

## TOWN COUNCIL MEETING APPROVED COUNCIL CHAMBERS NOVEMBER 28, 2016

### 1. Call to Order

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

### 2. Introductory

Chairperson Beers read the introductory.

### 3. Pledge of Allegiance

Chairperson Beers led those present in the Pledge of Allegiance.

### 4. Roll Call

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

### 5. Agenda Amendment and Adoption

Revisions to the agenda requested by Council include: replace "\$80.00" with "\$20.00" in Item 13a; replace Vinus with Vinous in Item 13c; withdraw Item 13d per the applicant's request; replace "appointment" with "re-appointment" and add "until 12/31/19" to Item 13g; delete "amend and" from Item 13h; and, to move Item 13h under Unfinished Business and renumber subsequent agenda items in sequential order.

The Council deliberated whether or not formal action is required for changes made to the Council Standing Ad Hoc and Committee list. It was determined that the entire set of documents would be put forth for Council action for the December 12, 2016 regularly scheduled meeting.

Agenda was adopted, as amended.

### 6. Town Manager's Report

Town Manager Amaral reviewed her written report.

**Sewer Betterment Status** – A summary was provided in the Town Manger's report regarding the status of 153 sewer betterment assessment accounts. The total amount paid in full to date is \$175,660. There are 68 parcels in payment plans. Deferrals are still being issued for construction and age of the sewer system.

Letters will be sent before the end of business day on November 29<sup>th</sup> in response to three arbitration requests. Two citizen panelists will be selected from the six appointed by Council, and then those panelists will select a third panelist to serve on the arbitration panel. The Town Clerk will ensure that a complete record is on file.

**Promotion of Michael Morris to DPW Foreman** – Mr. Morris has been with Kittery for eight years and served as the interim DPW Foreman for the last month prior to his promotion to DPW Foreman.

**Staff Recognition – Service Awards (See attached)** – Town Manager Amaral announced the recognition of Service Awards as follows:

- David Evans, Resource Recovery Center, Five-year Award
- Danny Smith, Highway Department, Five-Year Award □ Robert Hames, Highway Department, Ten-year Award
- Fred Dixon, Highway Department, Thirty-year Award

**7 MRS 417 Marijuana Legalization Act** – The Secretary of State is expected to issue a recount that will begin December 1<sup>st</sup> and take approximately six weeks to complete. If it passes as a State law, marijuana will be allowed in Kittery for personal possession. She requested Council's opinion on how retail establishments should and should not be regulated. The legal counsel determined that it is unclear in the current ordinance as to whether or not the Town would have the authority to reject a state licensure application for retail use. Legislation will likely revise the law and address any ambiguities further. Town Manager Amaral asked the Council whether or not a draft ordinance should be presented to Council that would either prohibit outright or permit with conditions retail marijuana establishments and social clubs.

Town Manager Amaral noted that the moratorium language can be prepared and held onto until deemed necessary. There is a current application for a marijuana caregiver license to allow for a certain number of patients and plants and staff are ensuring that it is for medical purposes only.

Councilor Lemont, Councilor Spiller, and Vice Chairperson Denault stated their support to prohibit the retail use. Councilor Thomson felt uncertain to prohibit the retail use given the number of votes in favor, thus, he stated his support for an ordinance that would permit the use with conditions. Councilor Pelletier felt unsure. He echoed Councilor Thomson's reasoning, but felt that a moratorium would create the space and time necessary to understand the practicality of the matter. Councilor Dennett felt that it appears that there is disparity between the federal and state law regarding marijuana use, which makes it difficult to follow the oath of office. He felt that the federal law takes precedent in this matter and stated his support to prohibit outright. Chairperson Beers felt that it is important to respect the will of the majority and stated his support for reviewing a proposed ordinance for both situations to make a determination.

The Council reached consensus to schedule a workshop to explore the various options with the Planning Board.

7. Acceptance of Previous Minutes

Regular Meeting – November 14, 2016

Line 80 – replace “call” with “recount”

Line 230 & 237 – replace “2017” with “2016”

Line 248 – replace “Grand” with “Grant” The minutes were adopted, as amended.

8. Interviews for the Board of Appeals and Planning

Chairperson Beers noted that per the Code, the applications are to be reviewed in order of receipt of the applications. He noted that the Attorney recommended last year that re-appointments be made without benefit of the interview.

Planning Board: (3 positions available)

Robert Harris - re-appointment until 11/30/19, without benefit of the interview

**A MOTION WAS MADE BY COUNCILOR SPILLER TO RE-APPOINT ROBERT HARRIS TO THE PLANNING BOARD UNTIL 11/30/19, WITHOUT BENEFIT OF THE INTERVIEW, SECONDED BY COUNCILOR LEMONT.**

Councilor Thomson noted that per the Charter, applicants need to be interviewed by a quorum of this body and it does not indicate whether it can be waived. Chairperson Beers concurred. He cited the Attorney's interpretation to explain that re-appointments can be interviewed as a group and be waived. The Council further deliberated as to whether or not the re-appointment could be made without benefit of an interview.

Councilor Dennett stated in opposition of the motion because of the issue involved in waiving the interviews.

The Council further discussed the Town Attorney's interpretation of the Charter for reappointments. Chairperson Beers read a portion of the Attorney's Opinion into the record:

"If there are multiple applicants for a board, they are to be interviewed by the Council as a group as provided in Sec. 4.2.4 A.

I interpret this to mean that when there are multiple applicants (even if some are for reappointment) for the Board (Planning or ZBA), the interview is to be conducted by the Council as a group. The Council can figure out how it intends this group interview to go. For example, whether it intends to ask the same question of each applicant in the group taken collectively or other similar process that satisfies the intent of this Code provision is up to the Council to decide. As noted above, the Council can waive the interview for applicants seeking reappointment to their existing seat or seeking an alternate or reduced status. In this regard, even if there were four applicants for three positions and two of the applicants were seeking reappointment with the Council waiving the interview for those two reappointment applicants, the remaining two applicants would still need to be interviewed as a group."

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

Ann Grinnell - re-appointment until 11/30/19

**A MOTION WAS MADE BY COUNCILOR SPILLER TO RE-APPOINT ANN GRINNELL TO THE PLANNING BOARD UNTIL 11/30/19, WITHOUT BENEFIT OF THE INTERVIEW, SECONDED BY COUNCILOR PELLETIER.**

Vice Chairperson Denault expressed serious concerns about the re-appointment. He stated that he had prepared a report to council with evidence to support several accusations for the conduct of Ms. Grinnell during her tenure. He felt Council should have time to review his concerns before proceeding with action.

**A MOTION WAS MADE BY VICE CHAIRPERSON DENAULT TO POSTPONE REAPPOINTMENT OF ANN GRINNELL TO THE PLANNING BOARD UNTIL**

**11/30/19 TO THE DECEMBER 12, 2016 REGULARLY SCHEDULED TOWN COUNCIL MEETING, SECONDED BY COUNCILOR DENNETT.**

The Council further discussed whether or not it is appropriate to review the documentation prepared by Vice Chairperson Denault prior to Council action. Concerns were raised for proceeding with postponement and it was considered appropriate to proceed with action. Vice Chairperson Denault felt it would be beneficial and fair to all to review the information beforehand.

**THE MOTION FAILED TO PASS BY A ROLL CALL VOTE 1/6/0, WITH COUNCILORS THOMSON, SPILLER, LEMONT, PELLETIER, DENNETT, AND CHAIRPERSON BEERS OPPOSED.**

Vice Chairperson Denault questioned how best to deal with Council issues. Chairperson Beers stated that the information may be provided to the Town Manager for further distribution and consideration by the Council.

Councilor Lemont emphasized the importance of reforming the process for re-appointments to Boards and Committees given the various issues identified.

**THE MOTION PASSED BY A ROLL CALL VOTE 5/2/0, WITH COUNCILOR DENNETT AND VICE CHAIRPERSON DENAULT OPPOSED.**

Chairperson Beers thanked Mr. Harris and Ms. Grinnell for their past and future service to the Town and requested that they see Maryann Place to take their oath.

Marissa Day – new appointment until 11/30/19

Ms. Day provided a brief overview of her professional and educational background in public service. She felt comfortable interpreting regulation and thought it would be beneficial to the Board to provide a new perspective.

Councilor Spiller asked whether the time commitment would be of concern. Ms. Day acknowledged the level of commitment required from the Board and felt that she could commit the necessary time to the Board.

Councilor Spiller asked what the function of the Board was. She explained the functions include: reviewing development applications, recommending and overseeing the implementation of the Comprehensive Plan, making thorough decisions through adequate preparation, and display good, ethical behavior to provide service that is in the best interest of the public.

The Council confirmed that her contract work for the Town does not pose a conflict of interest to serve on Boards or Committees.

**A MOTION WAS MADE BY COUNCILOR SPILLER TO APPOINT MARISSA DAY TO THE PLANNING BOARD UNTIL 11/30/19, SECONDED BY COUNCILOR THOMSON. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.**

9. All items involving the town attorney, town engineers, town employees or other town consultants or requested officials.

a. (110216-1) The Kittery Town Council moves, pursuant to Council Rules Section 10,

to suspend the rule of Robert's Rules of Order governing the conduct of meetings, in order to modify the order of conduct of these hearings in the due form of quasi-judicial proceedings.

**A MOTION WAS MADE BY COUNCILOR DENNETT TO SUSPEND THE RULE OF ROBERT'S RULES OF ORDER, PURSUANT TO COUNCIL RULES SECTION 10, GOVERNING THE CONDUCT OF MEETINGS, IN ORDER TO MODIFY THE ORDER OF CONDUCT OF THESE HEARINGS IN THE DUE FORM OF QUASI-JUDICIAL PROCEEDINGS, SECONDED BY COUNCILOR SPILLER. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.**

b. (110216-2) The Kittery Town Council moves to hold Assessment Hearings for the following applicants:

**1. GLENNIS WRIGHT**

Name of the requester: **Glennis A. Wright**

Map: **21** Lot: **01** / Street: **26 ROUTE 236** Basic

description of the issue on request:

**Deferral of sewer hookup until 20 years after building constructed.**

The Council discussed and reached consensus that the request can be reviewed without the applicant being present.

Chairperson Beers read the council's basis in law and findings of fact for the hearing request into the record.

**COUNCIL'S BASIS IN LAW AND FINDINGS OF FACT FOR THIS MATTER ARE:**

The application [ **is** ] complete; made a part of the record; and, the applicant [ **does** ] have standing.

The applicant's Burden of Proof [ **was** ] clarified to the Council: **Substantial evidence of claim**, which means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.

Assessment dimensions of the property and other arithmetical calculations used for calculating the assessment [ **are not** ] applicable for this request.

Assessment formula for this assessment [ **is not** ] applicable for this request.

There [ **may be** ] mitigating factors related to this request not considered in the plan.

**Standalone septic holding tanks were not directly considered in the adopted plan.**

**"G. DEFERRAL – 20-YEAR TANK/FIELD**

In accordance with Town Code Title 13 §1.1.11D, owners of properties with a septic tank and leach field system installed within twenty (20) years of this main extension project completion date of May 03, 2016, may request deferral of connection until the system has reached the twenty-years after installation anniversary." Key elements of the issue and applicable ordinance(s)/statute(s):

**"Town Code Title 13, §1.1.11 ..... Connection to Public Sewer Required.**

D. Owners of properties with a septic tank and leach field system installed within twenty (20) years of any main extension project completion date may request deferral of connection until the system has reached the twenty-years after installation anniversary.” The relief sought as noted in the request filing asked the Council to find:

**Deferral of sewer connection until 20 years after building constructed; or until May 01, 2017.**

In order to grant the request, the applicant needed to demonstrate that:

**Substantial evidence that unlike others in the community, suffering a particularized injury through adverse and direct affect.**

Evidence submitted by the requester beyond what is shown on a plan:

**Letter explaining building construction; wastewater drainage – 1,500 gallon holding tank**

Evidence submitted by people other than the requester either for or against the issue: **NONE**

Evidence which Council enters into the record: **NONE**

The applicant’s evidence presented for the matter: [ **was** ] substantial;  
[ **was not** ] credible in demonstrating particularized evidence of injury; [ **is** ]  
outweighed by conflicting evidence from the Town; and, the applicant [ **did not** ]  
meet the burden of proof for granting the request.

The sum of the information/circumstances presented and reviewed [ **does not** ] warrant a revision of the Assessment.

What revision to the Assessment is decided upon, or not; and, what is the basis of the decision?  
**Revision not warranted. Like treatment of similarly situated persons results in no particularized injury.**

The Council discussed the consideration for holding tanks given that the Ordinance does not specifically indicate guidelines for such a system and does rather indicate septic and leach field systems. Support for the deferral until May 1, 2017 was stated.

The Town Manager recommended to not act on the deferral. She stated that she could make the necessary arrangements under her authority in Title 13. The Council agreed and the item was withdrawn.

## **2. DOW HIGHWAY PROPERTIES, LLC – MARK PHILLIPS**

Name of the requester: **Mark Phillips, Dow Highway Properties, LLC**

Map: **21** Lot: **03** / Street: **5 DANA AVE** and Map: **21** Lot: **07** / Street: **2-4 DANA AVE**

Basic description of the issue on request:

**Requests reduction in the Adopted Plan assessment in the amount of \$17,009.55 (which is 5 units @ \$3,401.91) because of redevelopment to occur after July 01, 2017.**

**Further requests a 25% reduction in Total assessment in the amount of \$30, 985.76 for landowner's cost to re-pipe W&S to Town STDs (calculated after unit count reduction).**

Mr. Phillips provided a brief overview and history of the mobile home park on Dana Avenue. The site is planned to be redeveloped due to the failing septic system and unstable soils. That will result in a reduction of the number of units, which is partially the purpose of the request for the revised Assessment. Also, he described the location of the stub available that will impose additional costs in order re-pipe the services, thus, he has requested a reduction in the Assessment as compensation for the additional costs.

Chairperson Beers read the council's basis in law and findings of fact for the hearing request into the record.

**COUNCIL'S BASIS IN LAW AND FINDINGS OF FACT FOR THIS MATTER ARE:**

The application [ **is** ] complete; made a part of the record; and, the applicant [ **does** ] have standing.

The applicant's Burden of Proof [ **was** ] clarified to the Council: **Substantial evidence of claim.** Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.

Assessment calculations used for calculating the assessment [ **are** ] applicable for these requests. **Assessed for 35 units of occupancy (25 on Lot 03 & 10 on Lot 07) – there 11 on Lot 07 as noted in the property record summary shown in the spreadsheet provided.**

Assessment formula for this assessment [ **is** ] applicable for these requests.

**An arbitrary reduction in the total assessment would benefit a single owner over the other 152 properties assessed with common formulae creating a circumstance of unlike treatment of like persons.**

There [ **are** ] other mitigating factors related to these requests not considered in the plan. **Basis of determining number of units of occupancy: five units on Lot 03 smaller than 650sf.**

**Note: Unit count on lot 07 is 11; original assessed total unit count should have been 36.**

Key elements of the issue and applicable ordinance(s)/statute(s):

**13.1.4.3 Assessment.**

**13.1.4.3.1 Determination of Benefits.**

When the sewer line construction has been completed, the municipal officers shall determine what lots or parcels of land, with or without structures thereon, are benefited by said sewer line; and, estimate and assess upon said lots or parcels of land and against the record owner or owners thereof or against a person against whom the taxes thereon are assessed, a sum not exceeding the benefit the municipal officers deem fair and equitable towards defraying the expenses of said sewer construction together with any sewage disposal units and appurtenances that may be necessary for the proper operation of said sewer line.

**13.1.4.3.2 Definitions.**

For the purposes of this Article, the following definitions apply:

**Dwelling Unit:** A room or group of rooms forming a habitable unit for one family with facilities used or intended to be used for living, sleeping, cooking, eating, and sanitary facilities. It comprises at least six hundred fifty (650) square feet of habitable floor space and includes any subcategory definition of dwelling as found in Title 16, §2.2, (e.g. Inn, Accessory Dwelling Unit).

**Per-Dwelling-Unit:** The basis of calculation of the number of dwelling units for residences assessed in an adopted Sewer Main Extension Assessment Plan, or to be assessed for sewer special entrance connection fee.

**Per-Unit-of-Occupancy:** The basis of calculation of the number of occupied units for nonresidential structures assessed in an adopted Sewer Main Extension Assessment Plan, or to be assessed for sewer special entrance connection fee.

#### **13.1.4.3.3 Limitation on Assessment—Formula for Determining Cost.**

The whole of the assessments may not exceed one-half the cost of the entire project contract price of constructing and completing the sewer line including all necessary appurtenances and sewage disposal units. The municipal officers shall devise and utilize a formula for determining the fair and equitable cost to the owner or owners of land so benefited.

#### **13.1.4.4 Collection of Assessments and Charges.**

B. The tax collector may enter into a written mortgage agreement with the owner(s) of land so assessed and provide the same with a promissory note and installment payment plan for the amount of the assessment ("Assessment Payment Plan"). This Assessment Payment Plan agreement is to provide for payment of said assessment to the Town over a period not to exceed the shorter of eighteen (18) years, or two years shorter than the Town's bond repayment period for the applicable project, at an interest rate to be determined by the municipal officers. Such agreement is also to specify the method of collection in the event that such payment is in default, and further, the mortgage agreement is to be recorded by the Town in the York County registry of deeds. **Article VI. New Sewer Service Connection Fees**

#### **13.1.6 Requirement.**

##### **13.1.6.1 Benefited and Assessed Properties.**

Main extension projects include properties established by the Town Council as benefited and owners are obliged to pay an assessment fee as ordained above. Except as may be required pursuant to 13.1.6.2 and 13.1.6.3 as a result of changes to a benefited and assessed parcel, fees required by this chapter do not apply to connections to the municipal sewage collection system of any structure existing at the time of adoption of an Assessment Plan for such benefitted and assessed properties.

##### **13.1.6.2 Changes to Benefited and Assessed Properties – Impact Fee.**

An impact fee is assessed when there is a change in the use, character, or size, of any structure on a parcel, or any other condition that results in additional sewage flow from that parcel. Additional sewage flow is any increase in the number of units of occupancy over that existing at the time of adoption of an Assessment Plan resulting in an increase in the wastewater discharge over that existing; or, reasonably estimated to have existed as date of the benefit assessment plan adoption.

##### **13.1.6.3 New Main Entrance Connection.**

Changes in use for benefited properties and all properties not included in a prior main extension Assessment Plan (not benefited or assessed) requiring a new sewer main entrance connection must pay a special sewer entrance connection fee, as reflected in §13.1.6.6.

**13.1.6.6 Special Sewer Entrance Connection Fee.**

A. A special sewer entrance connection fee as set out in Town Code Appendix A is established on a per-dwelling-unit basis for residences and on a per-unit-of-occupancy basis for nonresidential structures for each new sewer entrance connection to a system main.

The relief sought as noted in the request filing asked the Council to find:

**Reduction in the Adopted Plan assessment in the amount of \$17,009.55 because of redevelopment to occur after July 01, 2017.**

**A 25% reduction in Total assessment in the amount of \$30,985.76 for landowner's cost to re-pipe W&S to Town STDs (calculated after unit count reduction).**

In order to grant the request, the applicant needed to demonstrate:

**Substantial evidence that unlike others in the community these properties suffer a particularized injury through adverse and direct affect.**

Evidence submitted by the requester beyond what is shown on a plan:

**Engineer Drawings of lots, area to be redeveloped, and proposed on-site sewer system.**

Evidence submitted by people other than the requester either for or against the issue: **NONE**

Evidence which Council enters into the record:

**Property record data reflecting present unit count and dimensions.**

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The applicant's evidence presented for the reduction for redevelopment matter:

[ **was** ] substantial;

[ **was** ] credible;

[ **is not** ] outweighed by conflicting evidence from the Town; and, the applicant

[ **did** ] meet the burden of proof for granting the request upon removal of the structures.

And, Town provided unit verification data warrants reduction of five units for the Lot 03 assessment due to dwelling unit size.

The sum of the information/circumstances presented and reviewed [ **does** ] warrant a revision of the Assessment.

What revision to the Assessment is decided upon, or not; and, what is the basis of the decision?

**Reduction in the number of units of occupancy assessed on Lot 03 by five dwelling units less than 650sf and recalculation of assessment fee, less \$17,009.55.**

**De facto and de jure removal of the present structures presently part of the unit count on lot 07.**

*De facto means a state of affairs that is true in fact, but that is not officially sanctioned. In contrast, de jure means a state of affairs that is in accordance with law (i.e. that is officially sanctioned)*

**Which is to say, with Planning Board approval of a redevelopment plan, and demolition / removal of the barn and five mobile homes on Lot 7.**

**Upon completion, recalculation of Assessment for reduction on Lot 07 of 6 units in the amount of \$20,411.46 (6 x \$3,401.91).**

**OTHER ISSUES**

1. Redevelopment of Lot 07 will result in New Sewer Service Fees, whether the count is reduced or not, however payment for six units where only one may exist in the future must be considered.
2. The total reduction sum requested is \$47,995.31 and the net reduction resulting from favorable decisions tonight is \$37,421.01; which is \$10,574.30 less than requested.
3. The resulting final assessment would be \$92,957.28 and with an 18-year payment plan, the annual obligation would be \$5,164.29. The average for each of the remaining 30 units would be \$172.14/year or \$14.35 month.

Councilor Dennett clarified the exact unit cost based on certain calculations.

Chairperson Beers clarified to Councilor Lemont that the request was later added for units less than 650 s.f. would not be considered a unit for the Assessment. Councilor Lemont noted that it is difficult to make a determination based on the anticipation of the redevelopment. Chairperson Beers replied that it would have to be contingent upon the approval of the redevelopment plan, which would propose the reduced units and removal of the structures.

**A MOTION WAS MADE BY COUNCILOR THOMSON TO CONTINUE THE PUBLIC HEARING UNTIL JANUARY 9, 2017 AT SUCH TIME THE COUNCIL WOULD HAVE RECEIVED CLARIFYING DOCUMENTATION FROM KLEINFELDER AND THE APPLICANT, SECONDED BY COUNCILOR LEMONT.**

Councilor Dennett requested further information regarding the stub locations and would like the Superintendent's opinion on whether or not an additional stub could be installed for the property.

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

**10. PUBLIC HEARINGS**

a. (110216-3) The Kittery Town Council moves to hold a public hearing on an application from First Serve Hospitality Group, 326, US Route 1, Kittery for a Victualer's License for Robert's Maine Grill, 326 US Route 1.

Chairperson Beers noted that First Serve Hospitality Group is the new owner of Robert's Maine Grill and this hearing is required by 30-A MRS §3812 for their food service license.

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

**A MOTION WAS MADE BY COUNCILOR THOMSON TO APPROVE THE APPLICATION FROM FIRST SERVE HOSPITALITY GROUP, 326, US ROUTE 1, KITTERY FOR A VICTUALER'S LICENSE FOR ROBERT'S MAINE GRILL, 326 US**

**ROUTE 1, SECONDED BY COUNCILOR SPILLER. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.**

b. (110216-4) The Kittery Town Council moves to hold a public hearing on a multi-year contract with I Am Responding.

Chief O'Brien provided a brief summary of the proposal. The Kittery Fire Association has been utilizing the IamResponding emergency responder tracking system for the past two years. He highlighted the benefits and features of the product, including: live mapping of responding individuals; hydrant and water source mapping; instant mass-messaging for enhanced communications; attendance tracking and reporting; full integration with Google Maps™, and more. He noted that there is a cost savings to enter into a three or five-year contract versus a oneyear contract.

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

**A MOTION WAS MADE BY COUNCILOR THOMSON TO ORDAIN THE FOLLOWING ORDINANCE AND INSTRUCTS THE TOWN MANAGER TO EXECUTE THE FIVE YEAR EMERGENCY RESPONDER TRACKING SYSTEM CONTRACT AGREEMENT WITH IAMRESPONDING.COM, SECONDED BY VICE CHAIRPERSON DENAULT.**

Town Manager Amaral clarified to Councilor Dennett that the intent is to have the Town's template cover contract, so that the agreement falls under Maine law. That has been proposed to the vendor and staff awaits their legal department's response. Councilor Dennett expressed concern that the Council would take action to enter into an agreement that the vendor has yet to agree to. Councilor Thomson suggested to revise the motion.

**THE MOTION WAS AMENDED TO INCLUDE THAT COUNCIL APPROVAL OF THE CONTRACT AGREEMENT IS CONTINGENT UPON VERBIAGE THAT IS DEEMED ACCEPTABLE TO THE TOWN MANAGER.**

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

**11. DISCUSSION**

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

Ann Grinnell, 5 Stimson Street

Ms. Grinnell appreciated the favorable support received from Council members for her reappointment and the way the Chairperson facilitated the deliberations raised. She noted that notice and public hearing would be required for any consideration to remove her appointment to the Planning Board. She expressed various concerns for the manner in which consideration was had for her re-appointment.

Milton Hall, 51 Bowen Road

Mr. Hall commented on his experience and interaction with Council while appointed to the Port Authority.

John Tuttle

Mr. Tuttle stated he represented the Southern Maine Fish and Game Club. He stated the organization has compiled the paperwork regarding their sewer betterment Assessment. He requested that their request be considered.

Holly Zurer, Government Street

Ms. Zurer stated her expectation for respectful interactions with Council. Given the resignation of a former Town Manager and Finance Director and continued shortage of volunteers, she reiterated her request that the Council be respectful.

Lee Perkins

Ms. Perkins provided the Rice Public Library annual audit review and noted that an electronic version was provided to Town Manager Amaral.

b. Response to public comment directed to a particular Councilor – None.

c. Chairperson's response to public comments

Ms. Grinnell – He thanked her for the recognition of appreciation.

Mr. Hall and Ms. Zurer – He acknowledged their dedication to encouraging further courtesy and respect.

Mr. Tuttle – He asked that the organization send a request to the Town Manager seeking consideration.

**12. UNFINISHED BUSINESS**

a. (110216-12) The Kittery Town Council moves to adopt its rules for the ensuing year.

**THE MOTION MADE IN THE NOVEMBER 14, 2016 TOWN COUNCIL MEETING BY COUNCILOR DENNETT TO ADOPT ITS CURRENT RULES FOR THE ENSUING YEAR, SECONDED BY VICE CHAIRPERSON DENAULT, RETURNED TO THE FLOOR.**

**THE MOTION MADE IN THE NOVEMBER 14, 2016 TOWN COUNCIL MEETING BY COUNCILOR THOMSON TO REMOVE ITEM B UNDER SECTION FIFTEEN IN ITS ENTIRETY, SECONDED BY CHAIRPERSON BEERS, RETURNED TO THE FLOOR.**

The Council and Town Manager Amaral discussed the rationale for removing the Town Manager's Review Committee.

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

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

**13. NEW BUSINESS**

a. Donations/gifts received for Council disposition

(110216-5) The Kittery Town Council moves to accept a donation in the amount of \$20.00 from Kenneth M. Bonnell for the Thresher Memorial Fund to be deposited in account #5007-43600Thresher Memorial Fund.

**A MOTION WAS MADE BY COUNCILOR THOMSON TO ACCEPT A DONATION IN THE AMOUNT OF \$20.00 FROM KENNETH M. BONNELL FOR THE THRESHER MEMORIAL FUND TO BE DEPOSITED IN ACCOUNT #5007-43600THRESHER MEMORIAL FUND WITH LETTER OF APPRECIATION TO BE SENT TO DONOR, SECONDED BY CHAIRPERSON BEERS. THE MOTION PASSED BY A UNANIMOUS VOICE VOTE 7/0/0.**

b. (110216-6) The Kittery Town Council moves to approve the disbursement warrants.

Town accounts payable of \$349,809.90.

Sewer account payable of \$13,887.84.

School accounts payable of \$148,987.44.

Total of all disbursement warrants of \$512,685.18.

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

**A MOTION WAS MADE BY COUNCILOR THOMSON TO APPROVE THE DISBURSEMENT WARRANTS, SECONDED BY COUNCILOR SPILLER. THE MOTION PASSED BY A UNANIMOUS VOICE VOTE 7/0/0.**

c. (110216-7) The Kittery Town Council moves to approve an application from First serve Hospitality Group, c/o David Ballu, Attorney, 408 US Route 1, 2nd Floor, York, Maine for a Malt, Spirituous and Vinous Liquor License for Robert's Maine Grill, 326 US Route 1.

**A MOTION WAS MADE BY COUNCILOR SPILLER TO APPROVE AN APPLICATION FROM FIRST SERVE HOSPITALITY GROUP, C/O DAVID BALLU, ATTORNEY, 408 US ROUTE 1, 2ND FLOOR, YORK, MAINE FOR A MALT, SPIRITUOUS AND VINOUS LIQUOR LICENSE FOR ROBERT'S MAINE GRILL, 326 US ROUTE 1, SECONDED BY COUNCILOR PELLETIER. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.**

d. (110216-9) The Kittery Town Council moves to appoint a representative to meet with the Chair of the Shellfish Conservation Committee to interview Daniel M. O'Reilly for his reappointment to that board until 12/31/19.

**A MOTION WAS MADE BY COUNCILOR THOMSON TO RE-APPOINT DANIEL M. O'REILLY TO THE SHELLFISH CONSERVATION COMMITTEE UNTIL 12/31/19 WITHOUT THE BENEFIT OF AN INTERVIEW, SECONDED BY COUNCILOR SPILLER. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.**

e. (110216-10) The Kittery Town Council moves to appoint a representative to meet with a member of the Rice Public Library Board of Trustees to interview Dianne Fallon for her appointment to that board.

**A MOTION WAS MADE BY COUNCILOR DENNETT TO APPOINT COUNCILOR LEMONT TO MEET WITH A MEMBER OF THE RICE PUBLIC LIBRARY BOARD OF TRUSTEES TO INTERVIEW DIANNE FALLON FOR HER APPOINTMENT TO THAT BOARD, SECONDED BY CHAIRPERSON BEERS. THE MOTION PASSED BY A UNANIMOUS VOICE VOTE 7/0/0.**

f. (112016-11) The Kittery Town Council moves to appoint a representative to meet with a member of the CIP Committee to interview Jeffrey Clifford for his re-appointment to that board until 12/31/19.

**A MOTION WAS MADE BY COUNCILOR THOMSON TO RE-APPOINT JEFFREY CLIFFORD TO THE CIP COMMITTEE UNTIL 12/31/19 WITHOUT THE BENEFIT OF AN INTERVIEW, SECONDED BY CHAIRPERSON BEERS. THE MOTION PASSED BY A UNANIMOUS ROLL CALL VOTE 7/0/0.**

g. (110216-13) The Kittery Town Council moves to appoint Maryann Place as acting Town Manager from December 3rd through December 11th during the Town Manager's absence.

**A MOTION WAS MADE BY COUNCILOR THOMSON TO APPOINT MARYANN PLACE AS ACTING TOWN MANAGER FROM DECEMBER 3RD THROUGH DECEMBER 11TH DURING THE TOWN MANAGER'S ABSENCE, SECONDED BY CHAIRPERSON BEERS.**

Ms. Place stated to Councilor Dennett her accord with the motion.

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

#### **14. COUNCILOR ISSUES OR COMMENTS**

Vice Chairperson Denault made various statements, including:

- A complaint was received regarding lack of signage indicating that businesses are open on the Rte. 1 Bypass;
- A complaint was received regarding influx of out-of-state vehicles parking in the cul-desac at Roger's Park and amount of off-leash dogs and canine waste;
- Letters received by the Town from Comcast regarding rate changes should be made public information;
- and, Brett Costa expressed thanks for his past appointment to the Planning Board and was not able to complete an application due to medical reasons.

Councilor Spiller made various statements, including:

- She is willing to replace Russell White's position on the Title 4 Committee;
- The Friends of Fort Foster have a new Facebook page that the public can post pictures to;
- and, a workshop with Senator Dawn Hill and Representative Deane Rykerson could provide an opportunity for Council to communicate key issues.

Councilor Lemont made various statements and questions, including:

- There is frustration with the procedure for appointing individuals to Boards and Committees and asked when the next Title 4 Committee meeting will be held. Town Manager Amaral would address that concern upon return from her leave of absence;
- The Rte. 103 sidewalk project has been funded and asked who the best point of contact is for further information.
- Residents have witnessed people entering and exiting the former Tri-County hospital on a regular basis.
- and, a Subcommittee or working group could help bring forth a resolution for the Rice Public Library. Councilor Spiller noted that she gained further information regarding the matter and plans to share those findings soon.

Councilor Thomson made various statements, including:

- There was a workshop held regarding the future of the Rice Public Library and former Interim Town Manager Granfield mentioned that the costs to receive the RPL Board under Town administration would be researched further;
- He made a request for an update regarding the John Paul Jones Park ownership;
- and, he observed a need for a crosswalk at the intersection of Walker Ave and Main St.

**15. COMMITTEE AND OTHER REPORTS**

**a. Communications from the Chairperson**

It should be included in an upcoming workshop with the Planning Board to discuss AIRBNB. Russell White had gathered information for a Council Code of Ethics. The Council reached consensus to provide further written information to the Town Manager on those considerations.

**b. Committee Reports – None.**

**16. EXECUTIVE SESSION – None.**

**17. ADJOURNMENT**

**A MOTION WAS MADE BY COUNCILOR THOMSON TO ADJOURN THE MEETING AT 9:09 P.M., SECONDED BY COUNCILOR PELLETIER. THE MOTION PASSED BY A UNANIMOUS VOICE VOTE 7/0/0.**

Submitted by Marissa Day, Minutes Recorder, on December 5, 2016.

*Disclaimer: The following minutes constitute the author's understanding of the meeting. While every effort has been made to ensure the accuracy of the information the minutes are not intended as a verbatim transcript of comments at the meeting, but a summary of the discussion and actions that took place. For complete details, please refer to the video of the meeting on the Town of Kittery website at <http://www.townhallstreams.com/locations/kittery-maine>.*