

TOWN OF DERRY

Town Council Meeting
Derry Municipal Center

April 3, 2007
Tuesday 6:30 pm

Member Present:
Chairman Bulkley
Councilor Coyle
Councilor Ferrante
Councilor Carney
Councilor Metts
Councilor Chirichiello
Councilor Fairbanks

Staff Present:
Mike Fowler, PW Director
Janice Mobsby, Controller
Frank Childs, CFO
George Sioras, CD Director

Acting Town Administrator, John Moody
Recording, Town Clerk, Denise Neale

Called to Order at 6:30 pm

Salute to Flag- Led by Al Dimmock
Notice of Fire Exits & Handicap Access

Roll Call-Present: Fairbanks, Carney, Metts, Coyle, Chirichiello, Ferrante, Bulkley

Consent Agenda

07-32 Acceptance of Non-Public Minutes – March 20, 2007
07-33 Acceptance of Minutes – March 20, 2007 – with responses
07-17 Schedule a Public Hearing – April 17, 2007 – Town of Derry Water
Supply and Well Installation Regulations: Amendment

Consent Agenda - Approved

Chairman' Report

Chairman Bulkley gave a layout of how he would like to conduct the meetings over the course of this year.

- Explanation of the tasks of at Town Council Meeting.
- The rules that the council would follow which were adopted 7/6/1993
- It is the responsibility of The Chair to maintain order
- Public Hearings: request that the hearings stay within the topic
- Public Forum: is not intended to be used for questions – please refer your questions to the Town Administrator or Department Head
- Remarks must be directed toward the chair

Fellow Councilors, I request that you direct your questions to the Chair –the chair will pose the questions to the Town Administrator or Department Head.

There have been concerns regarding legal counsel costs. It is an inherit conflict for the council to use a councilor for legal opinion. The Chair assured the Council that he would only suggest Legal Counsel if necessary. He has asked ATA Moody to prepare a Legal Service RFP to assure we are getting the best service for the best price.

One other item: on 2/27/2007 there was an article in the Eagle Tribune regarding Waste disposal eating up Town Budgets. Our recycling program has been in effect for approx 20 yrs. Derry is the highest that was acknowledge at 32.62 % of our waste stream which has been recycled. He commended not only the citizens but also the Public Works Transfer Station who instituted this many years ago.

Administrator's Report

Reappointment of Deputy Town Clerk as required by RSA 41:18

Motion: To approve the recommendation of the Town Clerk for Ruth Robinson as Deputy Town Clerk until

2010. Motion: by Chirichiello, second Carney.**Vote: 7-0-0**

Clean up at former Shamrock Dry Cleaners site – they will be cleaning it up and have asked the public to stay away from that property.

ATA Moody will check with PW to find out what kind of notification was given to the public in that area.

Bennett Yeager has reported 19 applicants for the Town Administrator position. They will be processing them to forward final recommendations to the council.

Interviews – Boards and Committees

Interview Applicants gave brief explanations of their qualifications and reasons for their interest.

- **Conservation Commission**

Margie Ives, Bill Hoyt, Jim Arruda, John Anderson, Neil Wetherbee, Daniel Love, Judy Books, Jennifer Books, Jan Choiniere

Motion to appoint: Margaret Ives 3-yr member- By: Bulkley, Chirichiello

Vote: 7-2-0 (Fairbanks, Coyle)

Motion to appoint: Jim Arruda 2-yr member- By: Bulkley, Ferrante Vote: 7-0-1 (Coyle)

Motion to appoint: Judy Books 3-yr member- By: Carney, Metts Vote: 4-3-0

(Chirichiello, Ferrante, Bulkley)

Motion to appoint: Neil Wetherbee 3-yr alternate- By: Bulkley, Metts Vote: 4-3-0

(Fairbanks, Carney, Coyle)

(Note: 1 opening for Alternate member to Expire 2008)

- **Derry Housing & Redevelopment Authority**

David Milz

Motion to appoint: David Milz 5-yr member – By: Bulkley, Ferrante Vote: 6-1-0 (Coyle)

- **Heritage Commission**

Rick Holmes, Janice Rioux, Marion Richardson-Pounder

Motion to appoint: Rick Holmes 3-yr member /Janice Rioux 3-yr member

Marion Richardson-Pounder 3-yr alternate

By: Bulkley, Chirichiello Vote: 7-0-0

- **Highway Safety Committee**

Mike Gill, Grant Benson Jr., Randall Chase, Tom Caron, John Gleason, Mike Houghton, Al Dimmock

Motion to appoint: Mike Gill 1-yr member/Grant Benson Jr. 1-yr member

Randall Chase 1-yr member/Tom Caron 1 –yr member

John Gleason 1 –yr member/ Mike Houghton 1-yr member

By: Bulkley, Ferrante Vote: 6-1-0 (Carney)

- **Planning Board**

Ginny Roach, Dave Nelson, David Granese, Richard Tripp

Motion to appoint: Ginny Roach 3-yr member

By: Bulkley, Metts Vote: 7-0-0

Motion to appoint: David Granese 3-yr member

By: Coyle, Fairbanks Vote: 6-1- 0 (Chirichiello)

Motion to appoint: Dave Nelson 1-yr member
By: Bulkley, Metts Vote: 6-1-0 (Fairbanks)

Motion to appoint: Jan Choiniere 2-yr alternate
By: Coyle, Fairbanks Vote: 6-1-0 (Metts)

(Note: 1 opening for Alternate member to Expire 2010)

• Zoning Board of Adjustment

Allan Virr, Dana Tripp, Chris Lunetta, Al Dimmock

Motion to appoint: Chris Lunetta 3-yr member
Bulkley, Carney Vote: 7-0-0

Motion to appoint: Al Dimmock 3-yr member
By: Bulkley, Ferrante Vote: 6-1-0 (Chirichiello)

Motion to appoint: Dana Tripp 3-yr alternate
By: Metts, Chirichiello Vote: 7-0-0

Motion to appoint: Alan Virr 1-yr alternate (declined)

(Note: 1 opening for Alternate member to Expire 2010, 1 opening Alternate expire 2009, & 1 opening Alternate expire 2008)

Councilor Chirichiello requested a five-minute recess. 8:30 p.m.

Public Hearings

07-21 Amend the Code of the Town of Derry, Chapter 150, Section 150-10, Stop & Yield Intersection to add a Yield Sign at Peabody Road Annex @ Peabody Road

Grant Benson Jr., Hwy Safety Committee gave the background information regarding this intersection and discussed why yield sign as opposed to a stop sign.

Open Public Hearing 7-0-0

Marge Bisson, Cole Rd - Doesn't agree that a sign is needed
Al Dimmock, High St – agrees with yield sign, however would like PD to patrol

Close Public Hearing 7-0-0

Motion: To amend the Code of the Town of Derry, Chapter 150, 150-10 Stop and Yield Intersection, to add the following information:

Be it ordained by the Derry Town Council as follows: Add a yield sign at Peabody Rd Annex @ Peabody Rd. Chirichiello, Ferrante Vote: 7-0-0

07-26 Release of Public Servitude – 17-19 Steven Avenue

Mike Fowler gave background on the request from the Doyle's residents at 19 Steven Ave.

Open Public Hearing Vote: 7-0-0

Joseph & Bridget Doyle, 19 Steven Ave – Explained the process they have taken to obtain this land. They are aware of the next steps in the process. The abutters to this land are currently in Florida but have no objects to the Doyle's obtaining the land. There is currently a trailer on the property owned by a neighbor.

Francis McCue, 8 Steven Ave- Owner of the fifth wheel on the property. He has obtained permission from the town to place the trailer there. He's fine with the Doyle's obtaining the property.

Close Public Hearing Vote: 7-0-0

Atty. Clark was requested to have input to this issue. Questions were asked by the council.

Motion: Councilor Chirichiello requested to table until Council receives a notarized letter from the owner's of 17 Steven Ave pertaining to their understanding of the of the Release of Public Servitude process. Vote: 7-0-0

07-27 Amend the Code of the Town of Derry, Chapter 104, Public Gatherings, Section 104-12, Contents of License to add a Provision requiring a Certificate of Insurance

ATA Moody addressed the Public Gathering Ordinance and the fact that insurance is not stated as required. This would add that Provision. It is a practice but not stated in the Ordinance.

Open Public Hearing Vote: 7-0-0

Dave Nelson, Old Chester Rd- looking for clarification on which events this ordinance covers. Feels that there may be a constitutional problem.

Al Dimmock, High St – also looking for clarification questioned if private property with a large party was included.

Maureen Rose, Windham Rd – has same concerns.

Joe Dichiario, Humphrey Rd – discussed liabilities

Close Public Hearing Vote: 7-0-0

Motion: Councilor Chirichiello moved to table this until Ordinance is clarified and reviewed by Counsel. Vote: 7-0-0

Frank Childs clarified point that there is no language requiring Certificate of Liability in the Ordinance.

07-28 Supplemental Appropriation from Restricted Fire General Fund Balance \$159,832.35 for Compensated Absences & Consolidation of Town & Fire Compensated Absence Expendable Trusts

Janice Mobsby gave the background of the staff report for this subject. It is a housekeeping issue

Open Public Hearing 7-0-0 (No Public input)

Close Public Hearing 7-0-0

Motion: Move a supplemental appropriation of \$159, 832.35 from Fire Department Restricted General Fund Balance to be transferred to the Fire Department Expendable Trust for Compensated Absences and upon receipt of those funds, close the Fire Department Expendable Trust account and transfer the balance of principal and interest earned in it to the Town's Compensated Absences Expendable Trust. Chirichiello, Carney Vote: 7-0-0

07-29 Amend the Code of the Town of Derry, Zoning Ordinance Article VI – Office/ Medical/Business District (OMB), Section 165-35B-Permitted Uses- add #6, Congregate Care & Assisted Living Facilities as permitted uses in the Office Medical Business District

Upon opening the Public Hearing we will be using the 3-minute lights so that everyone will have the chance to speak. If we cannot get through this tonight we will reschedule.

George Sioras gave an overview of the sites included in this rezoning with an overhead map of the zone. Neal Ochs, Planning Board – this parcel needs to be developed and changing the zoning for this zoning ordinance and will be tax positive for the town. There is a sub-committee of the Zoning Board looking to rezoning the town.

Councilor Coyle motioned to extend 10 minutes, Councilor Chirichiello, second. Vote: 7-0-0

Open Public Hearing - Coyle, Metts Vote: 7-0-0

Maureen Rose, Windham Rd – is concerned that general commercial use in this area in addition to Congregate Care is too intense for this area. Concerned about noise & traffic.
Questioned RSA's in regards to this area.

Atty Clark reviewed RSA's the questions is has the State regulated this area. He doesn't believe it has.

Al Dimmock, High St – questioned assisted living definition. He also questioned if it would be for Derry residences or anyone.

Councilor Coyle motioned to extend another 10 minutes. Vote 7-0-0

George Sioras read definitions of Congregate Care Facility and Assisted Living Facility.

Marge Bison, Cole Rd– Believes Derry does need an Assisted Living Facility as the two nursing homes are always filled.

Melissa LeClair, Salem, Oregon (assisting developer who wishes to build the Congregate Care Facility) There is no zone in Derry that allows this kind of use. They look for an area in close proximity to a hospital.

Steve Falconer, Buttonwood Dr – his experience with his family in Congregate Care was positive.

Jack Dowd, Sundown Dr – has seen some of the developments they fit into neighborhoods well. It will bring in taxes money. Nutfield Heights is a very similar type of development.

Neal Ochs – it's a small area. It is for the elderly not for drug addicts.

Valerie McAdams, Willow St – Congregate housing has a broad definition. If it is going to be allowed it should be defined elderly.

Motion to suspend the rules by Chirichiello, second Metts Vote: 4-2-0 (Fairbanks, Coyle)

Randall Chase, Walker St – (Zoning Board member) Believes the Planning Board has given has done a good job with the definition. The Town needs these types of facility for the Elderly.

Morris Vigant, Perley Rd – Currently lives between these Elderly facilities and they offer a positive in the area.

Joe Dichiario, Humphrey Rd – concerned about the month-to-month rental of these units.

Maureen Rose, Windham Rd – concerned of the 116 units how many people would be there and if they were to be homes how many would be allowed. She is also concerned about it being a transient area.

Dave Nelson, Chester Rd – makes sense to have this use to take care of the aging population.

Melissa LeClair - Calculations show that the facility would be paying approx \$225K - \$275K per year.

George Sioras, CD Director – feels there is an opportunity here to revitalize this area.

Al Dimmock, High St – this is a good thing for us.

Close Public Hearing Vote: 7-0-0**Motion to continue another 10 minutes by Ferrante, second by Metts Vote: 5-2-0 (Carney, Coyle)**

Council Fairbanks, Carney, Chirichiello asked various questions of Melissa LeClair and George Sioras.

ATA Moody stated the definitions of Congregated Care and Assisted Living would be posted on the Town's Web site.

Councilor Chirichiello motioned to continue Council discussion at the next meeting and the Public

Hearing on 07-30, second by Councilor Metts Vote: 7-0-0

Public Forum

- Maureen Rose – suggested that the DEDC work with businesses in Town for recycling. Also would like to see signs downtown to show where the conservation land is and littering signs.

Motion to close the Public Forum by Chirichiello, second by Carney. Vote: 7-0-0

-

Council Requests

Councilor Fairbanks – signage for littering on Windham Rd. (Chairman Bulkley requested that the Highway Safety Committee give feed back on this.) Speeding on Stark Rd could the PD put out the speeding sign again? Upstone Lane Sewer if we can get back the responses from Tom Carrier and move forward on this. Signage for open space so that it can be utilized. (Councilor Ferrante there are maps at the libraries)

Councilor Carney - Asked if there were maps at the sites? (Councilor Ferrante stated there were)

Councilor Chirichiello – Plug for the Downtown businesses in speaking with owners they don't have many Derry people in their shops they are mostly from other towns.

Councilor Coyle – is concerned with the morale at the police department. Would like to investigate. Pertaining to the rules of the charter he will be addressing his questions to the ATA or Department Heads directly. He will not be going through the Chair.

Chairman Bulkley explained why he asked the Councilors to go through him with questions. He relies on the Town Administrator and Department Heads to handle personnel issues.

Councilor Carney – Heard from many officers regarding morale.

Councilor Ferrante – would like to go through the channels described by Chair.

Councilor Fairbanks – Last year there were issues and the prior Chair was aware.

ATA Moody with regard to the Upstone Lane Sewer & Brookview will be coming forward.

Motion to Adjourn 11:00 p.m.

Town Clerk, Denise E. Neale

Date