendation to forward to Town Council.

Action:

1. The Planning Board should hear from the applicant and discuss the proposed amendment.
2. Open, hold, and close a public hearing.
3. If appropriate, vote on a recommendation for Town Council.

Motions:

Move to open/ close Public Hearing.

Motion to recommend adoption of the proposed amendments by Town Council

Move to recommend adoption by Town Council of amendments to Kittery Town Code §16.8.10 D to allow first-time septic system variances as proposed by James and Tudor Austin in their petition submitted December 2, 2022 (or as amended).

Staff Comments:

The proposed amendment would enable development of septic systems on certain properties located within Shoreland areas which may currently be undevelopable due to zoning restrictions.

Zoning ordinances are required by state law to be consistent with a comprehensive plan (MRS Title 30-A, Sec. 4352). The following **Goals and Objectives** from **Kittery's Comprehensive Plan 2015-2025** relate to this proposed amendment:

Goal 2: To protect Kittery's Natural Resources including watershed, fresh water, wetlands and vernal pools, agricultural lands, forest resources, open space and recreation

- Objective 2.1: Protect and preserve critical open spaces for passive recreation, visual impact and preservation of wildlife habitats, coastal (saltwater) wetlands, freshwater wetlands, and vernal pools
- Objective 2.2: Increase opportunities for recreation

Goal 6: To protect the town's coastline, the working waterfront, and ENSURE APPROPRIATE access to and enjoyment of the water while protecting it from environmental impacts

State of Maine Goal: To protect the State's marine resources industry, ports and harbors from incompatible development and to promote access to the shore for commercial fishermen and the public

- Objective 6.1. Increase access to the waterfront
- Objective 6.3. Protect marine resources

Goal 8: Ensure that the Town's regulations support desired land uses

Objective 8.1. Update Town code and apply land use regulations to guide desirable development in appropriate locations

- 8.1.3. Review and revise Town codes to account for the impacts of sea level rise and climate adaptation
- 8.1.5. Encourage the protection of open space and landscape features within developments and/ or in the no growth/ limited growth areas

Summary:

Town policies are mixed. Some prioritize preservation of natural resources and open space while others encourage activity in shore areas. Public health, safety, and environmental quality will be maintained via state and local permit processes which require adherence to specific standards. Staff find that the proposed amendment would not result in significant adverse impacts to public health and safety or the environment but could result in incremental development of shoreland or open space areas which policies generally discourage. Staff do not take a strong position in favor of or against the proposed amendment at this time.



TOWN OF KITTERY
Code Enforcement Officer
200 Rogers Road, Kittery, ME 03904
Telephone: (207) 475-1308 Fax: (207) 439-6806

January 4, 2023

To: Dutch Dunkelburger, Planning Board Chair
From: Kearsten Metz, Code Enforcement Officer

RE: First-Time Disposal System Variance Amendment

Dear Mr. Dunkelburger,

I am writing at the request of the Planning Department to clarify the changes proposed with the First-Time Disposal System Variance Amendment. Please note that all supporting documentation has been included.

The current ordinance reads as follows: *Chapter 16 §8.10 (D)[2] In no instance may a primary or reserve disposal area be permitted on soils or on a lot requiring a first-time system variance request per the State of Maine Subsurface Wastewater Disposal Rules.* This current language restricts parcels that are unable to meet the current first-time system requirements from installing a non-conforming system.

The proposed amendment to this ordinance would allow first time system variances for parcels that are unable to meet the State of Maine Subsurface Wastewater Disposal Rules. The State rules use a point system to quantify the potential impacts of the issuance of the variance. This system mandates that any proposed system outside of the Shoreland Zone must score a total of 50 points, and systems within the Shoreland Zone must score a total of 65 points. Any system variance scoring lower than the minimum or falling in a “not allowed” category in the scoring matrix would be denied. The proposed ordinance is less stringent than our current ordinance, but the State’s guidelines still provide restrictions to protect the local resources.

In final review, the amendment proposed loosens the restriction first time system variances for subsurface wastewater disposal systems in the Town of Kittery. If the restriction is removed the minimum State of Maine Subsurface Wastewater Rules would still apply . Please let me know if you have any questions or concerns in regards to this matter.

Sincerely,

Kearsten Metz
Code Enforcement Officer

CALL TO ORDER

ROLL CALL

Present: Steve Bellantone, Member, Earle Wells, Member, Russell White, Member, Ethan Bensley, Member, Robert Doyle, Member, Karen Kalmar, Vice Chair, and Dutch Dunkelberger, Chair

Absent:

Staff: Max Zakian, Town Planner and Jason Garnham, Director of Planning

Advisory:

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

PUBLIC COMMENTS

The public may attend the meeting in person or remotely via Zoom. Attendees via Zoom will be recognized during the public hearings and public comment portion of the meeting. Please note: every effort will be made to make this run smoothly; however, some technical difficulties may occur. To register via Zoom visit <https://us02web.zoom.us/j/88326455329?pwd=MklnVnF2TitkR1FIb0tnN1JGUxFrQT09> or <https://www.kitteryme.gov/planning-board>.

Public comment and opinion are welcome during this meeting. However, comments and opinions related to development projects currently being reviewed by the Planning Board will be heard only during a scheduled public hearing when all interested parties have the opportunity to participate. Those providing comment must state clearly their name and address, and record it in writing at the podium. Further, the public may submit written public comments via email, US Mail, or by hand delivery to Town Hall. Emailed comments should be sent to mzakian@kitteryme.org. Comments received by noon on the day of the meeting will become part of the public record and may be read in whole or in summary by the Planning Board or Town Staff.

There being no public comments, the Chair closed the public comments.

OLD BUSINESS –

3:20

ITEM 1 – 35 Badgers Island West, Preliminary Site Plan and Shoreland Development Plan Review

Action: approve site plan or continue review. Pursuant to §16.4 Land Use Regulations §16.7 and §16.9.3 Shoreland Development Review requirements of the Town of Kittery Land Use and Development Code, owner B.I.W. Group, LLC and agent John Chagnon with Ambit Engineering request approval to expand a legally non-conforming office building and change its use to 10 residential units at 35 Badgers Island West, Tax Map 1, Lot 34, in the Mixed-Use Badgers Island Zone (MU-BI), Shoreland Overlay Zone (OZ-SL-250'), Resource Protection Overlay Zone (OZ-RP) and the Commercial Fisheries/Maritime Use (OZ-CFMU). This is a continued review after a public hearing held on May 25, 2023.

John Chagnon, Ambit Engineering – Haley Ward, presented the project and reviewed the revisions briefly.

Brandon Holben, Winter Holben Architecture & Design reviewed the building design.

Mr. White moved to approve the preliminary plan. Seconded by Mr. Doyle. The motion passed 7-0-0.

25:35

ITEM 2 – Proposed Amendments to Title 16.8.10.D

Action: Hold a public hearing, continue review: Kittery property owners James and Tudor Austin request a change to §16.8.10-D of Kittery's Land Use and Development Code to allow variances for first-time septic systems in minimum setback areas. §16.8.10-D.2.b.1 currently states that the minimum setback distance for a first-time subsurface disposal system may not be reduced by variance. This item was last reviewed at a planning board meeting held June 22, 2023.

James Austin introduced the item briefly.

Chair Dunkelberger opened the public hearing.

Public comment was heard from: Paula Ledgett, 45 Crockett Neck Road; Lois Marshall, 100 Blackberry Place; Richard Green, Water Quality & Compliance Services Inc.; Rosemary Charlesworth, 37 Cutts Island Lane; Melissa Paly, 8 Old Cart Path; Tudor Austin, 10 Lawrence Lane; Rob Nichols, 102 Goodwin Road; and Jim Austin, 10 Lawrence Lane.

Chair Dunkelberger reported that there were email comments from: Kittery Conservation Commission, Save Kittery Water, and Jeff Clifford. Chair Dunkelberger read an emailed comment from Debbie Driscoll.

Chair Dunkelberger closed the public hearing.
Discussion ensued from the Board.

The Board voted 7-0-0, not to recommend the amendment to Town Council.

NEW BUSINESS-

1:11:08

ITEM 3 – 163 & 165 Rogers Road – Conventional Subdivision – Sketch Plan Review

Action: accept sketch plan or continue review: Engineer Rick Chellman, on behalf of applicant/owners Ruth and Karen Bouffard, is proposing to merge two existing parcels into a single 2.84 acre-lot subdivided by unit into five single-family residential dwellings, all along a shared driveway with individual private septic systems. The proposed subdivision is located on the properties of 163 and 165 Rogers Road, Tax Map 14, Lot 53 & 53-1, in the R-U (Residential-Urban) Zone.

Rick Chellman presented the project to the Board.
Discussion for the requirements of a sketch plan, and septic systems ensued.

Mr. White moved to accept the sketch plan as complete. Seconded by Mr. Bensley. The motion passed 7-0-0.

1:25:22

ITEM 4 – 21 Badgers Island West – Shoreland Development Plan Review

Action: approve shoreland development plan or continue review: Pursuant to §16.9.3 Shoreland Development Review of the Town of Kittery Land Use and Development Code, engineer Cory Belden, on behalf of owner/applicants David and Lisa Daniels, request approval to remove and redevelop an existing single-family residence on a property shared with a working waterfront business, while adding modifications to ensure access on the property for the working waterfront business. The property is located at 21 Badgers Island West, Tax Map 1, Lot 27, in the Mixed-Use Badgers Island (MU-BI) and Shoreland Overlay (OZ-SL-250') Zones, and partially within the Resource Protection (RZ-OP) and Commercial Fisheries (OZ-CFMU) Zones.

Erik Saari, Altus Engineering presented the project to the Board.
David Daniels described the working waterfront businesses to the Board.
Discussion ensued briefly on the stormwater, and parking.

Mr. White moved to accept the application. Seconded by Vice Chair Kalmar. The motion passed 6-0-1, with Ms. Wells abstaining.

The Board discussed dates for a site walk.

A site walk was scheduled for Monday, July 24, 2023 at 4:30 PM.

1:41:02

APPROVAL OF MINUTES

ITEM 5 – June 22, 2023 Meeting Minutes

Line 110: change suit to “suite”

Vice Chair Kalmar moved to approve the minutes as amended. Seconded by Mr. Bensley. The motion passed 6-0-1, with Mr. Bellantone abstaining.

1:42:14

BOARD MEMBER ITEMS-

Subcommittee reports

Mr. Garnham gave an update for KLIC and Housing Committee.

Celestyne Bragg gave an update for the Climate Adaptation Committee.

Mr. White provided an update on the Diversity, Equity & Inclusion Committee.

1:51:50

STAFF MEMBER ITEMS-

1:52:04

Adjournment

Vice Chair Kalmar moved to adjourn. Seconded by Mr. White. The motion passed 7-0-0.

The Kittery Planning Board meeting of July 13, 2023 adjourned at 7:52 p.m.

Submitted by Carrie Varao, Development Staff Clerk on July 18, 2023.

Disclaimer: The following minutes constitute the author’s understanding of the meeting. Whilst 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

**TOWN OF KITTERY, Maine
PLANNING BOARD MEETING
COUNCIL CHAMBERS**

**APPROVED
JULY 13, 2023**

refer to the video of the meeting on the Town of Kittery website at
<http://www.townhallstreams.com/locations/kittery-maine>.

**KITTERY TOWN CODE –
TITLE 16
Septic System Enactment**

1 **AN ORDINANCE** relating to the municipality’s authority for Town governance to give due and
2 proper attention to its many demands pursuant to the Town Charter, Federal law, and Maine
3 Revised Statutes, and more particularly where set forth in Maine Revised Statutes Title 30-A,
4 Municipalities and Counties.

5 **WHEREAS**, the Kittery Town Council is authorized to enact this Ordinance, as specified in
6 Sections 1.01 and 2.07(3) of the Town Charter; and 30-A MRS §3001, pursuant to its powers
7 that authorize the town, under certain circumstances, to provide for the public health, welfare,
8 morals, and safety, and does not intend for this Ordinance to conflict with any existing state or
9 federal laws; and

10 **WHEREAS**, the Town of Kittery received an application for a zoning code amendment for Title
11 16 Septic System; and

12 **WHEREAS**, the Town Council received public comment and recommendations on the
13 applicant’s proposed amendment to Town Code; and

14 **WHEREAS**, the Town Council has considered the information provided in the
15 recommendations, and from public comment, and has determined the applicant’s proposed
16 amendment to be acceptable to the Town;

17 **NOW THEREFORE**, IN ACCORDANCE WITH TITLE 30-A MRS §3001, AND TOWN
18 CHARTER §2.14, THE TOWN OF KITTERY HEREBY ORDAINS AMENDMENTS TO TOWN
19 CODE, TITLE 16, LAND USE and DEVELOPMENT CODE, AS PRESENTED.

20 **INTRODUCED** and read in a public session of the Town Council on the ____ day of _____,
21 20____, by: _____ {NAME} Motion to approve by Councilor
22 _____ {NAME}, as seconded by Councilor _____ {NAME} and
23 passed by a vote of _____.

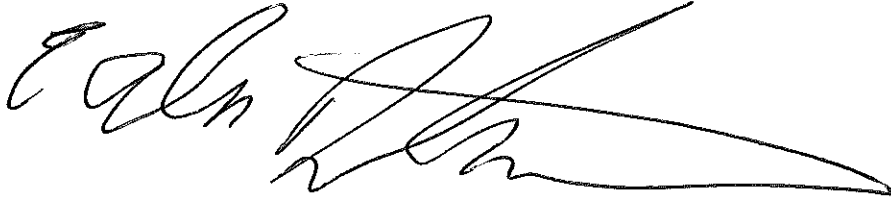
24 **THIS ORDINANCE IS DULY AND PROPERLY ORDAINED** by the Town Council of Kittery,
25 Maine on the ____ day of _____, 20____, {NAME}, _____, Chairperson

26 **Attest:** {NAME}, _____ Town Clerk

I E Alan Johnston here by resign from the port authority effective immediately. I no longer have the time to commit, and it isn't far to the rest of the board and the people of the town.

Thank you

E Alan Johnston

A handwritten signature in black ink, appearing to read 'E Alan Johnston', written in a cursive style.

RECEIVED

SEP 13 2023

BY: © 2000-2003 IBM CORPORATION. ALL RIGHTS RESERVED.

preferred pronouns: they / their



TOWN OF KITTERY, MAINE

TOWN CLERK'S OFFICE

200 Rogers Road, Kittery, ME 03904

Telephone: (207) 475-1313 Fax: (207) 439-6806

APPLICATION FOR APPOINTMENT TO TOWN BOARDS

NAME: Kavika Ocean Vargas

RESIDENCE: [REDACTED]

MAILING (if different): [REDACTED]

E-MAIL ADDRESS: [REDACTED]

PHONE #: (H) Mon (W) [REDACTED] (C) [REDACTED]

Please check your choices and list in order of priority by marking 1,2,3, etc.:

- | | |
|---|---|
| <input type="checkbox"/> Board of Appeals | <input type="checkbox"/> Board of Assessment Review |
| <input type="checkbox"/> Conservation Commission | <input type="checkbox"/> Board of Trustees of Trust Funds |
| <input checked="" type="checkbox"/> Diversity, Equity & Inclusion Committee | <input type="checkbox"/> Shellfish Conservation Committee |
| <input type="checkbox"/> Education Scholarship Committee | <input type="checkbox"/> Kittery Port Authority |
| <input type="checkbox"/> Parks Commission | <input type="checkbox"/> KCC Board of Directors |
| <input type="checkbox"/> Planning Board | <input type="checkbox"/> Library Advisory Committee |
| <input type="checkbox"/> Climate Adaptation Committee | <input type="checkbox"/> Kittery Housing Committee |

EDUCATION/TRAINING: Junior at trap academy Other [REDACTED]

RELATED EXPERIENCE (Including other Boards and Commissions) Civil Rights team (2 years)
and Maine youth leadership council 2023

PRESENT EMPLOYMENT: Vida Cantina

ARE YOU A REGISTERED VOTER OF THE TOWN OF KITTERY Yes No

ANY KNOWN CONFLICT OF INTEREST (please read back of application): NONE

REASON FOR APPLICATION TO THIS BOARD: To help make the town of Kittery a more welcoming place

I HAVE / HAVE NOT ATTENDED AT LEAST TWO MEETINGS OF THE BOARD FOR WHICH APPLICATION IS BEING MADE. I AGREE TO ATTEND ALL MEETINGS, EXCEPT FOR SICKNESS OR EMERGENCY, AND WILL ADVISE THE CHAIRPERSON WHEN I AM UNABLE TO ATTEND, IF APPOINTED.

Please read the back of this application before signing.

[Signature]
SIGNATURE OF APPLICANT

9/30/23
DATE



**TOWN OF KITTERY
WARRANT FOR MUNICIPAL and SCHOOL ELECTION
COUNTY OF YORK, STATE OF MAINE**

To Robert Richter, a constable of this municipality:

You are hereby required in the name of the State of Maine to notify the voters of the Town of Kittery of the election described in this warrant:

TO THE VOTERS OF THE TOWN OF KITTERY:

You are hereby notified that the **MUNICIPAL ELECTION** in this municipality will be held at the **KITTERY COMMUNITY CENTER**, 120 Rogers Road, on **NOVEMBER 7, 2023**, to determine the following:

To elect two members to the Town Council for three-year terms.

To elect two members to the School Committee for three-year terms.

The polls shall be opened at 8:00 a.m. and closed at 8:00 p.m.

Absentee ballots will be processed centrally at 9:00 a.m., 10:00 a.m., 11:00 a.m., 12:00 p.m., 1:00 p.m., 2:00 p.m., 3:00 p.m., 4:00 p.m., 5:00 p.m., 6:00 p.m., 7:00 p.m., and 8:00 p.m.

A person who is not registered as a voter may not vote in any election.

Dated at Kittery this 25th day of September, 2023.

Municipal Officers

A true copy

ATTEST: _____

TOWN CLERK