

TOWN OF DERRY

Town Council Meeting
Derry Municipal Center

January 2, 2007
Tuesday 7: 30 pm

Member Present:
Chairman Chirichiello
Councilor Ferrante
Councilor Bulkley
Councilor Coyle
Councilor Dowling
Councilor Fairbanks
Councilor Reisdorf

Staff Present:
Mike Fowler
Janice Mobsby

Town Administrator Marcoux
Town Clerk, Denise Neale

Called to Order at 7:30 pm

Salute to Flag, Notice of Fire Exits & Handicap Access

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

Chairman Chirichiello requested a Moment of Silence for President Ford.

Consent Agenda

07-01 Acceptance of Non – Public Minutes – December 19, 2006

07-02 Acceptance of Minutes – December 19, 2006 – with responses

07-03 Schedule Public Hearing – January 16, 2007 – Proposed Increase in the Dog
Registration Fee

The Consent Agenda was approved.

Chairman' Report

07-04 Charter Commission Report

Paul Hopfgarten and Brent Carney presented a slide presentation of the work and Timeline of the Charter Commission.

The Charter Commission's Process: 1. Organization 2. Get Public Input 3. Deliberate & Vote on Changes 4. Draft Charter Changes 5. Obtain State Approval 6. Present Results to Town Council & 7. Ask for Voter Support in March.

Key Changes being proposed to the Voters: 1. Bonding subject to voter approval – Bonding over 2.5% of previous year's budget requires 2/3 Vote of the Town Council and 3/5 Vote of Derry Voters. 2. Annual Budget subject to voter approval – Vote of Town Council and 50% + 1 vote of Derry Voters (No vote results in level funding) 3. Election date changed from March to May – Maximum voter participation, adequate public discussion time & time for Town Administration to prepare budget may have to move up budget process start time.

Motion pursuant to RSA 49:B 4, that the Town Council accept the report of the Charter Commission and in addition the Town Council order as determined by the Charter Commission that the proposed new Charter or Charter Revision be submitted to the voters at the next General Municipal Election. Motion by Councilor Coyle, Second by Councilor Dowling. Vote: 6-0-1 (Reisdorf abstained) *Motions and explanation to be submitted by Atty. Sandparil, and reviewed by Atty. Boutin. Done week of 1-5-2007.*

Public Hearing

06-133 Accept Cardinal Drive and Stone Fence Drive as Class V Roadways as recommended by the Planning Board per the contents of the approved subdivision plan for each road.

Mike Fowler gave review of staff report of two roads and road are complete and do meet standards as public roads.

Motion to open Public Hearing by Councilor Bulkley, second by Councilor Ferrante Vote 7-0-0

Paul Hopfgarten, Hampstead Rd – referenced changing pathway to Boys and Girls Club.

Mike Fowler explained that this issue is just to accept the roadway as a class V.

Motion to close Public Hearing by Councilor Coyle, second by Councilor Ferrante Vote 7-0-0

Councilor Reisdorf – explained the layout of the plan and the fact that the pathway ends up at a stone wall. The Planning board will discuss this at its meeting Wednesday evening.

Motion: The Town Council moves to accept Stone Fence Drive and Cardinal Circle as Class V roadways as recommended by the Planning Board. Motion by Councilor Fairbanks, second by Councilor Coyle Vote: 7-0-0

06-134 Ordinance Amendment Stop & Yield Signs

Motion to open Public Hearing by Councilor Bulkley, second by Councilor Ferrante Vote 7-0-0

Mike Fowler gave an explanation of a review done by the Public Works and Police Department on the stop & yield signs. A new list has been created for these stop & yield signs.

John Burdis, Lorrie Rd – Noted that after reviewing the list Lorrie Rd is not listed for a stop sign. Back 4-5 years ago a plow knocked down the stop sign and it has not been replaced.

Mike Fowler – explained that there was not one listed in the code and there was no history. It could be brought to the attention of the Highway Safety Committee.

Al Dimmock, High St – Spoke in regards to a yield sign at Jefferson and High St.

Motion to Close the Public Hearing by Councilor Bulkley, second by Councilor Fairbanks Vote 7-0-0

Motion: Move to amend the Code of the Town of Derry, Chapter, 150-10 A&B, Stop and Yield Intersections, in accordance with the list provided in the November 12, 2006 Staff Report.

Motion by Councilor Bulkley Second by Councilor Coyle Vote: 7-0-0

Administrator's Report

Reminders: January 8th at 7:00 p.m. Joint Meeting: Council, School Board, Legislators

January 9th at 7:00 p.m. Workshop on Upstone Lane

The Town Council has received the Comprehensive Financial Report, which has been completed and submitted this year. Administrator Marcoux thanked Janice Mobsby, Franks Childs and the staff.

The Derry Fire Department was featured in the Eagle Tribune on Sunday for their efforts to raise funds; dollars and toys for the Boutin family after a fire destroyed their home in Derry on Christmas Eve. Kudos to them all.

Congratulations to Tom Carrier Deputy Director of Public Works and Superintendent of the Wastewater

Facility and his staff. They have been awarded a 2006 Regional EPA Operations and Maintenance Excellence Award, in the medium Secondary Plan Category.

The presentation by the members of the Derry Veterans Monument committee has been postponed to the February 6th Council meeting. *Possible January 16, 2007.*

At the December 19th meeting, it was discussed to submit an application for a "Downtown Charette" through the Castagna Group: Plan NH this is in process.

The Beaver Lake Watershed Management Plan will present their first draft report on January 10th, 2007 at 7:00 pm at Pinkerton Academy. *Any comments submitted to Committee before or at the January 10 meeting.*

Last week we welcomed Jill McLaughlin as our new Human Services Director. She comes to us from Manchester with much experience.

The Private Roads Sub Committee has a meeting on January 10th at 7:00 p.m. and will report to the Council in the future.

January 4th Tim Lyons of Senator Judd Gregg's office will hold office hours at the DMC 1st floor Interview Room at 10:30 a.m.

Kerran Vigroux, Public Health Officer, informed us that we have been awarded a \$38,000 Public Health grant from the Alexander-Eastman Foundation. On January 16th they will be here to present that grant to the town. Kudos to both Kerran and Debra.

Old Business

06-129 Economic Development Plan Proposal

Council Discussion:

Councilor Fairbanks request a point of order and asked that Councilor Bulkley rescue himself from the Economic Development Proposal due to his affiliation as a DEDC Board of Directors. In accordance with the 2005 Non-Profit reported to the state he is listed as one.

Councilor Bulkley stated that the documentation was from when he was on the board in which he resigned when he ran for Council. He is the liaison for the council with this board.

Chairman Chirichiello asked Councilor Bulkley if he is a Board of Director for the DEDC?
Councilor Bulkley replied, "No I am not".

Councilor Coyle stated, that even though he is clearly not currently a member of the board of directors he does have a conflict of interest in voting on giving anything to this organization having been a prior director. Once you have a conflict you have a conflict, forever.

Councilor Dowling does not agree with this.
Councilor Ferrante agrees with Councilor Dowling.

Councilor Fairbanks asked if anyone would like to see the report.

Chairman Chirichiello asked Councilor Bulkley if he feels he cannot vote on this and if he has a conflict

of interest that he state it now.

Councilor Bulkley indicated that if Councilor Coyle or Fairbanks can provide a document from an attorney that states that as a prior board member that he has a conflict of interest that precludes his vote then he would take a look at that document. He is not a current board member.

Councilor Reisdorf stated that he could ask for a copy of his letter of resignation from the DEDC. Too after his election. However this was in 2005, what are we going after?

Councilor Coyle made a motion that Councilor Bulkley recuses himself from any votes involving the DEDC during this discussion. Chairman Chirichiello feels that if Councilor Bulkley wants to recuse himself it should be up to him. Chairman Chirichiello did not accept the motion. (Councilor Fairbanks seconded while Chairman Chirichiello was speaking)

Chairman Chirichiello reviewed memorandum that Town Administrator Marcoux had developed for the Council.

Option 4 was discussed.

Councilor Bulkley feels there are going to be significant challenges with the FY08 budget and that a new hire is not acceptable at this time. DEDC-yes for now

Councilor Coyle feels they should use Town Administrator Marcoux's recommendation.

Councilor Ferrante feels that as a Council that they need to start setting up a plan for Economic Development –DEDC yes.

Councilor Reisdorf doesn't see any point to hiring another individual until a new Town Administrator is hired. DEDC – yes for now

Councilor Fairbanks is in full support of Town Administrator Marcoux's recommendation of option #4. Councilor Dowling is disappointed with the whole process and feels that the DEDC was developed for the Town's benefit in Economic Development.

Chairman Chirichiello stated he did go with option #4 he believes that there needs to be that whole mix. Since finding out that the budget will have a shortfall, let the new Town Council in March decide what they want to do.

Councilor Coyle made a motion: To make no decision on Economic Development until the new Town Council is elected on March 13, 2007, second by Councilor Fairbanks. Vote 2-5-0 (Reisdorf, Dowling, Bulkley, Ferrante, & Chirichiello opposed)

Councilor Bulkley made a motion: That the Derry Town Council approve the Town Administrator alternative #3 and contract with Derry Economic Development Corporation for the economic development component of the Town, based on the proposal submitted to the Town Council in the amount of \$30,000, effective January 1, 2007- to June 30, 2007. Funds for this alternative are available in the Planning Department Budget. The remaining funds set aside in the Administrator's Budget shall be used for economic development initiatives approved by the Town Administrator, second by Councilor Ferrante. Vote: 5-2-0 (Fairbanks & Coyle opposed)
(Councilor Coyle, Reisdorf and Ferrante agreed that legal council should look at the DEDC's contract as written before Council signs) *[Atty. Boutin asked to review contract on January 3, 2007.]*

New Business

07-05 Approval of Goals 2007

Town Administrator reviewed the each category of the goals as received by the Council Goals and the Management Staff. The Council Goals override all goals.

Motion: Move that the Derry Town Council endorse and approve the Town of Derry Town Council and Management Goals 2007, date January 2, 2007. Motion by Councilor Bulkley, second by Councilor Dowling

Vote: 7-0-0

07-06 Appointment of Interim Town Administrator

Motion: To hire John Moody as the acting Town Administrator for the period not to exceed six months. The effective date is January 4, 2007. Compensation for the appointment will be \$56.00 per hour. Other terms and conditions there will be no paid benefits and no paid sick or vacation days.

Motion by Councilor Bulkley Second by Councilor Ferrante. Vote: 5-2-0 (Coyle & Fairbanks opposed)

(There was discussion regarding what duties the Acting Town Administrator will have. Section 8.5 and 8.6 of the Charter prevail.)

Bennett -Yarger Associates has been chosen to do the search for the new Town Administrator at a cost of \$13,000 plus expense.

Motion: The Derry Town Council hire the firm of Bennett -Yarger Associates of Scituate Massachusetts to search for a new Town Administrator and that the Town of Derry pay no more than \$13,000 plus expenses for this search. The funds to be paid from the Town Administrators Professional Services account.

Motion by Councilor Bulkley Second by Councilor Ferrante. Vote: 7-0-0

Public Forum – Non-Agenda Items

Paul Hopfgarten, Hampstead Rd –Discussed prior process for Town Administration search. If there is going to be a Citizen Search Committee he would like to considered for that. Spoke on other issues such as goals in reference to budget and PD/FD standards for new hires.

Al Dimmock, High St – Dislikes a Police Officer being at Town Council Meeting. Not happy with certain councilor.

Maureen Rose, Windham Rd –Doesn't agree with spending \$13,000 for a Town Administrator search, concerned with the hiring of John Moody as interim Town Administrator. Also expressed discern with the appropriation of money to the DEDC.

Bill Cooper, Central St – Questioned PD standards for new hires.

Brent Carney, Goodhue Rd – Is concerned that a specific Economic Development plan had not been made prior to a decision to give money to the DEDC. Feel it was the wrong choice.

Tom Cardone, Cunningham Dr – Feels the creditability of the DEDC is what the biggest problem is and the appearance of the Conflict of interest with Councilor Bulkley in part is what has stirred this issue.

Paul Berube, Prosperity Lane – Questioned if the \$30,000 was going to the DEDC or toward the Director's salary at the DEDC. Appeared upset with the fact that the DEDC members left after the approval of funds.

Ann Evans, Country Rd –Upset regarding the votes of 5/2, Dr Moody's appointment and how it was handled, Fire Department not handling lockout. Expressed her candidacy for District 3, in 2008., & the

fact the she was glad that Administrator Marcoux was leaving.

Carl Accardo, Olsen Rd – Expressed his feeling of the lack of due diligence on the Council, regarding the appointment of Dr. Moody.

John Burdis, Lori Rd – Discussed the appearance of impropriety on behalf of the vote for DEDC. Feels it would be nice to see Derry have a goal to cut the budget not maintain it.

Joe DeCarolis, Humphrey Rd – Discussed Economic Development, the linterim Town Administrators appointment. Announced his candidacy for District 4 Councilor in 2007.

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Council Request/open discussion

Councilor Fairbanks – Requested that Chairman Chirichiello step down as chair for the Council. Reasons: Chairman Chirichiello has a “blog” which clearly shows predisposed decisions, and bias toward Councilor Coyle and Councilor Fairbanks, the document presented regarding the DEDC he didn’t look at or want put into the minutes, allowed Councilor Bulkley to vote when he shouldn’t have.

Councilor Reisdorf – regarding Mr. Marcoux leaving he’s going to Bedford, which is “the place to be”, and that he obviously knows what he is doing. Regarding Dr. Moody’s qualification he is well qualified. Ethics:. He has serviced this town to the best of his ability. He has served on the Planning Board and helped develop the GMO. Explained how the GMO works and if this hadn’t been developed what could have happened.

Councilor Dowling – Is totally incredulous of the amount of talent in this town. Thinks it’s marvelous that the residents are so involved and should keep coming to the meetings and run for office.

Councilor Coyle – Spoke on the Economic Development. He finds it incredulous that the Council gave the DEDC the funds. Agreed with Councilor Fairbanks that Chairman Chirichiello should step down as chairman.

Chairman Chirichiello – Stated, he would not step down and if the Councilors believe that he is being inappropriate have an investigation.

Councilor Bulkley - There’s too much negativity in regards to the DEDC. They have done a good job, and have not been secretive, they cannot make public when companies approach them. Also wanted it known that his ethics and moral standards would hold up to anyone in the room. He was not going to be bullied into not voting

Adjourned 9:50 p.m.

Town Clerk

Date