

**Kittery Town Council  
Regular Meeting  
February 25, 2019 – 6:00 p.m.  
Council Chambers**

1. Call to Order: Chairperson Spiller called the meeting to order at 6:00 p.m.
2. Introductory: Chairperson Spiller read the introductory.
3. Pledge of Allegiance: Chairperson Spiller led those present in the Pledge of Allegiance.
4. Roll Call: Answering the roll were Councilors Charles Denault, Jeffrey Pelletier, Jeffrey Thomson, Kenneth Lemont, Vice Chair Matthew Brock and Chairperson Judith Spiller.

Chairperson Spiller said that Councilor Clark claims he is watching, but he is not here, he is in Colorado.

5. Agenda Amendment and Adoption: Chairperson Spiller said she would like to add “h” under “New Business” – The Kittery Town Council moves to appoint Councilor Brock and Councilor Spiller to the Kittery Climate Adaptation Committee. Hearing no other changes, Chairperson Spiller cast one vote to adopt the agenda as amended.
6. Town Manager’s Report: Town Manager Amaral said to welcome Tim Babkirk as the new Sewer Superintendent replacing George Kathios, who retired. She said he comes to us from Portsmouth NH where he was Chief Plant Operator and has a tremendous amount of experience. She said he received his Grade 4 Sewer Wastewater license and operates two plants including overseeing the construction project on Pierce Island.

Town Manager Amaral said there will be a joint meeting of the Port Authority, Planning Board and Board of Appeals on March 4<sup>th</sup> at 6:30 pm at the Kittery Community Center. She said Councilors are invited to attend to discuss the recodification of Title 16, the Land Use and Development Code. She said this workshop offers everyone an opportunity for input on ways to improve the ordinance and the public outreach process will be reviewed.

Town Manager Amaral said, effective March 1<sup>st</sup>, boaters will be able to pay their mooring fees online and register their boats. She said payments and permits will also be processed at the Town Hall and the renewal for moorings runs from March 1<sup>st</sup> through April 15<sup>th</sup>.

Town Manager Amaral said that AARP will be at the Kittery Community Center through April 11<sup>th</sup> to assist residents with the tax return preparation and the KCC Silent Auction will be held on April 5<sup>th</sup> at the Regatta Room in Eliot.

7. Acceptance of Previous Minutes: January 28, 2019 Regular Meeting

Chairperson Spiller said she will cast one vote to accept the minutes of January 28<sup>th</sup> as amended.

8. Interviews for the Board of Appeals and Planning Board- None
9. All items involving the town attorney, town engineers, town employees or other town consultants or requested officials.
10. PUBLIC HEARINGS - None

## 11. DISCUSSION

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

Bill Pagum, 8 Cromwell St., said he is an abutter to Emery Field. He said he is concerned with the Phase II project for Emery Field which h include parking, sewer drainage and congestion. He said the town needs accessible field for athletics, but what good is having a field if it is not accessible to the public.

Mr. Pagum said he had some ideas and rather than having a Workforce Housing area overdeveloped, wanted to know what about other places on Route 1 going north? He said another idea is to encourage the landlords to rent the units below the market rate and they will get a tax benefit for property taxes.

Mr. Pagum said the town needs fields and the Village needs open space, and he would like the town to move ahead with the original Phase II plan.

Councilor Thomson said, before the next speaker, and he respects Mr. Pagum's right to speak, but we need to be careful not to state misinformation. He said the Workforce Housing Committee is involved with looking at the existing site where the original Recreation Center is housed. He wanted to know why are we dwelling on that point.

Gerry Burns, 6 Wallingford Square, referred to a couple of points made at the "Marijuana Workshop" and thought they were past certain things from their former discussion. He said it is important to approach this subject as dispassionately as possible.

Mr. Burns said that Councilor Lemont had said there would be huge financial obligations for the town, but he has not heard of that. He said the data did not infer that although a breath-o-lyzer for the Police Dept. was mentioned.

Mr. Burns said going forward, it looks like the town would benefit from the tax rate, and the revitalization of the mall area. He said it is the will of the people to have a retail marijuana establishment in town and the question is whether Town Council is going to decide to listen or implement this.

Jim Knowles, Kittery ME said there is a hearing on the 28<sup>th</sup> on the tidal water and the State owns it. He said this whole thing started when they were discussing Spinney Creek Shellfish Company's aquaculture lease. He said the hearing is at 1 p.m. in the Cross Building, Room 214.

Filomena Knowles, 2 Estuary Drive, read the proposed bill. She said Rep. Rykerson wants to give this land to the State and he is supposed to be representing the people. She said that she and her husband will be going to Augusta.

George and Carol Lombardi, 105 Manson Ave., said they came to the last Town Council meeting and voiced their concerns regarding Emery Field. She said it is important to address the issue early on – this is not a suitable site (for Workforce housing).

Mrs. Lombardi said she showed the map of Admiralty Village before and it is packed. She said there are 250 duplex homes and 39 apartment buildings which house 200 families. She said the largest single property is lot 140, Emery Field, and the old Rec. Center, from Woodlawn to Manson Avenue. She said the State deeded this property to the town in 1949 for public use only with no other use whatsoever. She said the town is bound by commitment to use Emery Field for recreational purposes

in perpetuity. She said that it's the entire property – not just Emery Field that is important for the younger children, who want to run and play while their siblings are at practice. She urged Council to honor the deed.

Mr. Lombardi said the (old Rec.) building was supposed to be torn down and parking put there. He said there is no parking down there.

Susan Emery, 5 School Lane, said she was at the February 11<sup>th</sup> meeting and supports the residents. She encouraged the Town Council to continue with the Phase II plan, which utilizes the entire area, including the former building site, for all the citizens of the town rather than for affordable workforce housing.

Ms. Emery said that for the Village residents Emery Field is the only spot where recreational use is allowed. She did not think that the Town Code for that zone should be changed for a particular project or development and that the zones exist to protect all the properties within them. She said the town should reconsider this site and support the zoning.

Ms. Emery said that once before, in November 1997, the town tried to change the zoning, and it was rejected by the voters. She said she does not understand why the Planning Board and Town Council included a few such units approved for a 55+ age group and 12 family units at the former Homestead property on Route 1 and the Business Park zone. She said the town does have nice affordable housing in Woodland Commons and perhaps Route 1 could support another development like that.

c. Chairperson's response to public comments:

Chairperson Spiller said, as Councilor Thomson noted, they are moving ahead with the Phase II project at Emery Field. She said the proposal indicates they are interested with old Recreational building and Route 1 is an alternate site. She said this is all within the scope of the Workforce Housing Committee. She said she heard their concerns about Admiralty Village – and the importance of community space – and adequate parking around the fields.

Chairperson Spiller addressed Vice-Chair Brock and asked him if there was anything he would like to add?

Vice-Chair Brock said the Town Council authorized the Workforce Housing Committee to examine areas throughout the town. He said, with respect to Admiralty Village, he heard the points that were raised at the last Council meeting as well as their concerns, which are largely premature. He said the Committee was asked to examine the old Recreation Center site but they have no plan and there is no recommendation at this point. He said they will review the site and will do what the Town Council has asked the Committee to do.

Vice-Chair Brock said they are not looking at development on any of the green space in Admiralty Village and he did not think it was helpful to suggest otherwise.

Chairperson Spiller addressed Susan Emery and said the Workforce Housing Committee is looking at possible changes in zoning.

Councilor Lemont, through the Chair to the Vice-Chair, asked Councilor Brock if someone could address their concerns.

Vice-Chair Brock replied they will come to the Town Council first and added that the Committee does want public input, but they are not at that point yet.

Chairperson Spiller addressed Councilor Thomson and wanted to know if he was on the Council and did he remember the proposal for the recreation center.

Councilor Thomson responded unfortunately, he was absent at that time from the Town Council and returned in 2006.

Vice-Chair Brock said that the Workforce Housing Committee will be looking at that site but if there was a conflict it would preclude development.

Chairperson Spiller addressed Mr. Burns' comments regarding the retail marijuana stores and said Council has heard but they want to move ahead cautiously. She said they are concerned about the financial obligations to the town. She told him that he may not see them as significant the way the Council sees them, but adding more staff will impact the budget.

Chairperson Spiller said that the Council appreciates the town vote in favor of the marijuana stores, and at some point, they may see that happening.

Chairperson Spiller spoke to Mr. Knowles and said she did not think that Council will be attending the hearing. She asked the Town Manager whether or not Council had jurisdiction over this matter.

Town Manager Amaral replied if it is inter-tidal waters.

Chairperson Spiller said with that, they will move on.

Councilor Thomson added regarding the will of the people, he suggested that Mr. Burns read the Federal paper #10 and #51 by (the late) President Madison.

12. UNFINISHED BUSINESS - None

13. NEW BUSINESS

a. Donations/gifts received for Council disposition.

b. (020219-1) The Kittery Town Council moves to approve the disbursement warrants.

Chairperson Spiller read the town warrant \$113,827.82. She said there were no Sewer or School payables and asked if Councilor Clark had reviewed the warrants.

Town Manager Amaral responded that they did not have anyone review the warrant.

Councilor Thomson wanted to know if a motion could be made to pay the disbursement warrant after review by the second Councilor on the list, time-wise? He said he would make a motion.

**COUNCILOR THOMSON MOVED THAT THE DISBURSEMENT WARRANT BE PAID AFTER REVIEW BY THE SECOND COUNCILOR LISTED ON THE POLICY, SECONDED BY COUNCILOR DENAULT. ROLL CALL VOTE WAS TAKEN WITH ALL VOTING IN FAVOR, 6-0, NONE OPPOSED, MOTION CARRIES.**

c. (020219-2) The Kittery Town Council moves to present a proclamation honoring Barbara Millar as the Boston Post Cane Recipient.

Chairperson Spiller read the proclamation - that Barbara Millar will be celebrating her 102<sup>nd</sup> birthday on June 20<sup>th</sup> and is the oldest resident in the Town of Kittery.

**COUNCILOR THOMSON MOVED THE PROCLAMATION BY THE TOWN COUNCIL ACCLAMATION HONORING BARBARA MILLAR AS THE RECIPIENT OF THE BOSTON POST CANE AWARD, SECONDED BY COUNCILOR PELLETIER. ROLL CALL VOTE WAS TAKEN WITH ALL VOTING IN FAVOR, 6-0, NONE OPPOSED, MOTION CARRIES.**

d. (020219-3) The Kittery Town Council moves to appoint a representative to meet with the Chair of the Economic Development Committee to interview Drew Fitch to be appointed to that board as a regular member until 12/31/21.

**COUNCILOR THOMSON MOVED THAT COUNCILOR DENAULT BE APPOINTED AS COUNCIL REPRESENTATIVE TO MEET WITH THE CHAIR OF THE ECONOMIC DEVELOPMENT COMMITTEE TO INTERVIEW DREW FITCH FOR HIS APPOINTMENT TO THAT BOARD AS A REGULAR MEMBER UNTIL 12/31/21. COUNCILOR PELLETIER SECONDED THE MOTION. ROLL CALL VOTE WAS TAKEN WITH ALL VOTING IN FAVOR, 6-0, NONE OPPOSED, MOTION CARRIES.**

e. (020219-4) The Kittery Town Council moves to appoint a representative to meet with the Chair of the Board of Trustees of Trust Funds to interview Brad Hirst to be appointed to that board as a regular member until 12/31/22.

**COUNCILOR THOMSON MOVED THAT COUNCILOR LEMONT BE APPOINTED AS COUNCIL DESIGNEE TO CONDUCT SAID INTERVIEW WITH THE CHAIR OF THE BOARD OF TRUSTEES OF TRUST FUNDS AND BRAD HIRST FOR HIS APPOINTMENT TO THAT BOARD AS A REGULAR MEMBER UNTIL 12/31/22. COUNCILOR DENAULT SECONDED THE MOTION. ROLL CALL VOTE WAS TAKEN WITH ALL VOTING IN FAVOR, 6-0, MOTION CARRIES.**

f. (020219-5) The Kittery Town Council moves to appoint a representative to meet with the Chair of the Board of Trustees of Trust Funds to interview Diane L. Harvey to be appointed to that board as a regular member until 12/31/22.

**COUNCILOR THOMSON MOVED THAT COUNCILOR PELLETIER BE APPOINTED AS COUNCIL REPRESENTATIVE TO MEET WITH THE CHAIR OF THE BOARD OF TRUSTEES OF TRUST FUNDS TO INTERVIEW DIANE HARVEY FOR HER APPOINTMENT TO THAT BOARD AS A REGULAR MEMBER UNTIL 12/31/22, SECONDED BY COUNCILOR PELLETIER.**

Councilor Denault, through the Chair, wanted to know if this was the Mary Safford Wildes Trust.

Chairperson Spiller said that this has been re-named.

Town Manager Amaral said they always wanted the name to be Trustees of the Trust Funds, and added yes, it has been re-named.

**ROLL CALL VOTE WAS TAKEN WITH ALL VOTING IN FAVOR, 6-0, NONE OPPOSED, MOTION CARRIES.**

g. (020219-6) The Kittery Town Council moves to waive a Victualers License in accordance with 5.3.4 of the Town Code for food trucks; Magical Mystery Heroes, Lia's Lumpia, Creole Queens and Big Stuff, to participate in a one-day event located at Shapleigh School.

Chairperson Spiller said that a copy is in Council's packet and asked the Town Manager to tell Council what this is all about.

Town Manager Amaral said the School Dept. is doing a "Food Truck Challenge" at Shapleigh School and this is a Special Event, which is allowed under Town Code.

**COUNCILOR PELLETIER SO MOVED, SECONDED BY COUNCILOR THOMSON FOR DISCUSSION.**

Councilor Thomson wanted to know, through the Chair to the Town Manager, the date of the event or is that a secret.

Town Manager Amaral answered they do not have an exact date yet.

Councilor Denault through the Chair to the Town Manager said this is the first Council has heard about it and asked if they know if there is an agreement with the company.

Town Manager Amaral replied she was made aware by the Superintendent, and did not know if they had those conversations. She said they can store the truck at the Kittery Community Center for a rental fee.

Councilor Denault said he is concerned that the parents would want to know if it came before the Town Council.

**ROLL CALL VOTE WAS TAKEN WITH ALL VOTING IN FAVOR, 6-0, NONE OPPOSED, MOTION CARRIES.**

h. (020219-7) The Kittery Town Council moves to appoint Councilor Brock and Councilor Spiller to the Kittery Climate Adaptation Committee.

**COUNCILOR THOMSON MOVED THAT THE KITTERY TOWN COUNCIL APPOINT COUNCILOR BROCK AND COUNCILOR SPILLER TO THE KITTERY CLIMATE ADAPTATION COMMITTEE, SECONDED BY COUNCILOR PELLETIER. ROLL CALL VOTE WAS TAKEN WITH ALL VOTING IN FAVOR, 6-0, NONE OPPOSED, MOTION CARRIES.**

**14. COUNCILOR ISSUES OR COMMENTS**

Chairperson Spiller asked for any comments by Council, beginning with Councilor Lemont.

Councilor Lemont said he wanted to follow up on the testimony given by Mr. and Mrs. Knowles on LD 723 and that he is disappointed in our Legislative delegation and one Legislator in particular who sponsored the bill, but there was no courtesy given to contact the Town Manager on a bill that affects not only Kittery, but the entire coast of Maine. He encouraged everybody who felt passionate about this issue to testify at the hearing in Augusta.

Councilor Lemont said he heard a lot about Emery Field and the Town Council is way overdue at taking a look at the Master Field Plan and prioritize it. He said they had a presentation but did not take action to adopt the plan. He said he was a member of that Committee and has a lot of data. He feels that field is under-utilized. He said they do not have the funding to do the entire Field plan, but felt they should take a look at it and prioritize.

Councilor Lemont said he wanted to thank whomever provided him with the ad hoc Town Council list but he had one minor change, on the Comprehensive Plan Update Committee, they have listed one Council rep and the Town Council actually have two representatives.

Chairperson Spiller agreed with Councilor Lemont and said they need to take a look at the Master Field Plan. She said they never did approve it.

Councilor Denault said after he spoke about the food truck, he got an e-mail from a parent that said it was today at the school. He said if this happened before Council approved it, someone did something wrong and he is just giving them fair warning...

Councilor Denault said he watched when the Master Field Plan was brought forth and this was a \$2 million-dollar venture that was never approved and Council did not act on. He said we need to do due diligence to make sure we are not doing something we should be doing. He said he will be attending the hearing.

Councilor Denault spoke about the "Alex Challenge" and said that her family has set up a "Go Fund Me" page. He said they have raised \$8,825 so far, but people can also go to TD Bank North or the Kittery Animal Hospital or look up "Team Alex" on Facebook. He said thank you to Councilor Lemont and Councilor Clark who have helped in this matter.

Councilor Denault acknowledged the passing of some local residents and said that he and Councilor Lemont would be attending the wake of Ronald Lawrence at J.S. Pelkey until 8:00 p.m.

Councilor Thomson said it is time for the J1 students to be coming to the Seacoast for the summer.

Councilor Thomson said 120 students from foreign countries will be working at 20 different sites. He said that a couple of years ago they welcomed them as they bring diversity to the community and he wanted to welcome them again.

Councilor Thomson said the State of Maine has lost 14% of its High School population and the workforce has historically felt this impact.

## 15. COMMITTEE AND OTHER REPORTS

### a. Communications from the Chairperson

Chairperson Spiller said she did get contacted by a citizen who asked why we are not enforcing the "no idling" rule at the Transfer Station.

Chairperson Spiller said another note is that the Climate Adaptation Committee is on the website and they are looking for five citizens to apply.

Vice-Chair Brock wanted to know if the application and process on the website as well.

Chairperson Spiller responded yes, that the Town Clerk had updated the site.

### b. Committee Reports

## 16. EXECUTIVE SESSION - NONE

## 17. ADJOURNMENT

**COUNCILOR PELLETIER MOVED TO ADJOURN THE MEETING AT 6:55 P.M. SECONDED BY COUNCILOR THOMSON. ALL WERE IN FAVOR BY A VOICE VOTE, AYE, 6-0, NONE OPPOSED, MOTION CARRIES.**

Respectfully submitted,

Barbara Boggiano  
Recording Secretary

Approved 6-24-19