

**Kittery Town Council
Regular Meeting
March 12, 2018
Council Chambers**

1. Call to order: Chairperson Lemont called the meeting to order at 6:00 p.m.
2. Introductory: Chairperson Lemont read the introductory.
3. Pledge of Allegiance: Chairperson Lemont led those present in the Pledge of Allegiance.
4. Roll Call: Answering the roll were Councilors Frank Dennett, Jeffrey Pelletier, Jeffrey Thomson, Gary Beers, Matthew Brock, Vice-Chairperson Charles Denault and Chairperson Kenneth Lemont.
5. Agenda Amendment and Adoption: none - Chairperson Lemont cast one vote for acceptance of the agenda as presented.
6. Town Manager's Report:

Town Manager Amaral reported that Fort Foster sustained a great deal of damage from the recent storm, "Riley," along the pier, and they need to repair decking as well as the railings from the wave surge. She said the path between the main parking area and the pavilions was also washed out and needs to be reconstructed with gravel. She said it is her understanding from York County Emergency Management that this is the second storm that will meet the threshold for the State of Maine emergency funding as well as the potential for FEMA funds. She said that it is unclear when the funding will be released from the October storm. She said it is likely that storm "Skylar" and storm "Riley" will be combined and will also be considered for funding.

Town Manager Amaral said she has been discussing the town's emergency plans with the department heads and bringing them up-to-date so that when the next emergency strikes that requires evacuation or shelters we will make sure we are prepared.

Town Manager Amaral wanted to thank the Fire Dept., Dept. of Public Works and the Police Dept. for all their efforts through storms "Riley" and "Skylar" last week. She said the Fire Dept. put in a ton of effort responding to multiple calls and the Public Works Dept. pushing back downed trees as they plowed. She said kudos to all the staff working hard through the storms.

Town Manager Amaral said, regarding Route 236 by Aroma Joes that Councilor Denault has been focusing on, they are working with K.A.C.T.S. and the Town of Eliot. She said they have a Scope of Services for a corridor study from Stevenson Road to Beech Road, which will get them engineering support. She said that MDOT said this is not an issue, but this traffic study will determine that there is an issue and what kind of solutions they want to implement as they move forward.

Town Manager Amaral said that they have posted information about State-controlled roads in Kittery online, as requested by Councilor Denault, so everyone will know which roads are State roads and which are local roads. She said that the State controls the speed limits.

Town Manager Amaral said that Councilor Thomson had brought up that the pavement markings in the traffic circle are fading. She said it is on the punch list for the project and the construction company is aware, but they will have to come back in the Spring to address this issue.

Town Manager Amaral thanked everyone who came out last Friday night to help us celebrate Maryann Place's retirement. She said she is happy to announce that Nicole Maurice has been hired as Town Clerk and has municipal office experience. She said that Nicole will be training with Maryann for the next couple of weeks and that Maryann has agreed to come back for the June election to assist Nicole, who will be at the next Town Council meeting.

Town Manager Amaral reminded everyone about the KCC Silent Auction on April 6th at the Regatta. She also said that Councilor Thomson had requested that the MDOT I95 Bridge project discussion be rescheduled so that both she and Council will be able to attend since the meeting was the meeting was originally scheduled for tonight. She said there will be a Workshop with MTA and MDOT on Weds., March 14th at 6:00 p.m. in the Council Chambers. She said timing is important as they will be finalizing contracts and they want to make sure that they will be heard as they discuss plans for the project.

7. Acceptance of Previous Minutes: 2/12/18

Chairperson Lemont cast one vote to accept the minutes of February 12, 2018 as amended.

8. Interviews for the Board of Appeals and Planning Board

Planning Board (one appointment until 11/30/19)

- Drew Fitch

Town Manager Amaral had contacted him and he said he was on his way. Chairperson Lemont said they will take up the next item.

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

(030118-1) The Kittery Town Council moves to hear a report from the Fire Chief, David O'Brien, on Public Protection Classification (ISO).

David O'Brien said he will talk about the ISO recent classification for Fire protection rate which ISO insurance companies look to in order to provide information to set premiums based on a series of risks, in other words, how will your Fire Dept. be able to fight a structure in your community.

Chief O'Brien said there was a major fire about 12 years ago in Charleston and after assessing the cause, a report came out that the fire was due to inadequate apparatus. He said the ISO rating is based on a scale of 1-10, and one is the best. He said that led the ISO to fully review their Fire/Rescue schedule which took three years to re-vamp.

Chief O'Brien said 20 years ago, Kittery was classified as 6 (hydrant) /9 (non-hydrant), which could be improved upon. He said they were rated a 5 with a split, which means they could provide the same amount of water supply in a hydrant/non-hydrant situation. He said this is based on a better rating ISO for Kittery, and now they are rated a 4. He said everything has been done in the past 12 years, and the rating improved due to a lot of work. He said this rate goes into effect on June 1st.

Chief O'Brien said the State met with both himself and Mike Rogers from the Water District for maintenance testing. He said they reviewed our records and all maintenance is up-to-date, on ladders, equipment, SCBA's – anything required for firefighting.

Chief O'Brien said the firefighters have gone through their training and a number of them are certified in firefighting. He said 260 hours were completed.

Chief O'Brien said that there are 46,041 communities that come under ISO, and only 47 are better than the Town of Kittery. He said they are in the top 8% for fire protected structures. He said after this review and all the work that went into this, as well as what the town spends for the Fire Dept. budget, this is the best damn Fire Dept. they can have.

Chief O'Brien presented his report to the Town Manager and opened the floor for questions.

Councilor Dennett asked what was the total rating in points.

Chief O'Brien replied just about 62 out of only 100 possible points.

Councilor Dennett said that Eliot did better than us, they had 55.7.

Chief O'Brien said he would have to check on that.

Chairperson Lemont asked if there were any other questions. He said he had one and wanted to know if the insurance set the premiums will this decrease the homeowners' insurance.

Chief O'Brien responded it should, but Councilor Dennett could answer that question better than he could. He said he believed it is up to the individual insurance companies whether they subscribe to ISO. He said when they did go to a 5, the Kittery Trading Post saw a cut in their premium.

Chairperson Lemont thanked Chief O'Brien and the Fire Dept. for their efforts.

8. Interview for Planning Board

Drew Fitch thanked the Council for having him again. Chairperson Lemont said that Mr. Fitch had answered the questions and hoped the Council has a good understanding of what they were at the time.

Councilor Beers addressed the Chair and felt he was obliged to ask Mr. Fitch how was his day.

Mr. Fitch replied good, thank you.

Councilor Dennett said his interpretation of the Town Charter was they cannot interview just one applicant, there should be multiple candidates, two or more. He said he will abstain from voting and it has nothing to do with Mr. Fitch. He said he disagreed with the process.

Councilor Beers said, in response to Councilor Dennett's point, they faced this last Fall, and applicants for the Board of Appeals and Planning Board must be interviewed by the Town Council. He said Sec. 2.2.4 (A) of the Town Charter that states if there are multiple applicants for a Board they will be interviewed as a group. He read: "Applicants for the planning board and board of appeals must be interviewed by the council, with at least a quorum present, before any vote is taken by the council on the appointment."

He further read, 4.2.4 Planning Board or Board of Appeals Interviews and Appointments.

A. Applicants will be interviewed for the Planning Board or Board of Appeals with at least a quorum present at a regular or special Council meeting. If there are multiple applicants for a Board, they will be interviewed by Council as a group including applicant(s) already interviewed.

He noted from the internet Grammar Guru:

If you say, "Interview all applicants who have at least 5 years' experience," it is not normally considered necessary to reword the sentence to allow for the possibility that there will be only one such applicant."

He said, in his opinion, if there were multiple applicants they must be interviewed, but there is only one, it was legal and Council only needed to know were there any other applicants in the pool.

Chairperson Lemont asked the Town Clerk and Ms. Place agreed that Mr. Fitch was the only one.

COUNCILOR BEERS MOVED TO APPOINT DREW FITCH FOR THE PLANNING BOARD FOR A TERM TO EXPIRE ON 11/30/19, SECONDED BY VICE-CHAIRPERSON DENAULT. ROLL CALL VOTE WAS TAKEN, 6-0-1, SIX IN FAVOR, NONE OPPOSED, ONE ABSTENTION (COUNCILOR DENNETT), MOTION CARRIES.

Chairperson Lemont told Mr. Fitch to please see the Town Clerk in the next couple of weeks to be sworn in.

10. PUBLIC HEARING

(030118-2) The Kittery Town Council moves to approve an application from Provisions at Pepperrell Cove LLC, 88 Pepperrell Road, Kittery Point, ME 03905 for a Victualer's License for Provisions, 88 Pepperrell Road.

Chairperson Lemont opened the public hearing if anyone wished to speak to, for or about the application to help the Town Council with there deliberations in this matter, to please do so at this time.

Hearing none, he closed the public hearing.

COUNCILOR THOMSON MOVED APPROVAL OF THE APPLICATION FROM PROVISIONS AT PEPPERRELL COVE LLC, 88 PEPPERRELL ROAD, KITTEY POINT FOR A VICTUALER'S LICENSE FOR PROVISIONS, 88 PEPPERRELL ROAD. COUNCILOR PELLETIER SECONDED THE MOTION.

Donna Ryan, owner, stood up and told the Council they are very excited and thanked Ms. Place.

ROLL CALL VOTE WAS TAKEN – 7-0, SEVEN IN FAVOR, NONE OPPOSED, MOTION CARRIES.

11. DISCUSSION - None

- 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 – None

13. NEW BUSINESS

a. Donations/gifts received for Council disposition. – None

b. (030118-3) The Kittery Town Council moves to approve the disbursement warrants. Chairperson Lemont asked Councilor Beers if the Town payable and Sewer payable warrants were in due form. Councilor Beers responded the Town payable is, there was no Sewer payable.

Chairperson Lemont asked Councilor Pelletier if the School payable warrant was in due form. Councilor Pelletier replied that it was.

Chairperson Lemont read the Town payable in the amount of \$146,652.41 and asked about the School warrant.

Town Clerk Maryann Place apologized for not having the School Warrant available.

Councilor Beers said that the Sewer Payable will be late because of the closure.

COUNCILOR THOMSON MOVED THAT THE TOWN PAYABLE BE PAID AS PRESENTED, SECONDED BY COUNCILOR PELLETIER, AND ALL WERE IN FAVOR BY A VOICE VOTE. MOTION CARRIES.

c. (030118-4) The Kittery Town Council moves to authorize Tributary Brewing Company to hold a special event on Saturday, April 14, 2018 from 12 noon to 8:00 p.m. and to extend the bonded area to a tent outside the tasting room for the release of "Mott the Lesser."

COUNCILOR THOMSON MOVED THAT THE KITTERY TOWN COUNCIL AUTHORIZE TRIBUTARY BREWING COMPANY TO HOLD A SPECIAL EVENT ON SATURDAY, APRIL 14, 2018 FROM 12 NOON TO 8:00 P.M. AND TO EXTEND THE BONDED AREA TO A TENT OUTSIDE THE TASTING ROOM FOR THE RELEASE OF "MOTT THE LESSER" AS REQUESTED. COUNCILOR PELLETIER SECONDED THE MOTION. ROLL CALL VOTE WAS TAKEN, SEVEN IN FAVOR, NONE OPPOSED, MOTION CARRIES.

d. (030118-5) The Kittery Town Council moves to approve an application from York Harbor Brewing Co., 439 U.S. Route 1, Kittery for a Malt, Vinous and Spirituous Liquor License for Maine Beer Café, 439 U.S. Route 1.

COUNCILOR THOMSON MOVED THE APPLICATION FROM YORK HARBOR BREWING CO., 439 U.S. ROUTE ONE, KITTERY FOR A MALT, VINOUS AND SPIRITUOUS LIQUOR LICENSE FOR MAINE BEER CAFÉ, 439 U.S. ROUTE ONE. COUNCILOR PELLETIER SECONDED THE MOTION.

Chairperson Lemont said he would abstain from voting on this item and asked if there was any discussion.

Councilor Dennett said he is totally baffled by this application. He said the license expires 12-17-18, which is nine months away. He said on page 3, it was approved by the Municipal Officers and expires in 60 days. He wanted to know why is the applicant applying for another license?

Maryann Place, Town Clerk, said the Maine Beer Café has a Malt and Vinous liquor license, which expires in December, 2018; however, they are now requesting "Spirituous" and the State told them

they have to apply again for a new license and that is why it is before Council again. She said this particular license application is one of the old ones, but the State does have an updated application.

Chairperson Lemont thanked the Town Clerk and asked Ms. Place, in her opinion, is this application proper.

Ms. Place replied yes, it is fine.

Chairperson Lemont asked if this is clear.

Councilor Dennett replied it is, but the State stinks on applications.

ROLL CALL VOTE WAS TAKEN, 6-0-1, SIX IN FAVOR, NONE OPPOSED, ONE ABSTENTION (CHAIRPERSON LEMONT), MOTION CARRIES.

e. (030118-6) The Kittery Town Council moves to authorize the Kittery Land Trust to hang a banner across Rogers Road in front of the Community Center from March 19th – April 2nd, 2018 to advertise “March is Membership Month.”

COUNCILOR THOMSON MOVED THAT THE KITTERY TOWN COUNCIL AUTHORIZE THE KITTERY LAND TRUST TO HANG A BANNER ACROSS ROGERS ROAD IN FRONT OF THE COMMUNITY CENTER FROM MARCH 19TH – APRIL 2ND, TO ADVERTISE “MARCH IS MEMBERSHIP MONTH.” COUNCILOR PELLETIER SECONDED THE MOTION.

Councilor Dennett said he has no problem with the motion, he just hoped someone is keeping track of the banners being hung.

Ms. Place replied she has a calendar that she keeps track of requests.

ROLL CALL VOTE WAS TAKEN, 7-0, SEVEN IN FAVOR, NONE OPPOSED, MOTION CARRIES.

f. (030118-7) The Kittery Town Council moves to authorize the 2018 Project Graduation Committee to hold a toll collection on Saturday, April 7, 2018 from 9:00 a.m. to 5:00 p.m. and to put a large sign on McKenzie Lane from 3/31/18 to 4/7/18 to advertise their fund raiser for Class of 2018 Project Graduation.

VICE-CHAIRPERSON DENAULT MOVED THAT THE KITTERY TOWN COUNCIL AUTHORIZE THE 2018 PROJECT GRADUATION COMMITTEE TO HOLD A TOLL COLLECTION ON SATURDAY, APRIL 7, 2018 FROM 9:00 A.M. TO 5:00 P.M. AND TO PUT A SIGN ON MCKENZIE LANE FROM MARCH 31ST TO APRIL 7TH TO ADVERTISE THEIR FUNDRAISER FOR THE CLASS OF 2018 PROJECT GRADUATION. COUNCILOR PELLETIER SECONDED THE MOTION. ROLL CALL VOTE WAS TAKEN, SEVEN IN FAVOR, NONE OPPOSED, MOTION CARRIES.

g. (030118-8) The Kittery Town Council moves to appoint a representative to meet with the Chair of the Education Scholarship Committee to interview George Dow for his re-appointment to that board until 12/31/21.

VICE-CHAIRPERSON DENAULT MOVED TO RE-APPOINT GEORGE DOW, WITHOUT THE BENEFIT OF AN INTERVIEW, TO THE EDUCATION SCHOLARSHIP COMMITTEE UNTIL

12/31/21. COUNCILOR PELLETIER SECONDED THE MOTION. ROLL CALL VOTE WAS TAKEN, 7-0, SEVEN IN FAVOR, NONE OPPOSED, MOTION CARRIES.

h. (030118-9) The Kittery Town Council moves to appoint a representative to meet with the Chair of the Shellfish Conservation Committee to interview Todd Rollins for his appointment as a regular member to that board until 12/31/21.

COUNCILOR BEERS MOVED TO APPOINT VICE-CHAIRPERSON DENAULT TO INTERVIEW TODD ROLLINS FOR HIS APPOINTMENT TO THE SHELLFISH CONSERVATION COMMITTEE AS A REGULAR MEMBER UNTIL 12/31/21, SECONDED BY COUNCILOR PELLETIER. ROLL CALL VOTE WAS TAKEN, SEVEN IN FAVOR, NONE OPPOSED, MOTION CARRIES.

i. (030118-10) The Kittery Town Council moves to appoint a representative to meet with the Chair of the Shellfish Conservation Committee to interview Peter Thomas for his appointment as a regular member to that board until 12/31/21.

COUNCILOR BEERS MOVED TO APPOINT COUNCILOR DENNETT TO INTERVIEW PETER THOMAS FOR HIS APPOINTMENT AS A REGULAR MEMBER TO THAT BOARD UNTIL 12/31/21, SECONDED BY COUNCILOR THOMSON. ALL WERE IN FAVOR BY A VOICE VOTE, 7-0, NONE OPPOSED, MOTION CARRIES.

Councilor Dennett wanted to know why is this appointment being done on a voice vote?

Chairperson Lemont said he received a note from Councilor Thomson that this is a procedural matter.

Councilor Dennett said this is not a procedural matter.

Councilor Pelletier said this is a less controversial appointment.

Chairperson Lemont asked Councilor Dennett if he would be more comfortable with a roll call?

Councilor Dennett replied he doesn't care what way they vote, it is the wish of the Chair.

j. (030118-11) The Kittery Town Council moves to appoint a representative to meet with the Chair of the Conservation Commission to interview Cassandra O'Brien for her appointment as an associate member until 12/31/21.

COUNCILOR DENNETT MOVED TO NOMINATE THE CHAIR FOR THAT TASK, TO INTERVIEW CASSANDRA O'BRIEN FOR HER APPOINTMENT AS AN ASSOCIATE MEMBER UNTIL 12/31/21, SECONDED BY COUNCILOR THOMSON. ALL WERE IN FAVOR BY A VOICE VOTE, 7-0, AYE, NONE OPPOSED, MOTION CARRIES.

14. COUNCILOR ISSUES OR COMMENTS

Vice-Chairperson Denault wanted to remind everyone that the Recycling Scholarship Selection Committee is accepting applications, which can be picked up at the Superintendent's office, the Town Hall and the Library. He said there are requirements and to check the Town's website. He said this will help toward the tuition payment and the funds come from the recycling of cans at the Transfer Station.

Vice-Chairperson Denault said he is concerned with the large number of vehicles driving off the circle onto the grass, which is creating ruts. He said that the town has put up some indicators, but it looks like someone drove 20 ft. – 30 ft. into the circle. He thought that it is sad.

Vice-Chairperson Denault said that the Recording Secretary is doing a fantastic job and thanked her. He said that her attention to detail with the minutes is right on par.

{The Recording Secretary thanked Vice-Chairperson Denault}

15. COMMITTEE AND OTHER REPORTS - None

- a. Communications from the Chairperson
- b. Committee Reports

16. EXECUTIVE SESSION

(030118-12) The Kittery Town Council moves to go into executive session in accordance with 1 M.R.S. §405 (6) (A) to discuss a personnel matter.

VICE-CHAIRPERSON DENAULT MOVED THAT THE KITTERY TOWN COUNCIL ENTER EXECUTIVE SESSION AT 6:47 P.M. IN ACCORDANCE WITH 1 M.R.S. §405 (6) (A) TO DISCUSS A PERSONNEL MATTER. COUNCILOR PELLETIER SECONDED THE MOTION. ROLL CALL VOTE WAS TAKEN: SEVEN IN FAVOR, NONE OPPOSED, MOTION CARRIES.

COUNCILOR THOMSON MOVED THAT THE KITTERY TOWN COUNCIL EXIT EXECUTIVE SESSION AT 6:48 P.M. VICE-CHAIRPERSON DENAULT SECONDED THE MOTION. ROLL CALL VOTE WAS TAKEN: SEVEN IN FAVOR, NONE OPPOSED, MOTION CARRIES.

17. ADJOURNMENT

COUNCILOR THOMSON MOVED TO ADJOURN THE MEETING AT 6:49 P.M., SECONDED BY COUNCILOR PELLETIER. ALL WERE IN FAVOR BY A VOICE VOTE, 7-0, MOTION CARRIES. MEETING ADJOURNED.

Respectfully submitted,

Barbara Boggiano
Recording Secretary

Approved 3-26-18