
Consultation with Legal Counsel

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

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

Consent Agenda

10-126 Acceptance of Minutes – September 7, 2010

10-127 Schedule Public Hearing – October 5, 2010 – Pennichuck
Water Works – Harvest Estates Franchise Area

Accepted

Chairman's Report

- Devon Isbell – Eagle Scout – Certificate of Achievement
Chairman Benson read and presented Devon Isbell with the Certificate
- Councilor Olbricht, reported on the first meeting of "Moving Derry Forward". He thanked Sanmina for hosting the meeting. The meeting was about getting to know each other and feedback discussion on the three goals the Town Council came up with. The next two meetings will be key as they will develop action plans.
- Councilor Olbricht also reported on the School Board Meeting. The School Board has started exploring the steps to take for a lawsuit against the state concerning loss of state education aid. They are in the investigation process and will inform the Town Council when they need assistance.
- Ryan's Hill Meeting – Councilors Olbricht, Fairbanks, Chairman Benson and Stuart Arnett attended. They will follow up on the next course of action. He wanted to thank all for the meeting which was well attended and beneficial to all concerned.
- Derryfest was a success and there were many people there. Congratulations to the committee.
- Senior Center Workshop – October 12, 2010 @ 7:00 pm. The Downtown Committee, Economic Development, Recreation, Planning and Citizens will be invited to attend. It will be advertised on the Cable TV 17 and the Town Website.
Councilor Fairbanks cannot attend. Please notify Chairman Benson by 9/22 with other dates. This date will be tentative until after the 22nd..
- Derry Farmer's Market is Wednesday 3 – 7 p.m.
- Follow up on a comment made by Roberta Robie at the 9/7/10 meeting regarding "Meals on Wheels" being moved from downtown. The Town Council does not make decisions on where this program is housed; the program coordinator does since the program is not sponsored by the Town .

Administrator's Report

- Wastewater Plant and Lagoon capacity.— There is an intermunicipal agreement between Derry and Londonderry concerning wastewater service. At present the Town of Londonderry sends us around 100,000 gallons of wastewater daily. The Woodmont Orchards project could add another 500,000 gallons daily from Londonderry. Derry's WWTP capacity at present is 3,000,000 gallons daily. Therefore flows from the proposed Londonderry project could easily be treated by Derry. In addition Derry's Wastewater Treatment Plan shows a future build out of 5.6 million gallons.
- The letter to Governor Lynch was sent out regarding an investigation on Derry's Charter review and the lack of oversight received from the Attorney General, Secretary of State and Department of Revenue Administration.
- Attorney Keith spoke with Deputy Attorney General Bud Fitch and discussed the strategy in drafting the pleading to take to the Superior Court. Mr. Fitch has assigned someone from his office to draft the equity petition and will have the draft to Ms.Keith by the end of the week. The goal is to file with the court by the end of next week to allow the Charter commission to complete the work and make the necessary changes required where our charter conflicts with state law.

Council discussion – Council would like the Charter Commission to see this through. Questioned if there a timeframe they would be asked to complete the changes and would there be a state timeframe? Councilor Coyle felt if it were challenged in court by a citizen opposed to the changes, a judge might would throw out the "equity petition".

**Move to direct Town Counsel to work with the Attorney General's office to seek a draft equity petition to reconstitute the Charter Commission so that they may complete the work they began. Motion by: Council Wetherbee, seconded by Councilor Milz
Vote: 6-1-0 (Coyle)**

Chairman Benson suggested that in the future the Town Council should review the Charter annually to propose amendments on a regular basis (i.e. language or errors).

- Town Surplus property auction made approximately \$18,000.
- Town Administrator Stenhouse has extended the Arnett Group contract to December 30, 2010. He has spoken with the new Town Administrator Anderson in regards to this matter.

Councilor Olbricht asked for an update on the TIF RTE 28 properties.

Town Administrator Stenhouse stated they are waiting for two properties to sign, Sullivan Tire and VIP Auto Parts. Sullivan Tire and VIP are contact issues as we have not been able to reach the right people at those companies. In the case of Pinkerton Tavern, the building owner has rejected the Town's offer and it will be necessary move forward with the property taking.

Public Forum – Non Agenda Items

Open Public Forum 7-0-0

Doug Newell, English Range Rd- Stated he was angry in regards to the Town Ballot on the Charter question being thrown away. The Attorney General's office is truly at fault. He doesn't believe pulling the ballot from the voters was legal.

Al Dimmock High St – Is looking for a seat on the Highway Safety Committee and Zoning Board as these boards and committees have openings.

Catherine Prudhomme – O'Brien, Candidate for State Rep – Has spoken with people on Rte 28 and feels the town should think about hooking them up to sewer. She was disappointed the evening of the primary as Cable TV17 had no coverage. There was also no local coverage on State Representative balloting in the newspapers.

John Burtis, Lorri Rd – Was glad that the Town Council voted down the grant for 5 new fire fighters. He has heard that there is a sealed bid for a RFP for a new fire engine. He doesn't agree with the decision to move the ladder truck to the Hampstead Rd Fire Station. Derry needs a new tanker pumper, not a fancy pumper truck.

Close Public Forum 7-0-0

Public Hearing

10-117 Approve application for and acceptance of Medical Reserve Corps Grant in the amount of \$5,000

Garrett Simonsen – This grant is funded by the U.S. Office of the Surgeon General through the NACCHD to assist communities in sustaining active Medical Reserve Corps.

Open Public Hearing 7-0-0

No input

Close Public Hearing 7-0-0

**Move, that the Derry Town Council approve the application for acceptance and expenditure of the Medical Reserve Corp Grant, in the amount of \$5000.000.
Motion by: Councilor Wetherbee, seconded by Councilor Chirichiello Vote: 7-0-0**

10-118 Accept Brandy Rock Road as a Class V Roadway

Mike Fowler – Brandy Rock Rd is a new subdivision road off Gulf Rd. It has been recommended for Town acceptance by the Planning Board at their July 21, 2010 meeting. Requirements have been met. Acceptance will require the maintenance of the road such as plowing and salting, estimated cost is \$6000 per mile/per year.

Open Public Hearing

No input

Close Public Hearing

Councilor Coyle asked if this road was closed by the developer for a period of time. Mike Fowler replied the road is blocked presently but would open upon acceptance. The road would be a low priority road to plow.

Councilor Fairbanks - asked why do we need to accept now?

Mike Fowler stated the Planning Board has accepted the platting of the road.

Councilors would like to get tax assessment clarification prior to accepting the road.

Motion to table until the October 5th meeting

10-119 Amend the Code of the Town of Derry, Chapter 150, Traffic Ordinance Article II, Section 150-7C – Restricted Use – Right turn only from Birch Street Municipal Parking Lot onto Birch Street

George Klauber and Mike Fowler, Highway Safety Committee - discussed traffic patterns and parking restrictions for the Birch St parking lot. They also discussed restricting traffic from exiting the parking lot southbound on Birch St so as to prevent cars from crossing multiple lanes and

increasing the potential for accidents. The Highway Safety Committee unanimously recommended the Town Council prohibit left turns out on to Birch St.

Open Public Hearing 7-0-0

John O'Connor – Downtown Committee stated the two hour parking may be an issue for the businesses.

Al Dimmock – Doesn't feel the parking lot should have more than a two hour parking requirement. People can use the Wall St Lot.

Close the Public Hearing 7-0-0

Councilor Olbricht stated he felt there also is a problem entering the lot going southbound on Birch St by making a left turn.

Chairman Benson stated the parking time limits should be discussed with the downtown committee.

Councilor Fairbanks – stated that unlimited parking may be a problem as employees may use those spaces at the expense of the public.

Move to amend the Code of the Town of Derry, Chapter 150, Traffic Ordinance Article II, Section 150-7-C – Restricted Use – Turning movements to read:

There shall be a right turn only from Birch St Municipal Parking lot onto Birch St.

Councilor Wetherbee, seconded by Councilor Coyle Vote: 7-0-0

10-120 Amend the Code of the Town of Derry, Chapter 150, Traffic Ordinance Article II, Section 150-13 – Speed Limits – Speed limit on Gamache Road will be posted as 30 miles per hour

Mike Fowler and George Klauber, Highway Safety Committee – The Highway Safety Committee by unanimous decision recommends that the Town Council amend the traffic ordinance. This road is thickly settled and has a steep downgrade coming to Overlook Dr which tends to increase speeds by motorist.

Open Public Hearing 7-0-0

No public input

Close Public Hearing 7-0-0

Council questioned what law states on un-posted roads.

Tabled until the October 5th, meeting

Old Business

10-122 Appointment to Derry Housing & Redevelopment Authority

Councilor Benson moved to appoint Lt. Christopher Williams to the Derry Housing & Redevelopment Authority, seconded by Councilor Wetherbee. Vote: 7-0-0

New Business

10-128 Winter Maintenance Roads

Mike Fowler – The Town Council has accepted layout petitions for Mundy Lane, Lake Avenue, Rocky Road, Pebble Lane and Worthley Road. These streets are in various stages of the layout process. Public road acceptance motions for each road will be brought to the Town Council as soon as all steps have been completed. Winter Maintenance for these roads is brought before the Town Council to address the possibility that all required elements for acceptance may not be in place before the winter season. This will merely allow Town forces to plow and salt these roads as we have done in past years. Staff also added Country Road (east) to the winter list as Council determined last winter that the road should be maintained in winter as it had in the past.

The Town Council declares the following reads as "Winter Maintenance Roads" for winter 2010 – 2011 which will permit DPW to perform winter operations limited to plowing, sanding and salting consistent with operations on Town accepted roads:
Escumbuit Road – Emergency Lane, Lake Avenue, Rocky Road, Pebble Lane, Mundy Lane, Sharon Avenue – Emergency Lane, Worthley Road, Country Road (East)
Motion by: Wetherbee, seconded by Milz. Vote: 5-1-1 (Coyle) (Wetherbee abstained)

10-129 Authorize Town Administrator to apply for Homeland Security Grants for upgrades for emergency equipment

George Klauber the Town was notified that they were eligible for these grants and were given short notice to apply for these grants. The grant monies total: \$50,512.

Move that the Town Council allow the Town Administrator to apply for, the State of NH Dept of Safety State Homeland Security Program (SHSP) and Law Enforcement Terrorism Prevention-Orientated grants for the purpose of maintaining, repairing, upgrading or purchasing user fees for the equipment that was previously received through the State of NH Dept of Safety State Homeland Security Program Motion by: Councilor Wetherbee seconded by Councilor Milz. Vote: 6-1-0 (Coyle)

10-130 Authorize Town Administrator to enter into Fire/EMS Dispatch Agreement with the Towns of Auburn, Chester, Hampstead and Windham

Councilor Fairbanks, questioned if a public hearing was needed and Chairman Benson stated the ordinance covering this matter doesn't require a public hearing. Councilor Coyle would like to hold off the vote until people see contracts. He asked what % of the service dispatch calls are related to other towns..

Jon Goldman, communications Director answered that 43 - 45% of the calls come from the other Towns.

Councilor Coyle commended Jon for getting the 10% escalation per year from these towns. Councilor Wetherbee commented that this fits with the Town Council goal of increasing revenues from outside Derry and commended Jon for his good work.

Councilor Milz asked why a difference in cost for the four contracts and Jon stated that the differences were related to the number of calls from each of the four other communities. .

Councilor Coyle asked that the vote be made at the October 5th meeting.

Council Requests / Open Discussion

Councilor Fairbanks – is still looking for the updated Conservation maps.

Adjournment 8:58 pm

Town Clerk

Date

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