

TOWN OF DERRY

Town Council Meeting
Derry Municipal Center

August 15, 2006
Tuesday 7:00 pm

Member Present:

Chairman Chirichiello
Councilor Reisdorf
Councilor Ferrante
Councilor Bulkley
Councilor Dowling
Councilor Fairbanks
Councilor Coyle

Staff Present:

Frank Childs
David Gomez
Tom Carrier
Mike Fowler
Joanie Cornetta
George Sioras

Town Administrator Marcoux
Recording Town Clerk Denise Neale

7:30 P.M. Salute to Flag, Notice of Fire Exits & Handicap Access

Roll Call-Present: Dowling, Fairbanks, Ferrante, Bulkley, Chirichiello, Reisdorf, Coyle

Consent Agenda

- 06-94 Acceptance of Special Meeting Minutes – July 11, 2006 (with responses)
- 06-95 Acceptance of Non-Public Minutes – July 18, 2006
- 06-96 Acceptance of Minutes – July 18, 2006 (with responses)
- 06-97 Exemptions & Abatements
- 06-98 Schedule Public Hearing – September 5, 2006 - Purchase of Land for Fire Station and Supplemental Appropriation
- 06-99 Schedule Public Hearing – September 5, 2006 – Parking Ordinance Changes on West Broadway

Motion to accept Consent Agenda Vote: 7-0-0

Chairman's Report

Chairman Chirichiello wanted to reiterate that there is still a need for special items needed at the Food Pantry. (i.e. paper towel, tooth paste, etc)

Administator's Report

Requests that the Council have two Work Sessions: one to discuss Private roads and the second for a Non-Public Work Session to discuss Labor Negotiation Alternative. The two dates are August 29, 2006 – Private Roads and Non-Public September 7 2006 – Labor Negotiation Alternative. (Council confirmed dates and agreed)

Per the meeting of July 18, 2006 regarding Parking on Windham Rd, a letter was sent to Dept of Resources and Economic Development to this date there has no been response.

The meeting with the Downtown Merchants relative to parking on West Broadway this past week has produced recommendation that are being requested for changes to Parking

Ordinances. This has been put on the September 5th Consent Agenda for a Public Hearing.

October 25th is the Annual Chamber Infrastructure Economic Development Summit in Manchester, NH

Primex Workshop on September 14th in Concord – “The ABC’s of Human Resources”. Information was sent from Larry Budreau to the council.

Public Hearing

06-92 Upstone Drive Sewer Construction (Petition)

Councilor Coyle motioned to move into public hearing as the Sewer Commissioners, seconded by Councilor Bulkley. Vote 7-0-0

Councilor Bulkley motioned to open the Public Hearing, second by Council Fairbanks. Vote 7-0-0

Mike Fowler gave a brief description from the staff report regarding the background of the petition.

Bonnie King, 7 Upstone Lane – gave a description of the water issues surrounding her property and the cause of her failed Septic System. She has been a resident for 36 years and the Sewer Project to that area has not been done. She feels there is feasibility for Sewer to this area now. Ms King believes 2011 is to far away to provide sewer to this area as scheduled in the CIP.

Brian & Laura Walsh, 14 Upstone Lane – Have no interest in Sewer at this time as they have just done an upgrade to their failed system. They were under the understanding that the petition was for storm drains, as there is an issue with run off in their area.

Kevin Rocco, 13 Upstone Lane – Stated he was in no rush to see a sewer system, his septic system is fairly new.

Total number of residence to Upstone Lane is 13 of which 8 signed the Petition.

Councilor Bulkley felt it would be appropriate for the public to hear about the history of Town Sewers.

Tom Carrier gave a history on how sewer systems were brought into the Town and how requests for sewer extensions are handled. He also gave a brief description of the Upstone Lane area and the project that has finished around South Range School. It has been his experience that no one area in town can ever agree with wanting sewer or not wanting it at the same time. It appears to be certain needs of residents at certain times.

Councilor Bulkley asked Tom Carrier to address the costs and how each project cost is different.

Tom Carrier explained that in the South Range School area the Town paid for the main. Each house hooking up would incur stub fees, hookup fee and the physical connection to the

individual home. Normally the entire project is paid for by the residents of the area to extend the main and so forth.

Councilor Coyle reiterated what the cost was to the Town and the Total cost of the project.

Tom Carrier wanted to make the point that sewer's are brought to these neighborhoods. They may not need it because they've just replaced their septic systems but at least when the time comes in the future due to soil samples and the small lot sizes the sewer is there for the neighborhood.

Councilor Coyle believes this project should be considered and asked how much the project for Upstone Lane would cost? (Tom Carrier replied approximately \$258,000)

Councilor Coyle asked how much money was left from the Brook View Dr project? (Tom Carrier replied \$265,000 not spent)

Councilor Fairbanks questioned why the residents of Upstone Lane were not included in the survey with Bradford St? (Tom Carrier replied that there was a public hearing of which only the residents of Bradford St attended. No one was notified other than by the Public Notice.)

Councilor Dowling asked if a survey had been done to the residents of Bradford Street. (Tom Carrier replied yes as follows: 5-yes, 4-no, and 1-undecided)

Councilor Bulkley stated that some residents believe, that it is the Town's responsibility, to fix their septic system if it fails and it is not. It becomes a Town issue if it is an environmental issue like around Beaver Lake.

Councilor Reisdorf (tape inaudible)

Councilor Dowling question if residents were required to hook up to the Sewer?
(Tom Carrier: no not until their system failed later down the road)

Councilor Ferrante would like to know what is the next sewer project slated. (Tom Carrier, replied Barkland Acres.) She also asked where Sewer Projects monies come from. (Tom Carrier, replied Wastewater accessibility fees fund.) Councilor Ferrante feels it is necessary to hold a workshop in the fall for a session on Wastewater and the CIP.

Councilor Fairbanks asked if the \$100,000 for Brookview Drive could be used to defray the cost for Upstone Lane? (Tom Carrier, it would be Council's decision)

Councilor Bulkley that if we do this, other residential areas might look for this same assistance.

Councilor Fairbanks agreed there should be a workshop.

Chairman Chirichiello asked the public for further statements.

Maureen Rose, Windham Rd-made references from of past documents and articles she has in regards to sewer projects.

Al Dimmock, High St -wanted to know how many Councilors were presently users of the sewer system. (3 Councilors replied) Mr. Dimmock, doesn't feel Sewer Commissioners not

presently on the sewer system should have a right to vote, as it is the users of the sewer systems that pay for the sewer projects.

**Motion to close the Public Hearing by Councilor Bulkley, second by Councilor Coyle.
Vote 7-0-0**

Discussion: Chairman Chirichiello asked the councilors to advise Administrator Marcoux what evening in September or October would be available for a WasteWater Workshop.

Motion to move convene as the Water Sewer Commissioners reconvene as Town Councilors by Councilor Bulkley, second by Councilor Ferrante. Vote 7-0-0

Old Business

06-87 Approval of Resolution establishing the Route 28 Corridor TIF District and approval of related bond Resolution for up to \$4.9M

Councilor Coyle read from the Town Charter section 6.6 and his objection to a vote. He is raising a charter objection because of information recently received and there hasn't been time enough to review the information.

Councilor Ferrante asked how long was needed to review? How long would it take to be clarified?

Councilor Coyle stated until the next scheduled meeting. He then referenced the letter from Mr. Merchant that had been received that evening.

Councilor Bulkley asked Mr. Merchant to come up and address issues being asked by Council.

John W. Merchant, Granite Commercial Group, handles procedures for Wal-Mart and is the local Broker Representative.

Councilor Bulkley expressed concerns over asking Wal-Mart for a confirmation.

Mr. Merchant explained that the procedures Wal-Mart uses to do their developments are to find local broker to go through the process. Wal-Mart has come out and approved this site. The DOT has not given approval because Rte 28 needs to be done. They have not gone through the Planning board, site specific, or DES and local conservation and gotten approval.

Councilor Coyle questioned Mr. Merchant in regards to his interests and advocacy for the project for Wal-Mart. He believes that Wal-Mart is not being fair with regards to commitment for the \$900,000. Yet the Town needs to commit to do the project.

Councilor Fairbanks asked if Mr. Merchant could make a determination for Wal-Mart. (Mr. Merchant replied no). Who make the determination what municipalities pay and they do not. (Mr. Merchant replied he doesn't know)

Councilor Reisdorf stated that Wal-Mart's total payment on road construction would be \$1.6M (\$700,000 Ashleigh Dr and \$900,000 for Rte 28.) Feels the Town should go forward with the project with or without commitment.

Councilor Ferrante agreed with Councilor Reisdorf calculations and believes this needs to move forward.

Councilor Bulkley stated this doesn't really involve Wal-Mart but the issue is the Rte 28 corridor is in failure. He is willing to give Councilor Coyle one week to do further research.

Councilor Coyle would prefer there be a mechanism in place for fair-share allocations toward this area when new companies come into this district.

Chairman Chirichiello stated this project has been in the CIP since 2001 with Wal-Mart. The Council is approving a resolution to establish a TIF district the Council doesn't spend any money until we approve the allocations.

Councilor Coyle believes that the Town has no recourse if Wal-Mart does not come through to provide the \$900,000.

Councilor Reisdorf stated the issue is that the Rte 28 corridor is in need of repair.

Councilor Dowling wanted clarification if all TIF parcels would contribute?

Mike Fowler stated presently negotiations have to be done with new companies through the Planning Board and Impact fees. There was a formula created within the Planning Board but never adopted.

Councilor Ferrante motioned to move the approval of 06-87 to a Special Meeting to be held on August 22, 2006 @ 7:00 p.m., second by Councilor Reisdorf.

Vote 6-1-0 (Councilor Coyle)

New Business

06-100 Renewal of Trash Contract with MERC

Mike Fowler presented a staff report for a five-year contract for trash disposal with Maine Energy Recovery Company (MERC) of Biddeford Maine. The Department would like conformation from the Council to renew this contract without going out to bid. By asking the council to waive the bid option as stated the Town Charter Section 9.10.

Motion: The Derry Town Council hereby waives the provisions of the Town Charter Section 9.10 for the purpose of extending trash contracts with Main Energy Recovery Corporation and Wayne Hamel Motor Express for Five years to expire in 2011.

Motion by Councilor Coyle, Second by Councilor Bulkley. Vote 7-0-0.

06-101 Bradford Street Bridge Project Budget Transfer

Mike Fowler the Bradford Street bridge project has been completed as part of the NHDOT Bridge Aid program. As part of the agreement with NHDOT, the Town of Derry receives 80% reimbursement of total project cost at the completion of the project.

Motion by Councilor Bulkley: Effective in FY06 Budget year, we move to transfer

Highway appropriations of \$70,787 from Contract Repairs and Maintenance (430) and \$18,645 from Other Property Services (490) to Capital Project (930) in the amount of \$89,432 and increase the Bradford Street Capital Project appropriation by these transfers to \$354,432.

Second by Councilor Reisdorf.

Vote: 6-0-0 (Chairman Chirichiello, not present for vote)

06-102 Sale Contingency – Hall Restorations, LLC

Ron Caron who represents Mr. and Mrs. Hall, and Hall Restorations, L.L.C. (Mr. Hall was also present) gave a presentation of Hall Restoration and their purchase of the old fire station. There has been much litigation with an abutter to this property costing more than \$30,000 in attorney fees. This has encumbered refinancing the property. The Town holds title to the right of first refusal as a contingency in the sale of the property. Due to the issues at hand the Hall's have found a buyer for the restaurant in which the Hall's will still hold interest. He is asking the Council what information would be needed to process.

Councilor Ferrante asked question pertaining to the buyer.

Councilor Coyle questions if the Town would receive an indemnification letter.

Ron Caron stated that it could not be discounted at this time.

Councilor Bulkley is uncomfortable without Council's Town Attorney giving guidance on this issue.

Ron Caron stated that they do not expect Council to make a decision tonight. They just wanted to give details to Council.

Councilor Coyle would like to help them and move as expeditiously as possible.

Administrator Marcoux asked if Ron Caron could get what he needs to prepare for a meeting on September 5, 2006.

Chairman Chirichiello polled the board to bring this back as Old Business on the Agenda of September 5, 2006. Vote 7-0-0

06-103 Appointments to Board and Commissions

Chairman Chirichiello announced Mr. Al Dimmock has asked to be appointed as and Alternate Zoning Board member.

Councilor Coyle motioned to appointed Mr. Dimmock as an Alternate member of the Zoning Board expiring in 2009. Seconded by Councilor Ferrante. Vote 6-0-1 (Councilor Bulkley abstained.)

Councilor Ferrante wanted Mr. Dimmock to address the Council why he would like to be appointed.

Mr. Dimmock stated that as a Taxpayer and resident that there have been no other volunteers for the board and he would like to be appointed.

**Motion to extend past 10:00 p.m. for Ten Minutes by Councilor Coyle.
Vote 7-0-0**

Frank Knutkowski, North Shore Rd. would like to know when the public could get a copy of the 2007 Town Budget? (Can be obtained at Libraries and is on line on the town's WEB page)
Referenced the new Town Evaluation and the comparisons done to his home.

Brent Carney, Goodhue Road feels the Rte 28 needs to be done. Reference the CIP and it's time frame for this project.

Maureen Rose, Windham Rd – questioned why Londonderry isn't being discussed in the Rte 28 plan.

Councilor Requests

Councilor Fairbanks, Calvin Burding, has some concerns in regards to littering on Windham Rd. Is the Town going to seek Federal funding for the clean up at the Highway Garage? Questioned Councilor Bulkley on contacting Senator Gregg's office. Councilor Bulkley responded that he called Senator Gregg's office and spoke with one of his aides, Senator Gregg has gotten money for the Manchester project simply because it is connected to a Federal and State Highway. There are several components going on with this project at once. There is a bridge being done by the City of Manchester it has been in their plans for six years. There is a new exchange coming off of Rte 93 that will connect with that bridge. This is Federal Money tied into this bridge. This was done as an earmark project. The \$700,000 that is in place for the Rte 28 project is from Federal money passed through the NHDOT. Could we get money for this project, no because it is a local road it is not a federal highway or adjacent to a federal project.

Administrator Marcoux had spoken to the Engineer who wrote the letter regarding the project. The project was a \$73M. \$48M is Federal and the remaining \$25M was a Manchester project. Administrator Marcoux asked him why they were able to receive \$15M Federal money he indicated that it was a tie in with the city, state and federal highway. Administrator Marcoux has drafted a letter to Senators Gregg and Sununu as well as Congressman Bradley asking if they would look into funding for the town.

Motion to extend another 10 minutes by Chairman Chirichiello, second by Councilor Coyle.

Councilor Fairbanks if the Town waited for 4A would there be more money because it is going to tie in to an exit?

Administrator Marcoux wanted to somewhat address the question although he does not want to be quoted as expert. Having been involved in the Exit 4A project for two years the cost has escalated. Obtaining Exit 4A money is going to be a task, therefore I don't know the answer to that.

Councilor Ferrante had spoken to some individuals who stated it could possibly be another ten years before Exit 4A is developed.

Administrator Marcoux stated there is a lot of litigation on the Rte 93 project, which in turn

delays the Exit 4A project.

Chairman Chirichiello entertained a motion to adjourn, second by Councilor Coyle.

Adjourned 10:30 p.m.

Recording:

Denise E. Neale, Town Clerk

Date