

TOWN OF DERRY

Town Council Meeting
Derry Municipal Center

May 18, 2010
Tuesday 7:30 p.m.

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

Roll Call: Milz, Olbricht, Wetherbee, Coyle, Fairbanks, Chirichiello & Chairman Benson

Consent Agenda

- 10-77** Acceptance of Minutes with Town Council and Planning Board – May 4, 2010
- 10-78** Acceptance of Minutes – May 4, 2010
- 10-79** Acceptance of FY 2011 Budget & CIP Public Hearing – May 6, 2010
- 10-80** Schedule Public Hearing – June 1, 2010 – NHDES Household Hazardous Waste Agreement
- 10-81** Schedule Public Hearing – June 1, 2010 – Justice Assistance Grant (JAG) Program Award FY 2010 for \$33,910
- 10-82** Approve Veterans' Credits, Elderly Exemptions

Consent agenda Approved

Chairman's Report – Benson

- Welcome to Kristen Nieves from Boy Scout Troop 405 in Derry. She and approximately 10 Scouts ranging from 6th Grade to High School have joined us here to observe a Council meeting. They are working on their Communication Badge.
- Invitation to the Town Council for the Memorial Day Parade.
- Certificate of Appointment Deputy Town Clerk Ruth Robinson.
- Exit 4A Tom Cardon asked to review 4A documents they are available in the Town Administrators Office.

Administrator's Report – none

Public Forum – Non Agenda Items

Open Public Forum 7-0-0

Brenda Willis and Jim Barton- Nutfield Senior Corp. read a statement which was an account of what has transpired in the development of the Senior Center over the past few years.

Chairman Benson stated that there would be a meeting with John Moody to answer questions in the future as the Town Council needed to finish their budget session first.

Close Public Forum 7-0-0

Public Hearing

- 10-50** Amend the Code of the Town of Derry, Section 165-30 Zoning Map by rezoning certain parcels from Medium High Density Residential District Zone to Medium High Density Residential District II – Purpose of Amendment: to rezone 68 properties that lie within the corner of Birch Street and East Broadway to include Oak Street, Park Avenue, Fenway Street, Grove Street & Wilson Avenue from Medium High Density Residential to Medium High

Density Residential II. If amendment is adopted, these properties will be subject to the Medium High Density District II zoning requirements contained in Section 165-45.1 of the Derry Zoning Ordinance. An amendment to the zoning map delineating the lots in the Medium High Density Residential II District is being adopted to reflect these changes. For the lots affected, this amendment is COMPREHENSIVE IN NATURE. **(See attached list of the 68 properties)**

George Sioras displayed a map of these properties and explained that this change if granted would only allow for single family MHDRII. The Planning Board has heard this petition and is referring it to the Town Council.

Councilor Fairbanks asked if the residents' perception of the Town Council would be marked due to the Chief of PD living on Wilson Ave. She suggested maybe the Londonderry Town Council should hear this case.

Steve Clark, explained the RSA which regards Town Council members to step down and not vote on an issue. He stated that basically the RSA's define conflicts as those in which a member of the Council would receive a personal monetary gain by his/her decision. In those instances Council members should not participate in the discussion or vote.

Chairman Benson asked the Town Council their view on whether this case should be heard by other entities. Councilor Wetherbee, Olbricht, Milz, Chirichiello, and Chairman Benson stated no.

Open Public Hearing 7-0-0

Jonathan Sobel, 11 Wilson Ave – gave an overview of his intent with this land and history of the land and meetings with the Planning Board. The majority of homes are single family.

Councilor Fairbanks asked regarding exiting and entering into to the property

Councilor Wetherbee – questioned emergency access to circle and if it would be gated.

Councilor Olbricht –questioned access from Birch Street and from Wilson Avenue.

Charlie Pearson, Surveyor for Dr. Sobel – stated the original proposal was for 26 units in 1997. Subsequently there have been changes made due to wetland setbacks therefore it is downscaled to 21 units.

Olbricht – stated he was told by the Planning Board there was no plan submitted to the board even at the present time. There is no documentation in the town that the plans were ever pulled back. Mr. Pearson replied "No".

Councilor Coyle asked for the documentation of the court case and order regarding the entrance way to this land. Mr. Pearson agreed to provide them.

Chris Lunetta, 7 Wilson Ave – doesn't think this neighborhood is a place for multi-units.

Councilor Chirichiello, questioned access to water and sewer and was told the property was served by both water and sewer.

Erich Whitney 5 Wilson Ave - if there were to be a single family home on the lot that's okay. A multi-unit would change character of his back yard. Presently there is forested area behind house and now could have 21 neighbors staring in his back yard.

Laura Cunningham, 20 Oak St, - Is concerned with the amount of traffic it would cause due to how many children are presently in this neighborhood.

Richard Persell 23 Oak St – his concern is multi- unit housing hurts single family home owners. It costs them not the unit dwellers.

Ed Garone, Wilson Ave – feels the future should be considered, envision it, and look at the size of some of the parcels nearby.

Brenda Borders, 3 Fenway – catches opposite side of spectrum. Their neighborhood parks their cars on the street to slow down traffic. In some places cities and towns ask owners for compensation to the neighborhood.

Close Public Hearing 7-0-0

Councilor Fairbanks – what kind of buffer is there going to be? Is the entrance way approved and is the land Dr. Sobels?

Chairman Benson advised the Town Council that he doesn't feel any of this has to do zoning redistricting.

Councilor Wetherbee – Asked Mr. Sioras if there were any other multifamily existing in neighborhood. What happens in future to already existing multifamily?

Mr. Sioras stated that there are 46 single family homes, 6 3-family homes & 4 8-units homes. Any multifamily homes if the change were made would be legal non-conforming uses.

Mr. Sioras made the following comments to the Town Council, the abutters and Mr. Pearson. He incorrectly stated at the meeting with Town Council and the Planning Board that the house was going to be torn down. Mr. Pearson is aware that the next day Mr. Sioras sent him an email and cc: the Town Council there was no intent on making an inflammatory statement. Mr. Sioras doesn't appreciate this comment. He corrected his error. The second part, the TRC meeting came to the Council in December 2007. There was no intent by town staff to delay this project. They went through numerous reviews as Mr. Pearson indicated which had been brought to Mr. Pearson's attention by the Town's Environmental Engineer. had an Environmental Engineer, There were some technical issues that had to be worked out with the Conservation Commission and the rules have changed. For the record again, "I don't think it's fair to staff to say it deliberately delayed this. That the farthest from the truth Mr. Chairman; for the record."

Councilor Olbricht – from the workshop he was under the impression that the plan had been revoked.

Mr. Sioras stated it was an active plan. The comment was made that the project was not being pursued at this time. There is no application that has been submitted to the Planning Department that can be forwarded to the Planning Board.

Councilor Wetherbee- MHDRII how many are there in town? Mr. Sioras stated that there is only one Nortonville.

Councilor Wetherbee made a comment: This is probably one of the harder decisions to make. He read from the Master Plan Update. The Master Plan is a governing document. This re-zoning runs contrary to Master Plan.

Move to continue until time certain June 1, 2010 Meeting. Motion by: Councilor Wetherbee, seconded by Councilor Coyle. Vote: 7-0-0

- 10-53** Layout and Condemnation of Route 28 Properties (Manchester Road and Crystal Avenue in accordance with RSA 498-A – impacted parcels are listed as:
28 Manchester Road, #08285
22 Manchester Road, #08286

10 Ashleigh Drive, #08280
4 Ashleigh Drive, #08280-003
2 Ashleigh Drive, #08280-001
35 Manchester Road, # 08280-002
19 Manchester Road, #08276
17 Manchester Road, #08275
13 Manchester Road, #08274
11 Manchester Road, #08273
7 Manchester Road, #08272
3 Manchester Road, #08269
61 Crystal Avenue, #36018
57 Crystal Avenue, #36017-001
1 Municipal Drive, #35014-002
55 Crystal Avenue, #36017
72 Crystal Avenue, #35016

Mike Fowler - gave an overview and update of the parcels and contracts that need to be resolved prior to the onset of this project.

Six have been signed and five have been sent out and four are undetermined.

He suggested the Town Council not vote on this tonight until more offers have been accepted.

Gary Stenhouse – They are exploring several options regarding the Pinkerton Tavern. The first is to move the building back, and the Town would only purchase one third of the property. The building would then be moved back and a foundation installed both at no cost to the property owner. This Option has been shared with the property owner; however, it appears that he wants to sell entire property and land. Option two - the Town purchases the entire property. Then moves the building on blocks to rear of the property and sells it. The Town could then sell or give away the building along with the land or a new owner might wish to move the building the last option would be to demolish the building. The business owner occupying the Pinkerton Tavern would be due financial relocation assistance under the law to help them get started in a new location. It is the owner of property who the town is dealing with in terms of moving the building and the restaurant lessee in terms of relocation assistance. . Another option is to take the property by "eminent domain" but only as a last resort.

Open Public Hearing 7-0-0

No public input

Close Public Hearing 7-0-0

Councilor Fairbanks –asked if you move back the building back how many parking spaces would there be? Mr. Stenhouse replied 18 -20 onsite and 20 could be negotiated with Clearbrook Plaza.

Councilor Olbricht – questioned the proposition of moving building and wanted to know if it was on a national or historical register. Mr. Stenhouse replied that the tavern is not on either register.

Councilor Coyle – stated the appraisal was done two years ago. He feels this is a significant amount of money and a new appraisal needs to be done.

Councilor Milz requested dollar values for these properties.

Move to table indefinitely by Councilor Wetherbee, seconded by Councilor Olbricht.

Vote: 7-0-0

New Business

10-83 VOTE – Adopt FY 2011 Budget & CIP

Frank Childs provided a reconciliation of the Budget based on the workshops. The net revenues are \$150.00 below the tax cap. This means the Tax Rate remains the same.

Councilor Coyle wanted to discuss selling the nine lots. Building nine houses will not increase the tax rolls as much as the expense to the town for services and schools. He asked the four Councilors that voted for this to rethink it and raise the \$360,000 from fund balance.

Chairman Benson - CART had requested to add the \$4000.00 back into their budget when the FY2011 Budget & CIP Public Hearing was held. Based on some discussion he had with staff they recommended that the contribution stay at the same level and do not increase the budget.

Councilor Chirichiello moved to add \$4000.00 back into the CART Human Service Budget, from Fund Balance, seconded by Councilor Fairbanks. Vote: 1-6-0 (Coyle, Fairbanks, Milz, Olbricht, Wetherbee & Benson) Failed

Derry, NH Town Council FY 2011 Budget Adoption	
Town Council Proposed Motions	
Date: May 18, 2010 (Tuesday)	
Time: 7:30 PM	
Location: Derry Municipal Center, 3rd Floor Meeting Room	
	<u>Amount</u>
Councilor Milz moved to approve the FY 2011 Budget (as set forth in the budget presented to the Town Council on March 31, 2010 and at the Public Hearing on May 6, 2010, and as revised by the Council) as follows:	
Emergency Management	\$80,831
Executive	\$1,239,440
Finance	\$4,459,427
Fire Prevention & Emergency Services	\$10,759,836
Derry Public Library	\$1,116,934
Taylor Library	\$157,509
Planning	\$258,642
Police	\$8,507,669
Public Works	\$8,220,441
Town Clerk & Elections	\$167,310
Total for Town Services	\$34,968,039
Wastewater	\$2,170,125
Water	\$2,391,195
Cable	\$279,978
Total for Other Services	\$4,841,298
Total Budget	\$39,809,337
Councilor Milz further moved that, in conjunction with the approval of the FY 2011 Budget, the Town	

Administrator is authorized to enter into Lease Agreements and to take any action related thereto for equipment whose acquisition is provided for in the budget via a Lease, as set forth below in the aggregate amounts shown:

Seconded by Councilor Coyle. Vote: 5-2-0 (Coyle, Fairbanks)

Prevention & Emergency Services (Fire Engine replacement)	\$500,000
Police (fleet replacement)	325,190
Animal Control (van replacement)	24,890
Highway (pickup replacement)	35,000
Buildings & Grounds (pickup replacement)	35,000

FY 2011 Capital Improvement Plan Adoption Town Council Proposed Motion
Councilor Wetherbee moved to approve the FY2011 Capital Improvement Plan (CIP) as set forth in the budget presented to the Town Council on March 31, 2010, subsequently revised, and at the Public Hearing on May 6, 2010, and as revised by the Council, in the amount of:
Seconded by Councilor Milz. Vote: 7-0-0

\$8,623,034

Chairman Benson congratulated the Town Council and staff for the great job done on a difficult budget.

10-84 Board of Assessors - Annual Equalization Survey by Dept. of Revenue Administration of local assessed values compared to market sales

David Gomez reviewed the staff report and explained the process that is needed to be done by the Town Council. This is the Annual Equalization Survey done by the Department of Revenue Administration for the Town of Derry.

Move that the Town Council, as the Board of Assessors, accept this report and approve the recommended action contained herein. Motion by: Councilor Coyle, seconded by Councilor Wetherbee. Vote: 7-0-0

10-85 Purchase of Shugrue Property

Mr. Stenhouse showed the map of the property. He believes the cost is \$155,000 which is less than the assessed value of the property. There could be construction of 22 spaces if the Town would grant a variance. If not there would be 18 spaces. There has not been an estimate done on the cost of the parking lot. It could cost approximately \$100,000 - \$150,000.

There was Council discussion and an explanation on the following motion.

Councilor Coyle moved to not move forward on this property, seconded by Councilor Wetherbee. Vote: 5-2-0 (Milz & Chirichiello)

Council Requests / Open Discussion

Councilor Olbricht asked when the Intersection of Crystal Ave, Broadway and Birch St. project would be done. He also thought there would be a joint meeting with Council and MRI Consultants to discuss what the Councilors are looking for in the new Town Administrator.

Councilor Fairbanks – Regarding Blueberry Rd and the cul-de-sac which is adopted by a resident and how it is being kept. She would like to know the rules or Highway Safety.

Chairman Benson- would like to look at the rules and regulations.

Chairman Benson would like a report on the status of the crosswalks painting and repair. He would like them to be done earlier this year. The Downtown Committee is looking at the painting of the bottom of the poles and green signs. They look a little run down and ratty. He wants to know the process to make that look nicer - sooner than later.

Chairman Benson gave an overview of the next meeting: Vote on Teamster Contract, allow public comment but not hearing, The Derry Police Patrolman's Contract, Derry Police Supervisors contract which started on June 30th. These are posted on the Town's Website. Also Private Roads will be discussed in June.

9:55 p.m. Adjournment

Town Clerk

Date

Recording by Denise Neale, Town Clerk
Reviewed by Gary Stenhouse, Town Administrator

<u>#10-50</u>	<u>PID</u>	<u>Address</u>
	05044	121 East Broadway
	30166	13 Oak
	30167	11 Oak
	30168	7 Oak
	30169	5 Oak
	30170	3 Oak
	30171	1 Oak
	30188	4 Wilson
	30189	23 Oak
	30190	21 Oak
	30191	19.5 Oak
	30192	19 Oak
	30193	4 Oak
	30194	6 Oak
	30195	8 oak
	30196	10 Oak
	30197	12 Oak
	30198	14 Oak
	30199	8 Grove
	30200	19 Park
	30201	17 Park

30202	15 Park
30203	9 Park
30204	5 Park
30209	71 E. Broadway
30210	69 E. Broadway
30211	67 E. Broadway
30212	4 Park
30213	6 Park .
30214	8 Park
30215	10 Park
30216	14 Park Ave
30217	16 Park
30218	12 Grove
30219	14 Grove
30220	9 Fenway
30221	5 Fenway
30222	3 Fenway
30223	1 Fenway
30226	4 Fenway
30227	6 Fenway
30228	8 Fenway
30229	10 Fenway
30230	12 Fenway
30231	14 Fenway
30232	16 Fenway
30233	15 Grove Street
30234	13 Grove S
30235	11 Grove Street
30236	9 Grove Street
30237	7 Grove Street
30238	5 Grove Street
30239	3 Grove Street
30240	16 Oak
30241	18 Oak
30242	20 Oak
30243	10 Wilson
30244	12 Wilson
30245	14 Wilson
30246	16 Wilson
30247	11 Wilson
30248	9 Wilson
30249	7 Wilson
30250	5 Wilson
30251	3 Wilson
30192-001	1 Grove
30204-001	7 Park
30218-001	11 Fenway