

TOWN OF DERRY

Town Council Meeting
Derry Municipal Center

June 5, 2007
Tuesday 7: 30 pm

Member Present:

Chairman Bulkley
Councilor Carney
Councilor Chirichiello
Councilor Ferrante
Councilor Fairbanks
Councilor Coyle
Councilor Metts

Staff Present:

Frank Childs, CFO
George Sioras
Tom Carrier
Janice Mobsby

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

Called to Order at 7:30 pm

Salute to Flag led by Denise Neale, Notice of Fire Exits & Handicap Access

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

Consent Agenda

- 07-55** Acceptance of Non-Public Minutes – May 15, 2007
- 07-56** Acceptance of Minutes – May 15, 2007
- 07-57** Schedule Public Hearing – June 19, 2007 – Sewer
Installation Agreement – Tropic Star Development and
Town of Derry

Consent Agenda- Approved

Chairman's Report – Nomination for alternate member of Derry Public Library Davis Loffler
Seconded by Councilor Chirichiello. Vote: 7-0-0

Congratulations to all of the Graduating Seniors at Pinkerton Academy
from the Town Councilors and also the Lower school graduates.

Administrator's Report –

180th Birthday committee will be meeting next week. They are still developing ideas and looking for support.

- Summer Meeting Schedule – 7/10/07 Regular Meeting
7/17/07 Private Roads Work Session
8/7/07 Regular Meeting
8/21/07 Work Session Economic Development Dir.
- 3rd Quarter Financial Report – Frank Childs reviewed the Narrative Comments and Financial Statements including the General Fund Revenues & Expenditures for nine months ending March 31, 2007.
- Frank Childs requested that the required budget transfers be put on the agenda for the 6/19/07 Council Meeting.

Council Board Representatives Updates

Councilor Fairbanks – Heritage Commission have had discussion on preserving the Upper Village Hall.

Councilor Carney – Taylor Library is moving forward with residents on a building expansion plans. Housing- has just added Victims of Domestic Violence to a priority for Housing.

Conservation – is rescheduling their Trail Days.

Councilor Metts- School Board – Spoke with Brenda Willis there is new technology that has been introduced through the 21st Century grant.

Councilor Ferrante – Planning Board- has formed sub committees for GMO, Zoning, Open Space Subdivision, and Telecommunication
Recreation donations for the Iran/Iraq Monument gave list of some of the Donors.

Public Hearing

- 07-51** Amend the Code of the Town of Derry, Zoning Ordinance - add new definitions and requirements for access drives and streets Sections 165-5 Definitions, 165-9 Approved Street/Residential Lot, 165-37 Neighborhood Commercial District, 165-38 Manufactured Housing Park District, 165-49 Traditional Business Overlay District, 165-51 Floodplain District, 165-63 Groundwater Resource District, 165-80, 165-84 and 165-86 Wetlands
Overlay Conservation District, 165-103 Sign Regulations

George Sioras gave an explanation with Tom Carrier regarding the Amendments and the reasons for these amendments.

Motion to open Public Hearing by Councilor Chirichiello, Seconded by Councilor Ferrante

Vote: 7-0-0

No Public Input

Motion to close Public Hearing by Councilor Chirichiello, Seconded by Councilor Coyle

Vote: 7-0-0

Councilor Carney asked for an explanation of Section 165-37, H-2.

Councilor Coyle made the following motion: As proposed on Agenda Item 07-51 Amend the Code of the Town of Derry, Zoning Ordinance - add new definitions and requirements for access drives and streets Sections 165-5 Definitions, 165-9 Approved Street/Residential Lot, 165-37 Neighborhood Commercial District, 165-38 Manufactured Housing Park District, 165-49 Traditional Business Overlay District, 165-51 Floodplain District, 165-63 Groundwater Resource District, 165-80, 165-84 and 165-86 Wetlands Overlay Conservation District, 165-103 Sign Regulations. Seconded by Councilor
Vote: 7-0-0

Public Hearing

- 07-52** Amend the Code of the Town of Derry, Zoning Ordinance Article XIX - Independent Adult Community Overlay District, Section 165-149-Density; Section 165-150-General Development Standards; and Section 165-153-Other Provisions – 3 b & c

Tom Carrier & George Sioras gave an explanation of the changes in Density and requirements

Motion to open the Public Hearing by Councilor Coyle, Seconded by Councilor Chirichiello. Vote: 7-0-0

No Public Input

**Motion to close Public Hearing by Councilor Ferrante, Seconded by Councilor Metts
Vote: 7-0-0**

Councilor Fairbanks and Councilor Chirichiello asked questions regarding this amendment.

Councilor Coyle made the following motion: As proposed on Agenda item 07-52. Amend the Code of the Town of Derry, Zoning Ordinance Article XIX - Independent Adult Community Overlay District, Section 165-149-Density; Section 165-150-General Development Standards; and Section 165-153-Other Provisions – 3 b & c. Seconded by Councilor Carney. Vote: 5-2-0 (Fairbanks, Chirichiello)

New Business

07-58 Intermunicipal Agreement for Septage Disposal: Town of Derry and Allenstown

Tom Carrier gave overview of the agreement. The agreement is due to the Town of Derry not being able to accept Septage, as it is not capable of treating it. This is a five-year agreement.

Councilor Metts motioned to approve the Town of Allenstown, New Hampshire Agreement:

1. The Allenstown Sewer Commission will accept domestic Septage originating in the Town of Derry at the Suncook Wastewater Treatment Facility (SWTF).
2. Septage received at the SWTF is subject to all federal, state, and local regulations concerning the proper disposal of Septage wastes, and shall be delivered by appropriately licensed and registered Septage haulers.
3. The receipt of Septage shall be limited to Monday – Friday during the SWTF normal business hours excluding recognized Town Holidays.
4. The Allenstown Sewer Commission reserves the right to reject any and all Septage that it deems objectionable, for any reason, including, but not limited to, interference with the wastewater treatment process.
5. The Allenstown Sewer Commission reserves the right to establish appropriate charges for Septage disposal. These charges will be assessed directly to the Septage hauler delivering the Septage waste, and may change at any time during the period of this agreement.
6. The Town of Derry agrees that enactment of local bans, moratoriums or restrictions on the proper land application of the State of New Hampshire approved biosolids or biosolids delivered products any be cause for immediate termination of this agreement, should the SWTF utilize land application as biosolids disposal practice.
7. Either party to this agreement may terminate this agreement for any reason with Thirty-day (30) written notice to the other party.
8. This agreement shall be valid for period of five (5) years beginning January 2007. Extensions of this agreement shall be preceded by a written request to the Allenstown Sewer Commission no later than six (6) months prior to the five (5) year expiration date.

Seconded by Councilor Fairbanks Vote: 7-0-0

07-59 Approval of Town Administrator Contract

Chairman Bulkley announced that the contract negotiations for the Town Administrator are still ongoing.

Old Business

07-37 VOTE – Amend the Code of the Town of Derry, Chapter 150, Section 150-4 Prohibited Parking – A Street South from B Street to Route 28 (Manchester Road)

This was a continuation of the May 15th meeting for the owner of Sports Zone to speak. Dennis Reid spoke regarding the amendment and his agreement with this amendment. He also suggested to Council that from X number of feet there be no parking from the driveway entrances.

ATA Moody suggested that this be referred to the Highway Safety Committee.

Councilor Metts motioned: Move to amend the Code of the Town of Derry Chapter 150, 150-4 Prohibited Parking, to add the following information:

Be it ordained by the Derry Town Council as follows: A Street South from B Street to Route 28 (Manchester Road).

Old Business

06-92 Upstone Lane and Brookview Drive Sewer Extensions

Tom Carrier gave a follow-up to the 1/9/07 work session. Council had asked for WW to send out surveys again to Brookview and Upstone Lane. WW was asked to poll other communities in regards to cost share. Lastly there was a concern with residents of Brookview Dr. they had been previously told that they would pay the same as Scenic Dr and Bradford St residents.

Upstone Lane cost is \$260,000 and \$245,000 for Brookview Dr. Availability of funds \$165,000 allocated for Brookview sewer, \$100,000 left over from the South Range project and \$157,000 returned to WW from the DES grant for the South Range project. The shortfall would be \$83,000.

Councilors asked Tom Carrier questions and for clarifications on the Upstone Lane and Brookview Drive in relations to both projects. Questioned if these were in the CIP and when could the projects be done in 2008.

Tom Carrier gave clarification to questions and replied they are in the CIP for 2011. Also both these projects could be done in 2008 one in the fall and one in the spring.

Tom Carrier gave an overview of the Municipal Sewer Betterment Assessment Policy.

Councilor Coyle motioned to approve the Municipal Sewer Betterment Assessment Policy as proposed date May 21, 2007. Seconded by Councilor Carney.

Council discussion on the motion: questioned payment options, and cost allocations.

Amendment to #3. Cost Allocation-The Derry Town Council may provide up to 75% of the gross costs related to the extension of new residential sewers including engineering, easement acquisition and construction to the areas of Barkland Acres and Sunset Acres as further described and shown in the Derry NH Municipal Sewer Facilities Master Plan dated May 1976, including subsequent revisions made in thereto or other future sewer projects.

Vote: 6-0-1 (abstained Chirichiello)

Councilor Coyle made a motion to schedule a Public Hearing for the sole purpose of providing sewer extensions to Brookview Dr and Upstone Lane for a supplemental appropriation, Seconded by Councilor Metts. Vote: 7-0-0 (? 6/19/07 Meeting)

Public Forum – non agenda items

Albert Dimmock, High St – questioned Town Administrators contract.

Council Requests/open discussion

Councilor Fairbanks questioned Legal Opinions and if the Town had a contract with an Attorney. Would like clarification on what constitutes a Town Attorney. Referenced Rules of Town Council regarding Town Attorney.

Chairman Bulkley stated that he had asked that an RFP be done for Attorney's.

ATA Moody solicited through the Municipal Association for a draft of an RFP he does have one. He does have a folder from Russ Marcoux.

Councilor Coyle stated under section 8.8 the Town Administrator is to appoint a Town Attorney and the Council under 8.8B the Council is suppose to have it's own attorney according to the Charter. Also he

would like to get agendized the Prosecutors position.

Chairman Bulkley stated he would seek to get the Prosecutors position schedule for either the meeting of 6/19 or 7/14/07.

Councilor Fairbanks would like to requests that the Council not solicit any other legal opinions until it is weighed in as a board until we actually have a Town Attorney.

Chairman Bulkley stated he would seek a majority of the Council before he gets legal opinions.

Motion to adjourn 9:40 p.m.

Denise E. Neale, Town Clerk

Date