

TOWN OF DERRY

Town Council Special Meeting
Derry Municipal Center

August 22, 2006
Tuesday 7:00 p.m.

Members Present:

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

Staff Present:

CFO Frank Childs
David Gomez
George Sioras
George Klauber
Mike Fowler

Town Administrator Russ Marcoux
Recording: Town Clerk Denise Neale

Called to Order at 7:00 p.m.

Salute to the Flag, Notice of Fire Exits & Handicap Access

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

Old Business

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

Administrator Marcoux explained that Councilor Coyle had two questions dealing with the Bond Resolution. There were two areas added to the bond resolution. Under Resolved 2nd paragraph and Resolved 3rd paragraph.

Councilor Coyle stated why he asked that these two Resolved paragraphs be amended. He was looking to protect the interest of the Town.

Councilor Reisdorf stated the second Resolved amendment allows the Planning Board to put a shared cost in for this district. Referenced A Street as previously done.

George Sioras had re-read the Zoning Ordinance, which allows the Planning Board to adopt a fee schedule or formula. Over the next few months, the Planning Board will be working toward adopting this formula.

Councilor Fairbanks referenced Mr. Newell's article in the Derry News and the questions he posed. Why has the cost of the project more than quadrupled since 2002?

Mike Fowler gave an explanation of present land costs and construction costs that have sky rocketed over the past few years. He has researched in the archives what we had paid in 2001; for example asphalt and how the cost has escalated. The project is still a year or two out.

Councilor Fairbanks asked if the Town is moving forward because of Wal-Mart contribution. Has anyone asked Wal-Mart to contribute more?

Mike Fowler stated that twenty-one months ago Wal-Mart's contribution was going to be far less.

Councilor Fairbanks would like the Town Council to ask Wal-Mart for more of a contribution.

Administrator Marcoux wanted to add further clarification that the Wal-Mart's original contribution was \$125,000; however, the Town has added stipulations with Wal-Mart such as they would agree to do the road construction on Ashleigh Drive, they must sell the other store, and another retailer go into that building besides contribute towards the Rte 28 Corridor.

Councilor Reisdorf stated the B Street connector could fall on Wal-Mart's current property and he would like to ask Wal-Mart to donate the land that abuts B Street. As he stated before he would like some of the land needed to be donated.

Councilor Ferrante made reference to the preliminary engineering design and the intersections that are in failure. Whether Wal-Mart builds or not in the future, these failures should be corrected.

Mike Fowler stated that if the failures are not corrected and new businesses were to come into this area in the future, his recommendation would be that there would have to be upgrades to the road for that corridor. Also every year that the Town waits you can expect a significant cost escalation.

Chairman Chirichiello stated that if the Town does nothing the taxpayers would still have to subsidize this area.

Councilor Coyle recalled that it had been stated before when the first Wal-Mart was built that the landowner and Wal-Mart contribute to the road improvements. Has anyone asked the present landowner of the new site been asked to contribute? (Mike Fowler stated we have not.) Since we have previous history should we have considered this?

Mike Fowler explained he does not know the status of the closing with the present owner or what it is based on.

Councilor Coyle agrees with Councilor Reisdorf that we should be asking Wal-Mart for that land. He would like to make it clear that the taxpayers are not going to see a benefit

from this project for ten to fifteen years. He disagrees that the roads are in failure, but they are an inconvenience.

Chairman Chirichiello wanted to state that at least we have a plan for the future and that's an important goal.

Councilor Ferrante sees the improvement in the taxes in ten years but that's for our future and she feels this will open the doors for all of the Town of Derry based on commercial and industrial.

Councilor Fairbanks has stated in the past that there is still going to be a bottleneck on the Derry/Londonderry town line.

Chairman Chirichiello noted Londonderry/Derry on Rte 102 there is that same situation.

Councilor Bulkley stated people who live in the area understand this. Londonderry was taking care of their commercial base. Derry is now doing the same thing for its commercial base. We are trying to welcome in commercial by working with them. We need to do this for the future of the Town.

No Further Discussion

Discussion (Before the Vote)

Councilor Coyle asked was there any reason the bond had to be authorized now when the Council doesn't know its final amount?

Frank Childs explained how the bond resolution is a commitment that goes along with the TIF District. The bond will not be issued until we begin.

Councilor Coyle explained why he was voting no, such as doing impact fees beforehand, but the primary reason is that the Council has refused to take a public non-binding vote.

Councilor Fairbanks explained why she was voting no. She would like to say to Wal-Mart if you want to come to our town and increase traffic congestion, fine - but you pay for the infrastructure expense you are not going to put that on the back of the taxpayers.

Chairman Chirichiello and Councilor Ferrante thanked the staff for the work they had done on this project's presentation.

Councilor Bulkley **MOTIONED** attached Resolution Establishing the Route 28 Corridor Tax Increment Financing District, August 22, 2006

Second, Councilor Ferrante, Vote 5-2-0 (Councilor Coyle & Councilor Fairbanks)

Councilor Bulkley **MOTIONED** attached Amended Bond Resolution, August 22, 2006
Second, Councilor Ferrante, Vote 5-2-0 (Councilor Coyle & Councilor Fairbanks)

Other Items

Councilor Dowling noted that there were meetings coming up on 9/5 and 9/7. She would not be available for those meetings.

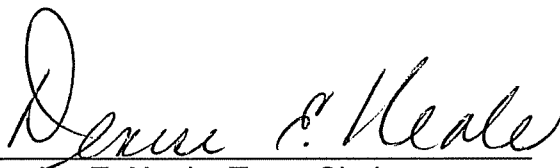
Administrator Marcoux suggested the August 29th workshop on "Private Roads" could continue into a Non-Public for Labor Negotiations. (Council agreed to combine this meeting.)

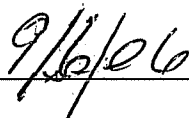
Councilor Fairbanks has received emails regarding EEE. She has spoken with the Health Inspector Karen Vigroux. The Town should be proactive in preventing this.

Councilor Bulkley would like to look at this more closely by asking the Health Inspector to meet with the Council to explain the options publicly.

Chairman Chirichiello requested that the Health Inspector give a presentation at the August 29th meeting prior to the Workshop on "Private Roads".

Adjourned 8:00 p.m.


Denise E. Neale, Town Clerk


Date

TOWN OF DERRY, NEW HAMPSHIRE

**RESOLUTION ESTABLISHING THE ROUTE 28 CORRIDOR
TAX INCREMENT FINANCING DISTRICT**

August 22, 2006

Resolved by the Town Council of the Town of Derry, as follows:

WHEREAS the Town Council of the Town of Derry (Town) has adopted the provisions of RSA 162-K:1, Local Option for Tax Increment Financing District (TIF District), as per Resolution Passed by the Town Council on May 21, 2002.

WHEREAS the Town Council finds, as required by RSA 162-K:5, that establishment of a tax increment financing district in the area shown on the attached plan serves the public purpose in enhancing the tax base for the Town and in providing additional employment opportunities for its residents.

NOW THEREFORE BE IT RESOLVED that, in accordance with the provisions of RSA 162-K:5, a tax increment-financing district is hereby designated as shown on the attached plan lying generally east and west of Route 28, *between* the Londonderry town line and Tsienneto/Folsom Roads . This district will have the name of Route 28 Corridor TIF District;

BE IT HEREBY FURTHER RESOLVED that the attached Development Program for the Route 28 Corridor TIF District, as required by RSA 162-K:6, is hereby adopted in its entirety by the Town Council of the Town for said tax increment financing district;

BE IT HEREBY FURTHER RESOLVED that the attached Tax Increment Financing Plan, as required by RSA 162-K:9, is hereby adopted for use in accordance with the said Development Program for the Route 28 Corridor TIF District;

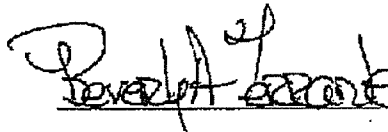
BE IT HEREBY FURTHER RESOLVED that, in accordance with the provision of RSA 162-K: 5, Alternative Restrictive Option Number II, the Town Council hereby declares that the total estimated assessed value of taxable real property proposed for the Route 28 Corridor TIF District does not exceed five (5%) percent of the most recent total assessed value of all taxable assessed value in the Town and that the total assessed value of taxable real property within all development districts for which bonds remain outstanding does not exceed ten (10%) percent of the most recent total assessed value of all taxable real property in the Town (see Establishment of District Limitations schedule attached to the Tax Increment Financing Plan);

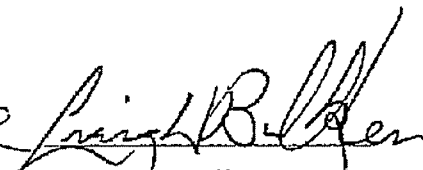
BE IT HEREBY FURTHER RESOLVED that, in accordance with RSA 162-K:14, an Advisory Board is hereby created for Route 28 Corridor TIF District with members to be appointed by the Town Council. There shall be five (5) members, the majority of whom shall be owners or occupants of real property within or adjacent to the Route 28 Corridor TIF District. Two members of the Advisory Board shall be owners or occupants of property within the Route 28 Corridor TIF District, one member shall be an owner or occupant of property adjacent to the Route 28 Corridor TIF District, one member shall be a member of the Greater Derry Chamber of Commerce who has property neither adjacent to nor within the Route 28 Corridor TIF District, and one member shall be a Town Councilor. The Senior Accountant within the Town's Finance Department will serve as a financial advisor to the Advisory Board. The duties of said advisory board shall be set forth in accordance with RSA 162-K:14. The Board shall serve in any advisory capacity to the District Administrator as is required, but with consultation to occur between the Advisory Board and the District Administrator on at least a quarterly basis. Any conflicts that may arise between the policies established by the district administrator and the advisory board shall be considered and resolved by resolution through the Town Council;

BE IT HEREBY FURTHER RESOLVED that the Town's Public Works Director is designated as the District Administrator of the Route 28 Corridor TIF District, in accordance with RSA 162-K:13; and

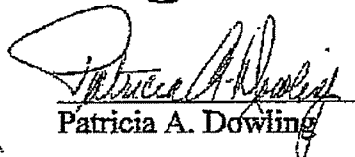
BE IT HEREBY FURTHER RESOLVED that the Town Administrator is authorized, on behalf of the Town, to execute and deliver any documents to effectuate the intent of the Development Program, including, without limitation, purchase agreements, deeds and other documents deemed necessary or advisable to effectuate the purposes of the Development Program.


Brian K. Chirichiello

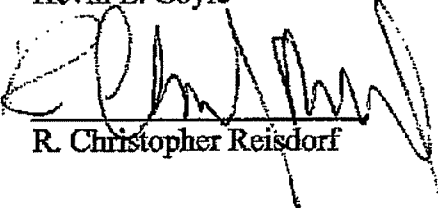

Beverly A. Ferrante


Craig W. Bulkley


Kevin L. Coyle


Patricia A. Dowling


Janet Fairbanks


R. Christopher Reisdorf

TOWN OF DERRY, NEW HAMPSHIRE

AMENDED BOND RESOLUTION

August 22, 2006

- RESOLVED:** That the Town Council of the Town of Derry, New Hampshire (the "Town") hereby confirms that it has established the Route 28 Corridor Tax Increment Finance (TIF) District (the "TIF District") in accordance with RSA 162-K:5;
- RESOLVED:** That the Town hereby confirms that the sum of Six Million Five Hundred Thousand Dollars (\$6,500,000) has been included in the Tax Increment Financing Plan related to the TIF District as an appropriation for TIF infrastructure improvements and related and incidental costs and expenses, said improvements to be made at the sole discretion of the Town based upon development potential;
- RESOLVED:** That up to \$4,900,000 of the aforesaid appropriation be raised through the issuance of bonds or notes (the "Bonds") under and in compliance with the terms of the Municipal Economic Development and Revitalization Districts, RSA 162-K:8, and Municipal Finance Act, RSA 33, as amended, that \$700,000 be provided by the State of New Hampshire Department of Transportation (NHDOT), that \$900,000 be provided by Wal-Mart Stores, Inc. (Wal-Mart) and that any impact fees derived by the Town from other development within the TIF District will serve to reduce the amount to be bonded;
- RESOLVED:** That the Town Council hereby authorizes the use of up to \$1,500,000 of unrestricted fund balance on an interim basis for the purpose of the aforesaid Project; with any so utilized unrestricted fund balance being repaid from the proceeds of the bond issue and/or the funds committed to this project by the NHDOT and Wal-Mart, as referenced earlier in this resolution; and, to that end, this resolution shall constitute an "official intent" of the Town to reimburse itself, in part, for such expenses from the proceeds of tax exempt bonds pursuant to Internal Revenue Code Regulation Section 1.150-2;
- RESOLVED:** In addition to being general obligations of the Town, the Town intends that the aforesaid \$4,900,000 Bond be repaid from the tax increments for the TIF District in accordance with the terms of the Municipal Economic Development and Revitalization Districts, RSA 162-K:10, as amended;
- RESOLVED:** That the Town Council hereby determines that the useful life of the TIF District is at least twenty-five years;

RESOLVED:

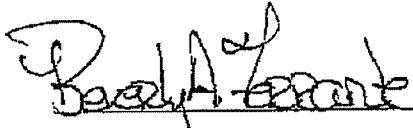
That the Town Council is hereby authorized to determine all of the terms and conditions of said Bonds, including interest rates, maturities, redemption provisions and manner of sale; and

RESOLVED:

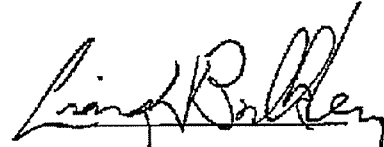
That all acts heretofore taken consistent with the foregoing are hereby ratified and confirmed.



Brian K. Chirichiello

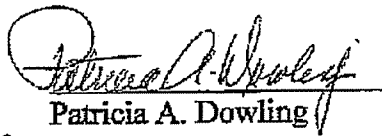


Beverly A. Ferrante



Craig W. Bulkley

Kevin L. Coyle



Patricia A. Dowling

Janet Fairbanks



R. Christopher Reisdorf

8/22/06