

TOWN OF DERRY

Town Council Emergency Meeting
Derry Municipal Center
Cable TV 17

September 10, 2010
Friday 8:00 a.m.

Present: Attorney Richard Samdperil, Attorney Brenda Keith, Jim MacEachern, Mike Gill, John O'Connor, Gary Stenhouse

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

Councilor Coyle opened the meeting with an objection in regards to Section 5.9 of the Derry Town Charter which references Special Meetings and the time frame of notification. He believes this meeting is being held in violation of the Town Charter.

Attorney Brenda Keith – Section 10.5 Regarding Emergencies she stated those specific provisions shall prevail. This covers when an emergency exists. She gave an explanation including 91A.

Councilor Wetherbee read the Emergency Preamble

EMERGENCY PREAMBLE

WHEREAS: The Town Clerk of Derry received a letter on September 7, 2010 signed by the Office of the Attorney General, the Office of the Secretary of State and the Office of the Department of Revenue Administration objecting to many of the substantive proposed Derry Town Charter amendments that are set to be submitted by ballot to the voters on Tuesday, September 14, 2010; and,

WHEREAS: The Council has no scheduled meeting between now and next Tuesday, and action of the Council is needed to decide whether to order the ballots rescinded; and,

BE IT ORDAINED that an emergency exists for the passage of a vote to authorize the Town to remove the charter question ballots from the election scheduled for Tuesday, September 14, 2010.

THEREFORE, BE IT RESOLVED, the Derry Town Council declares an emergency exists under Section 10.6 (A) of the Derry Town Charter, and because the matter must be acted upon for the immediate preservation of the peace, health, safety or convenience of the town, the Derry Town Council hereby authorizes this emergency meeting to make its necessary decisions this today, Friday, September 10, 2010.

Vote: 5-2-0 (Coyle, Fairbanks)

Discussion:

Mike Gill – requested the information provided by the Attorney General's Office.

Councilor Coyle asked to discuss the Attorney General's letter and the process taken by the Charter Commission and Town Clerk. He feels that will show that the the error was with the State of NH offices involved namely the Attorney General, Secretary of State and Department of Revenue Administration . He wanted a public record of procedures that were followed.

Richard Samdperil and Jim MacEachern reviewed the time frames required by law for a Charter Commission. The Commission had until January 31, 2010 to submit their preliminary report to

the state. The report was submitted by the Town Clerk on January 21, 2010. Copies of return receipts are on file. Charter Commission member Jim MacEachern, John O'Connor and Attorney Samdperil held an informal meeting with Assistant Secretary of State Dave Scanlon and Assistant Attorney General Ann Edwards. Attorney Samdperil had made calls after the submission of the Preliminary Report to Deputy Secretary Dave Scanlon inquiring on the status but was unable to contact Assistant Attorney General Ann Edwards. There was a 30 day time frame for the State offices to respond with objections. Since there were no objections received the Final Report was filed with the Town Council.

Councilor Wetherbee mentioned that now the Attorney General's office is telling us not to go forward with the ballot.

Attorney Samdperil there was no affirmation of the preliminary report. The Charter Commission has disbanded the Town Council can make changes and submit them to the voters in March. Attorney Keith agreed but the changes would have to be on the ballot or a new Charter Commission could be elected.

Councilor Coyle motioned to send a letter to the Governor immediately to protest the actions and request an investigation on the matter in the Attorney General's, Secretary of State, and Department of Revenue offices, seconded by Councilor Fairbanks. Vote: 7-0-0

Councilor Wetherbee made a motion based on the fact that the Senior Assistant Attorney General Anthony Blenkinsop has stated this ballot cannot be sent to the voters on Tuesday that the ballot be rescinded.

Council Coyle made a Charter Objection under section 6.6

There was discussion as to whether a charter objection could be used during an Emergency meeting. There was no resolution of the matter and the charter objection stood.

Motion by Councilor Wetherbee to release the letters including "attorney client privilege" and emails to the public, seconded by Councilor Coyle Vote: 7-0-0

Adjourned at 9:35 a.m.

Town Clerk

Date

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

Copies of letters and email may be obtained from the Town Clerk's office if not attached to these minutes.