

## TOWN OF DERRY

**Town Council Meeting**  
Derry Municipal Center

**October 7, 2008**  
Tuesday 7:30 p.m.

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### **Non-Public Session RSA 91-A:3 II (d)**

Salute to Flag, Warning of Fire Exits, Handicap Access, Turn off all Cell Phones and Pagers

**Staff Present:** Larry Budreau, Chief Klauber, Frank Childs

**Roll Call:** Chairman Metts, Councilors: Coyle, Chirichiello, Benson, Wetherbee, Fairbank, and Carney

### **Consent Agenda**

**08-126** Acceptance of Non-Public Minutes, Session I & II, September 16, 2008

**08-127** Acceptance of Minutes – September 16, 2008

**08-128** Schedule Public Hearing – October 21, 2008 – Veterans Credit Increase

**08-129** Schedule Public Hearing – October 21, 2008 – Medical Reserve Corps Grant for \$8,000

**08-130 Water/Sewer Commissioners** - Schedule Public Hearing – October 21, 2008 – Water/Sewer Rate Adjustments

**Amendment move 08-131 for purpose of hearing comment from downtown merchants on October 21, 2008**

**Approved 7-0-0**

### **Chairman's Report**

- Thanked Derryfest Committee, PD, FD, employees and volunteers.
- Robert Frost Farm 10/11 Woodworkers event
- Derry's WWII Veterans will be going to Washington DC to view the Veteran's Memorial Sponsored by the Derry Rotary Club.

### **Administrator's Report**

Missed one item under land discussion in Non-Public Sale of property asked that Council reconvene in non-public session after business meeting

### **Public Forum – non agenda items**

#### **PF Open 7-0-0**

Al Dimmock, High St – commented on newspaper article regarding comments made by a councilor.

#### **PF Close 7-0-0**

### **Public Hearing**

**08-125** IAFF Local 4392 Firefighters and IAFF Local 4392 Fire Officers Labor Contracts

Larry Budreau and Chief Klauber gave an overview of the changes in the contract as directed by Town Council and request the approval of these contracts.

Chairman Metts reminded the presenters of the 3 minute rule.

**Councilor Carney moved to overrule the Chair, seconded by Councilor Coyle. Vote: 5-2-0 (Benson, Wetherbee)**

Doug Newell and Howard Lund, Alliance of Derry Taxpayers – gave slide presentation of comparisons of other towns (see attached) Requested the Town Council vote no, bring in third party arbitrator and start negotiations anew. Please explain your votes if you vote yes.

John Burtis, Lorri Rd – Spoke on the economic situation facing us today. Asked the Town Council to rethink these contracts.

Tom Cardon – Asked the Town Council to listen to the concerns of the residents. He doesn't support some of the excess in the contract.

Joseph Dichiaro, Humphrey Rd – Has the greatest respect for the Derry PD and Fire Departments, unfortunately this contract comes before you in a collapsing economic time. We can't spend money we don't have.

Al Dimmock, High St – In normal times I would say give the Fire Fighters everything we can but unfortunately at this time he can't agree with the contract.

Joel Olbricht, Colony Brook Lane – Can't remember not going to a meeting for the Town or School when the economy wasn't the issue. He believes we elect the Council to make these decisions. If the Councilors do not want to make these decisions don't be a Councilor because it is your decision to make.

Ed Cooper, E Derry – Derry Fire Department is #1 in state. This is a good opportunity to bring the taxes in line by not voting these contracts.

Greg Masic, Carberry Dr. - He thanked the Councilors who voted to make this a public hearing it's a good time for the citizens of Derry to voice their opinions. He is against this contract.

Al Dimmock, High St – Without a public hearing the citizens don't get heard.

Barry Phillips, Amherst Dr. & Keith Munroe, Lori Rd. – In regards to the no layoff clause to remind everyone it was put in place due to the East Derry/Derry Fire consolidations. Keith was the last member hired prior to the consolidation in 2005. The Town Council at that time put that clause in to save the Derry and East Derry Firefighters during the consolidation.

Dave Miles, Bonnie Lane – East Derry Fire Commissioner at the time of consolidation that was put in contract this should have no bearing yes or no for this contract. He is sure everyone is not happy about some aspects of the contracts. The Town Council gave Mr. Budreau the parameters for the contracts and he has. You should vote yes.

Mike Gill, Gill Rd – Trustee of Trust Funds, He gave examples of the quality of Fire Fighters such as Gary Williams. Read email from Frank Childs CFO.

"Mike, here's the info you requested, it represents the towns Earn Time Liability as of 6/30/08 most of which is set aside in the Capital Reserve Fund. The difference is accrued on the Town books to ultimately be transferred to the Capital Reserve Fund.

Total Liability with benefits \$3,618,000."

His questioned was how many employees did we have? We have 247 employees.

The decision belongs to the Town Council.

John Burtis, Lori Rd – He has an additional point. He attempted to get a copy of contract he was denied. Other towns allow contracts to be public when the contract is voted.

Matt Evans, Domac Dr. - Derry Fire Fighter. He is concerned that the ADT gave misleading information. The new contract reduces insurance buyback and the contract has no cost of living for the first year.

Doug Newell, English Range Rd, ADTP – There absolutely is a contract it has an evergreen clause. The ADT in no way was attacking the Fireman, FF union or negotiators.

Joe Dichario, Humphrey Rd - Keep spending money we don't have. Negotiate the best contract for a year right now. You cannot approve a multiyear contract.

Gary Williams, President of Professional FF of Derry Union 4392 – Gave a presentation (see attached) Presented factual information from the proposed CBAs.  
Vote yes on this second contract before you.

Howard Lund, English Range Rd – There is no question that the people we have in this town are top quality whether it's the PD, PW or Fire. We are in an economic calamity right now please give deep thought to that process.

### **Motion to Close PH Vote 7-0-0**

### **Motions read by Councilor Benson seconded by Councilor Chirichiello.**

Discussion open to Councilors

Councilor Fairbanks, She does not base her decision on getting re-elected. She would like to make it clear that her directives were not followed.

Councilor Coyle, There are three Councilors presently on the board that met with Mr. Budreau before negotiations. One of the directives were to take the buyback levels down to a certain number and that did not happen, another was that all contracts be consistent in the benefits and that did not happen. To say that all goals were met that was not true. As far as getting re-elected he could care less. He has specific points in contract as to why he would vote no.

- Section 6, item 2 – that clause prevents us from sub contracting any other services unless we have the union's permission.
- Article 18 no layoff clause the reality is 67 employees have lifetime employment
- Section 21 Earned Time we give more ET in this contract more than any other contract in town.
- Proficiency Pay we pay up to \$9200 in addition to their salary, no other union gets this.

Had this contract been like the Police Supervisors he'd be voting for it. He believes Fire Fighters and Police Officer should have the same health benefits.

Councilor Carney -

"I have received many different comments from the public regarding these two contracts. Most people have asked me to vote against the contracts, while a few have asked me to support them.

What I have tried to do was to put aside my personal feelings over what has transpired with this bargaining unit over the last year, and make a decision based purely on the financial evidence including:

1. are the changes in the contracts in line with other contracts we have approved;
2. are there any clauses in the contracts that are inappropriate for us to approve; and
3. are the cost items in these contracts evenly distributed

I made these decisions based on the entire contract, not just for items that were changed in this current round of negotiations, but I also made my decisions with the understanding that you can not change everything during one round of contract negotiations. However, as a member of the governing body of this town, it would be inappropriate for me to simply give a rubber stamp approval to items I deem to be inappropriate for the Town of Derry just because they were not part of this year's negotiating points.

First, I took both contracts independently and compared their costs to other contracts within our town. With the case of the firefighter's contract, I started with an expectation that the contract should cost, on average, about the same as the police officer's contract on a person by person basis. I found that this is in fact that case. The police officers and firefighter's contracts have an average difference of about \$1600 per person. The average cost of the firefighter's contract per person is \$79,423 — this includes benefits and salary. However, the officer's contract cost us more, and is the most expensive contract in town, with an average cost of \$113,953 per person... this is more than \$4000, more per person than the Police Supervisors contract... including the Police Captains. This cost is exorbitant and unacceptable.

Given these facts, it is clear to me that the large majority of cost items in these contracts, which I believe to be out of line, are specifically geared toward the superior officers contract.

With respect to the second item, I want every resident to know that I will never support any contract which includes a clause that exempts all employees covered by that contract from being laid off. It is my hope that we do not have to lay anyone off, but layoffs are a real possibility. There is no question in my mind that the Town of Derry will have fewer employees next year. It would be inappropriate for the Council to ever agree to a contract that included such a clause, as it ties own hands in such a way that make governing fairly, almost impossible.

Thirdly, comparing our contract to other communities, it is very clear that this department is very well compensated, but as I stated earlier, the major cost items associated with the language of the contracts are geared toward just one of the contracts, the officer's contract, while the majority of firefighters will not see the untenable benefits discussed here tonight. To this end, I do not believe benefits are fairly distributed among employees, and the higher end benefits are not in line with other departments in the Town of Derry.

This entire process has been eye opening to me. To be perfectly honest, I do not like either contract, and I think past Councils and Administrators have done a great disservice to this community by putting us in these circumstances. The residents of Derry have every reason to be upset about where we are with all of our contracts.

All employee contracts in Derry should include the same language, the same benefits, and pay scales that coincide with each other. An administrative assistant from department A should earn the same as a person doing the same job in department B. This is currently not the case, and I only wish I was elected to the Council before negotiations started so I could have joined Councilors Coyle and Fairbanks in voicing these concerns.

Most importantly, and I believe this is really critical to our Town's future, we cannot continue to have contracts where the total cost of the contract exceeds the town's ability to raise funds during a given year. With few exceptions, I have been disappointed with the lack of support I have received from my fellow Councilors on this critical point. If this does not change, we will never see the economic development we all hope for, we will never see a new rec. center, and we will never expand the Taylor Library because we just cannot afford it. Each year payroll expenses take up a larger and larger percentage of our town's budget, and this trend needs to be reversed. However, this is a process, and it may take several rounds of negotiations to dig ourselves out of this hole. Residents cannot expect all things to be corrected immediately. However, we need to begin making real progress now, and we must start by only negotiating new contracts where the total expenditures contained in the contract, for the duration of the agreement, come in under the average consumer price index for the previous 3 years. We need to have more flexibility in our budgets to deal with the needs of our community and our infrastructure, and that can only happen when personnel costs become a smaller percentage of our yearly budget."

Councilor Wetherbee, this is about solutions. Rejecting this contract could put us in a worse position than we are right now.

Councilor Fairbanks, both of these contracts contain a no layoff clause correct.

Chairman Metts, there are many things in this particular contract that I am not happy with. I wasn't around to voice an opinion for negotiation. He gave his history as a business and homeowner in town and what the economy affects him personally. Once negotiations start the guidelines are fixed. After I vote tonight I will sleep with a clear conscience.

Councilor Benson discussed his business and the effects of the economy. These contracts don't look like the private deals in my world but this isn't my world it's a public union for a public town it's very different.

#### **Vote on Motions:**

**Move that the Derry Town Council approve the collective bargaining agreement between the Town and the International Association of Firefighters Local 4392 Firefighters Unit from July 1, 2007 to June 30, 2011 and authorize the Town Administrator to sign the Agreement on behalf of the Town of Derry. Motion by: Benson, seconded by Chirichiello. Vote: 5-2-0 (Coyle, Fairbanks)**

**Move that the Derry Town Council approve the collective bargaining agreement between the Town and the International Association of Firefighters Local 4392 Fire Officers Unit from July 1, 2007 to June 30, 2011 and authorize the Town Administrator to sign the Agreement on behalf of the Town of Derry. Motion by: Benson, seconded by Chirichiello. Vote: 4-3-0 (Fairbanks, Carney, Coyle)**

#### **New Business**

##### **08-131—Fifteen (15) Minute Parking Designation—East Broadway**

Moved to October 21, 2008 in order for Council to obtain public input and particularly from other downtown businesses.

#### **Public Forum – non agenda item**

Doug Newell, English Range Rd – expressed his disappointment that the Council Members did not heed his request.

Al Dimmock, High St – Requested issue with fence on Town property and the Bike path be moved back to the other side of road.

Joe Dichiaro, Humphrey Rd – he is disappointed with two businessmen. His question was can you give your employees raises for the next four years. He doesn't believe as business men they should run the Town different from their businesses. Liability for the fence belongs to the Town.

Gregg Mosier, Carberry Dr – he is very disappointed in the Councilors. The past Councilors have done the same thing. Things have to change.

Kevin Carney, Rocco Dr – he was disappointed in the voter turnout this evening. I don't want to be back in 2012 to listen this again. You should listen to the voters.

Janice Matthews, Bedard Ave – Thanked you to Kevin and Janet and shame on the rest of you. She has to leave Derry she can't do it anymore.

Ron Goldthwaite, Scenic Dr – He worried about next budget season. Missed an opportunity to do something about the budgets.

#### **Close PH 7-0-0**

#### **Council Requests/open discussion**

Fairbanks – requested Original TIF document on Ash St. Still has a question on the monies from Ash St. Minutes TIF district when it was created and the TIF itself. What is the pleasure of the board in regards to the fence?

Chairman Metts directed that the fence encroachment issue be put it on the agenda for 10/21.

Councilor Benson requested a list of all private properties that encroach on the public right of way. T.A. Stenhouse stated that would be impossible to do in a two week period . As an example he had asked Public Works to do a brief windshield survey on this matter over the time of one-hour and Alan Cote had identified more than forty of those encroachments. He further stated town policy in most communities is not to remove these encroachments unless a particular encroachment creates a real hazard to the general public. In other communities where he has worked and Derry is no exception there are hundreds of these encroachments.

Coyle – requested the Courthouse be notified of their change of address as soon as possible. He also requested that all contracts be put on the website. Once they are tentatively agreeable. He would like to make a motion that all contracts should have a public hearing.

Chairman Metts requested that it be put on an agenda for the future.

Chirichiello- requested an employee freeze and look into freezing overtime.

Town Administrator Stenhouse explained that a total freeze in overtime is not really feasible particularly where it involves direct public safety services and winter maintenance of roads and highways.

Coyle – asked private roads vote for plowing be placed on agenda for October 21, 2008.

Chairman Metts said this would be placed on the agenda.

**Motion to adjourn: to non public for RSA 91 to discuss sale of Town Real Estate  
10:15 p.m.**