

TOWN OF DERRY

Town Council Meeting
Derry Municipal Center

June 1, 2010
Tuesday 7:30 p.m.

Workshop – Town Administrator Selection Process

Don Jutton, Municipal Resources gave an overview of the selection process. They received 121 resumes from 30 states. Mr. Jutton gave a breakdown of the various degrees held by the applicants.

Twenty nine candidates were invited to send in the written essay. The essay questions are due by June 21st. The essays will be reviewed by the professional panel. The next step will be a telephone interview. They then select the top 6 applicants. There will be face to face meetings with a citizen panel, employee panel and Town Council. The MRI professional panel members are Alan Gould, Rick Bates, Andrew Gilmore and Don Jutton. Candidates are chosen by the challenge statement, internet check, telephone interview and management experience in cities or towns with 18,000 – 20,000 citizens.

Town Council asked to expand the MRI panel to include managers of towns similar in size to Derry.

Mr. Jutton gave examples of ways to advertise for the citizen panel, and employee panel. Town Council asked who would handle the questioning from the citizen panel to the candidates. Don stated he or an associate would be there during the panel interviews. All Councilors are invited to observe the panel interviews.

Town Council asked Mr. Jutton if he would handle the citizen and employee panel members

Town Council Business Meeting

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

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

Consent Agenda

- 10-86** Acceptance of Minutes – May 18, 2010
- 10-87** Schedule Public Hearing – June 15, 2010 – Amend the Code of the Town of Derry – Add new Chapter; Fireworks – Sale, Display and Possession
- 10-88** Schedule Public Hearing – July 13, 2010 – Amend the Code of the Town of Derry – Fire Department, Chapter 3613, Section 3613.1 Permit, Inspection & Incident Report Fees
- 10-89** Elderly Exemptions

Consent Agenda accepted. Subject to determining summer meeting schedule

Chairman's Report – Benson

******* Loyalty Day Recipients**

VFW recognizes people in the community each year; this year's recipients were Barbara Belliveau, 2010 Loyalty Day Award, Michael Gagnon 2010 Emergency Service Provider, and Christine Muise 2010 Law Enforcement Award. Congratulations from the Town Council to all award winning employees.

***** **Establish Summer Schedule**

Meeting schedule for "Summer 2010": 6/1 Regular meeting, 6/10 Public Hearing on Charter Amendment, 6/15 Workshop Economic Development, 7/13 Regular meeting, and 8/3 Regular meeting.

Chairman Benson asked the Councilors to email him topics to cover in the workshops and to include George Sioras, Stuart Arnett, and the Downtown Committee to attend the workshop on 6/15/10.

Chairman Benson apologized for not attending the Memorial Day Service as there was a family emergency. He tried to get another member of Council to attend the ceremony but was unable to get anyone. "It is a wonderful day and a day to pay our respects to the people who served this wonderful country". He will do his best to make sure that someone is in attendance for this program in the future.

Administrator's Report –Stenhouse

***** **Farmers Market**

Stuart Arnett gave an update of the Farmer's Market which will begin on Wednesday July 7th and continue through mid-October 2010. It will be held on Wednesday's from 3:00 pm. To 7:00 pm at the Pocket park on the corner of Manning St and Broadway.

Town Administrator Stenhouse wanted to inform the public that the Assessor's Office and Tax Office have the applications necessary for Tax Relief which is a State of NH program. For additional information call 603-271-2192. The application deadline is 6/30/10.

***** **3rd Quarter Financial Report**

CFO, Frank Childs & Controller, Janice Mobsby gave the overview of the Town's operations for the nine months ended March 31, 2010. As reported in earlier quarterly reports, the Town expects a revenue shortfall of approximately \$690,000 for the year due to lower than budgeted interest income, motor vehicle registration fees and sales of deeded property. Public Works (\$400,000) and Fire (\$205,000) have identified budget savings results that will cover most of this shortfall, with other departments also contributing to covering the shortfall by year-end. The Town will be within budget at year-end and there may be a small increase in fund balance when final year-end adjustments are made. Mr. Childs reported that a primary factor affecting the Town's budgeting is the loss of approximately \$1,200,000 in interest income from 3 years ago due to interest rates running well below 1%, while the Town has about the same amount of cash being invested throughout the year.

The Town remains fiscally sound. The unrestricted fund balance is \$23M as of 3/10/2010. Current year tax collections are better than the prior year and are contributing to \$29M the cash balance on hand. There have been no new bonds or capital issued in the past twelve months. Mrs. Mobsby reported that the Town's investment in assets continues to lag depreciation being recorded.

Code Enforcement – Building permit revenue had been down throughout the year, however with the Pinkerton Freshman building permit issued in April we will see building permit fees exceeding the budget for the year.

Highway - a lower salt price was obtained than was originally budgeted that resulted in winter snow and ice removal being \$52,000 below the budget, otherwise, it was considered a normal winter maintenance. The Transfer Station budget benefited from lower trash disposal contracts and the elimination of the need to purchase a new trash trailer; both of these items occurred as a result of the Council approval of an extension of the trash disposal contract.

Public Forum – Non Agenda Items

Under New Business is the Teamsters Contract. Chairman Benson allowed public input on this item at this time.

Open Public Forum 7-0-0

Mike Houle, Derry PD, stated he was here to give the citizens of Derry his resignation. He thanked the citizens of Derry for the opportunity to have served them for the past 18 years. He stated that he had wished the Town Council and Administrator had taken the concerns of the police patrolmen seriously when they were brought to their attention and he hopes the next Town Administrator will take police employees concerns seriously. He wanted to thank all the people and businesses that participated in the Sgt Thomas E Kelley Memorial Golf Tournament; it is a huge success. He thanked the policeman who assisted him in his career. Please stay safe and look after others. He will officially give his resignation through the chain, but he felt it appropriate to give his resignation to the citizens who he served.

John Burtis, Lori Rd- Thanked Mike Houle for his service as a police officer. He doesn't feel that there should be a charge for Derry citizens for ambulance service. It's paid for through taxes. He asked, "Why are we chasing for people for ambulance bills. We make arrangements for tax bills why not ambulance bills. It's already in the budget."

Close Public Forum 7-0-0

Public Hearing

10-80 NHDES Household Hazardous Waste Agreement

Craig Durrett, this is a grant from the NHDES. The DPW has applied and is eligible for up to \$5,792.00 in matching grant funds for the Household Hazardous Waste Collection program in FY11. Authorization is needed by Council to enter into the agreement with NHDES.

Open Public Hearing 7-0-0

No public input

Close Public Hearing 7-0-0

Derry Town Council moves to enter into a grant agreement with the State of New Hampshire Department of Environmental Services to receive funds and hold a household hazardous waste collection event in FY11. Motion by: Councilor Coyle, seconded by Councilor Chirichiello. Vote: 7-0-0

10-81 Justice Assistance Grant (JAG) Program Award FY 2010 for \$33,910

Chief Garone gave a listing of how the grant would be expended:

Body Armor Ballistic Plates, Portable Radio Ear Pieces, Laser Speed Detection System, 4.ALS System, Electrostatic Dust Lifter Kit, Digital Forensic Exam Station, Crime Scene Jackets and FLIR Camera System and Less Lethal Targets.

Open Public Hearing 7-0-0

John Burtis, Lori Rd- Applauded Chief Garone for applying for the grant and was pleased Derry can obtain this additional equipment which is necessary.

Close Public Hearing 7-0-0

Move that the Derry Town Council authorize the Town Administrator to execute the Interlocal Agreement between the Town of Derry and the County of Rockingham NH, and to accept the Justice Assistance Grant Award. Motion by: Councilor Wetherbee, seconded by Councilor Chirichiello Vote: 6-1-0 (Coyle)

Move that the Derry Town Council accept the FY2010 Justice Assistance Grant in the amount of \$33,910. Motion by: Councilor Wetherbee seconded by Councilor Chirichiello Vote: 6-1-0

Old Business

- 10-50 VOTE** - 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)**

Councilor Fairbanks moved to make public the Legal Opinion from Atty Steve Clark, seconded by Councilor Coyle.

Council discussed the ramification of releasing this opinion as there could be court action on the decision.

Vote: 1-6-0 (Milz, Olbricht, Wetherbee, Coyle, Chirichiello, and Benson) Failed

Councilor Olbricht has an issue with the RSA's on zoning changes and what he considers the fairness of who gets to the Planning Board first.

Councilor Wetherbee doesn't take this lightly nor the Planning Board's decision. It's a process issue, concerned with patchwork zoning which doesn't adhere to the master plan.

Councilor Chirichiello stated, every year residents request zoning changes.

Councilor Benson looked at the Master Plan and high density population. The residents are giving up their right to further propose multifamily housing in their neighborhood.

Recommend that Town Council approve and adopt the above referenced zoning amendment as approved by the Planning Board on March 3, 2010. The Town Council hereby moves to amend Derry Zoning Ordinance, Section 165-30, Zoning Map and approve the re-zoning of 68 parcels as listed, from Medium-High Density Residential zone to Medium-High Density Residential District II. Motion by: Councilor Coyle, seconded by Councilor Milz. Vote: 4-3-0 (Olbricht, Coyle, Fairbanks)

New Business

10-90 Teamsters Contract

Larry Budreau highlighted the changes in this three year contract.

Council discussed the issue of covering 100% health insurance and buy-back not being taken out of the contract and the cost of not approving this contract.

Move that the Derry Town Council approve the collective bargaining agreement between the Town of Derry and Teamsters Local #633 from July 1, 2010 to June 30, 2013 and authorize the Town Administrator to sign the Agreement on behalf of the Town of Derry. Motion by: Councilor Milz, seconded by Councilor Wetherbee. Vote: 6-1-0 (Coyle)

10-91 Town Administrator' Employment Agreement Extension

Larry Budreau reviewed the options for the Town Administrator's temporary replacement if the extension is not approved as listed in the Derry Town Charter Section 8.5 – Acting Town Administrator and recommended that Council retain the services of the Town Administrator until his replacement is employed.

Move that the Derry Town Council extend Gary Stenhouse's employment agreement through October 8, 2010 or one week after the employment of a new Town Administrator, whichever is later, and amend Section 10 Moving Expenses so as to delete the sentence. "Employee shall establish residency in Derry by July 9, 2008. Failure to do so may be deemed a breach of this agreement and subject to Employee termination." Motion by: Councilor Wetherbee, seconded by Councilor Milz. Vote: 5-2-0 (Fairbanks & Coyle)

10-92 Council initiated amendment to Derry Town Charter June 10, 2010

Town Administrator Stenhouse was asked if a Town Council initiated question could be voted on at the same time and if it could, would Legal Counsel draft a proposed change to Section 8.4 of the Town Charter. The opinion stated it can be as long as the proposed statutory steps are met. Under this present section 8.1 in the Town Charter it takes a minimum of five votes of the Town Council to hire a Town Administrator. Under 8.4 the Town Administrator can be removed by four votes. This change would make it a minimum of five votes to hire and terminate the Town Administrator. The Town Council would schedule a public hearing for 6/10/10 in a special meeting.

Councilor Coyle raised a Charter Objection to scheduling the Public Hearing, seconded by Councilor Fairbanks. He believes there will be conflicting provisions between the New Town Charter vote and this amendment depending on the passage by voters in September. This amendment should be done in the March election.

Mr. Stenhouse stated he would get Legal Counsel on the possibility of conflicting provisions if both the New Charter and amendment were to pass in a vote by the citizens in September.

Rescheduled for June 15th meeting

10-93 Appointments to Boards and Commissions

Chairman Benson moved to appoint Betsy Burtis the Zoning Board of Adjustments as Alternate members for three years. Seconded by Councilor Coyle Vote: 7-0-0

Chairman Benson moved to appoint Jason Gesing the Zoning Board of Adjustments as Alternate members for three years. Seconded by Councilor Chirichiello Vote: 7-0-0

10-94 Confirm Cable Facility Coordinator Appointment

Move that in accordance with Section 8.6 (B) of the Derry Town Charter that Council confirms the appointment of Christopher J. Martin as Cable Facility Coordinator for the Town of Derry. Motion by: Councilor Coyle, seconded by Councilor Wetherbee Vote: 7-0-0

10-95 Approve Upper Room Lease Agreement

Mr. Stenhouse reviewed the Lease Extension Agreement for the Town Council. Mr. Stenhouse has conferred with Legal Counsel and modified the language that allows either party to terminate the lease upon 60 day notice and replaced it with a list specific instances that would allow the Town to cancel the lease.

Mike Royce and Cynthia Marshall of the Upper Room gave a list of the programs provided by the Upper Room that benefit the residents of Derry.

Move that the Town Administrator is authorized to extend the lease between the Town and The Upper Room Family Resource Center, Inc for premises located at 36 Tsienneto Road for the period of July 1, 2010 to June 30, 2030 and in accordance with the terms and conditions as shown in the revised lease. Motion by: Councilor Wetherbee, seconded by Councilor Chirichiello Vote: 7-0-0

10-96 Establish Special Revenue Fund for Farmers Market

The funds will be derived from the vendor payments and donations. The Farmers Market will have minimal fiscal impact and establishing this fund should allow the market to operate on a self sustaining basis.

Move to establish a Farmers Market Special Revenue Fund, to authorize the receipt and expenditures in this fund without further action by the Town Council and to designate the Town Administrator as the staff person responsible for this fund. Motion by: Councilor Coyle, Seconded by Councilor Wetherbee Vote: 7-0-0

10-97 Layout under RSA 231:8 of Lake Avenue, Rocky Road, Pebble Lane, Worthley Road, Ezekiel Drive, Clyde Road & Sarah Lane

Mr. Stenhouse informed Council that if it decides to accept any of the petitions that they should schedule public hearings a minimum of 60 days from the date of acceptance in order for the title work to be performed on each of the properties that would be affected by the layout. However if Council should decide to move forward after public hearings on the petitions, then the town would have to retain a survey firm in order to lay out any roads.

Chairman Benson asked to take each road separately.

Mr. Stenhouse gave a brief explanation of each road as provided by Mike Fowler, PW Director Discussion was held on each road as it was taken.

Ezekiel Drive/Clyde Rd – Motion to accept the petition under RSA 231:8 layout. Moved by: Councilor Coyle, seconded by Councilor Chirichiello Vote: 0-7-0 Failed

Lake Ave, Pebble Lane, Rock Rd – Motion to accept the petition and schedule a public hearing Moved by: Councilor Coyle, seconded by Councilor Vote: 6-0-1 (Chirichiello- abstained)

Worthley Rd – Motion to accept the petition under RSA 231:8 layout and schedule a public hearing. Moved by Councilor Milz, seconded by Councilor Olbricht Vote: 4-2-1 (Coyle and Fairbanks) (Wetherbee - abstained)

Sara Lane – Motion to accept the petition under RSA 231:8 layout. Moved by: Councilor Coyle, seconded by Councilor Wetherbee Vote: 0-7-0 Failed

Council Requests / Open Discussion

Councilor Coyle provided a request for a special meeting item he would like placed on an agenda so that it can be voted on. He attached minutes from the Taylor Library Board of Trustees that have been approved. He is concerned with a statement in those library board minutes.

Chairman Benson agreed that it would be placed on an agenda..

Adjournment: 9:30 p.m.

Town Clerk

Date

Recording Clerk, Denise Neale, Town Clerk
Reviewed by Gary Stenhouse, Town Administrator
Frank Childs, CFO

Attachments

<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