

TOWN OF DERRY

**Town Council Meeting
Derry Municipal Center**

**October 5, 2010
Tuesday 7:30 p.m.**

Call to order

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

- 10-130** Acceptance of Minutes – September 10, 2010 – Derry
Town Charter Emergency Meeting – 8:00 AM
- 10-131** Acceptance of Minutes – September 10, 2010 – Derry
Town Charter Emergency Meeting – 4:00 PM
- 10-132** Acceptance of Minutes – September 21, 2010

Consent Agenda: Accepted

Chairman's Report – Chairman Benson

- Cable 17 will be covering the Election results live and the website is updated and will be accurate going forward. Technical issues have been resolved.
- The selection of the new Fire Engine issue. Chief Klauber sent the Chairman information on the purchase. The apparatus that the town will purchase was designed with the needs of the community and the district it primarily responds to in mind. This fire engine will replace the current fire engine located closest to our downtown and commercial districts as well as the I-93 corridor. The fire engine will meet the current NFPA standard.
- There was a citizen who maintained that his son's ballot on the Charter question was wasted. The Charter questions ballots given to absentee voters have been archived. They were not thrown away.
- Annual Fire Prevention open house at 131 East Broadway is October 9th from 10am – 3pm.
- Derry Farmers Market Oktoberfest is Wednesday, October 13th from 3 – 7 pm.
- Dr Moody, Nutfield Senior Center has sent a letter asking to withdraw their request to the Town for future support of the development of the Senior Center. As a result the Workshop scheduled for October 12th is cancelled until more information is forthcoming.
- Cable 17 is experiencing Technical difficulties – this meeting is not live but is being taped.

Councilor Olbricht, "Moving Derry Forward" - there are a couple of new entries with members. The October 25th meeting will be held at 8:00 am at Parkland Medical Center

Councilor Milz- working on guidelines for Boards & Committee member's attendance. After researching there is no policy for attendance problems. They are in individual RSA's of these boards. Therefore, it appears there must be written findings of inefficiency, neglect of duty or malfeasance of office before a member can be removed and after a public hearing. It would be difficult to have a policy across the board. There would need to be a written complaint from the Chairman of that board and then a public hearing would be held for that individual.

Administrator's Report – Gary Stenhouse

- Mr. Stenhouse will notify the participants that where to attend the Workshop.
- Gave brief update of the TIF report. Two properties that have not agreed to sign. Sullivan Tire and the Dave Allen's property which has a P&S on it. Pinkerton Tavern has formally rejected the Town's second appraisal. The next step by statute is the owner has a right to obtain his own appraisal with the Town contributing \$1,000 towards that cost.

Public Forum – Non Agenda Items

Open Public Forum 7-0-0

Al Dimmock, High St – Spoke about the recent crimes in the Town. Several people in the area are disappointed that they were not notified by Police Department. However he thanked the Police Department for recovering the stolen property.

Roberta Robie, Chester Rd – Spoke in regards on 9/21/10 meeting on Meals on Wheels where there was a rebuttal from the 9/7/10 meeting. For clarification she was aware that Meals on Wheels decides where to locate. What she said was that seniors did not want the Meals on Wheels to relocate to the Upper Village Hall. The point she was making was that seniors did not want the Senior Center located at the Boys & Girls Club and that they also did not want Meals on Wheels to leave the Marion Gerrish Community Center and relocate to the Upper Village Hall. She requested her comments be included in the minutes. Ms. Robie spoke regarding Senior Center workshop and asked questions.

Chairman Benson reiterated that the committee has requested to withdraw from meeting.

Roberta Robie, Chester Rd – She has heard rumors that there is going to be a meeting of some sort to welcome the new administrator. She questioned if the Town was holding an event for the public to meet the new administrator. She asked who she could contact to be invited

Councilor Milz explained how the welcome meeting came about and Betsy Burtis was looking for a venue to hold it at, for the three committees who took part in the interview process for the new town administrator.

Public Hearing

10-127 Pennichuck Water Works – Harvest Estates Franchise Area

Tom Carrier – Consistent with the 1999 Council recognition of PWW as a joint water purveyor in Derry and based on the location and proximity of Harvest Estates to PWW's Drew Woods system and based on the cost analysis of ownership options the action is consistent with the Town Council support of the PWW franchise expansion request of Pennichuck at Mapلهaven made in 1991.

Councilors discussed why not keep this water system with Derry instead of Franchising to PWW who charge higher rates than the town.

Whereas Pennichuck Water Works, a private water company regulated by the Public Utilities Commission, owns and operates several water systems within the Town of Derry and, whereas the developer of Harvest Estates, a new 30 lot subdivision approved by the Derry Planning Board in 2006 located off Hampstead Road in East Derry, intends to construct a community water system to service the residents of this development and whereas the water system is proposed to be connected to the Drew Woods Water System, a community water system located adjacent to the Harvest Estates development which is part of the Pennichuck Water Works Service Franchise and whereas Pennichuck Water Works has requested to extend its service franchise to include Harvest Estates, the Derry Town Council moves to support and approve the Drew Woods franchise expansion to

**Harvest Drive as requested by Pennichuck Water Works pursuant to their letter of September 16, 2010. Motion by: Councilor Wetherbee, seconded by Councilor Milz
Vote: 6-1-0 (Coyle)**

Old Business

10-113 Declare Chase Street as an Emergency Lane pursuant to RSA 231:59A

Mike Fowler – Chase Street residents have petitioned asking the Town Council to declare Chase Street as an Emergency lane under RSA 231:59a. Chase Street serves as access to the Beaver Lake boat access managed by the NHDES. It is believed that the right-of-way is owned by the State of NH. The NHDES has been noticed of this potential action. Since Chase Street has been designated as Winter Maintenance in past years the fiscal impact is negligible.

The Derry Town Council moves to declare Chase Street as an Emergency Lane pursuant to RSA 231:59a. Motion by: Councilor Wetherbee, seconded by Councilor Milz Vote: 7-0-0

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

Mike Fowler – gave a report on the assessments of the properties that the Town Council requested: 45 of the 46 acres are still in current use. The assessed value is \$211,000. When the parcels are subdivided there will be current use fees paid. He stated that this road would be the low on the list of roads to be plowed if accepted. The Council has done this in the past. As it costs roughly \$6,000 per mile to maintain a new road this \$2,000 foot section would be less than half that amount.

The Town Council moves to accept Brandy Rock Road as a class V roadway as recommended by the Planning Board. Motion by: Councilor Wetherbee, seconded by Councilor Milz. 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 – answered the questions asked on 9/21. Where are speed limits posted? The 35 mph sign is posted only on the uphill side. What was the basis for a local authority to lower the speed limit? The default speed limit is under RSA265-60 which is 35 mph. Who has jurisdiction. Councilors discussed changing the speed limit and reasoning behind it

Move to amend the Code of the Town of Derry, Chapter 150, Traffic Ordinance Article II, Section §150-13 Speed limits to read:

The speed limit on Gamache Rd will be posted as 30 miles per hour.

Motion by: Councilor Wetherbee seconded Council Milz. Vote: 5-2-0 (Coyle, Chirichiello)

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

Chief Klauber – Contacted a concerned citizen regarding these agreements as he has expressed concern in the past about the lack in certain areas of these agreements. The citizen's gave his input and was in favor of these new contracts as there are built in 10% annual revenue increase's for the Town.

Move that the Town Council authorize the Town Administrator to enter into the Intermunicipal Agreements for dispatch services with Auburn, Chester, Hampstead and Windham for the fiscal years 12, 13, 14, 15 and 16. Motion by: Councilor Wetherbee, seconded by Councilor Milz. Vote: 6-0-0 (Councilor Fairbanks absent)

New Business

10-133 Appointments to Boards / Commissions

Move to appoint Al Dimmock as an Alternate Member of the Zoning Board. Motion by: Chairman Benson, seconded by Councilor Wetherbee Vote: 6-1-0 (Fairbanks)

Move to appoint Darrell Park as a Member of the Planning Board. Motion by: Chairman Benson, seconded by Councilor Wetherbee Vote: 7-0-0

10-134 Copier Lease Program

Doug Rathburn – This is to continue using the lease agreement with Specialized Purchasing Consultants. In order to get tax exempt status for the lease purchase this agreement has to be read and voted on by the Derry Town Council.

Moved by and read by: Councilor Milz, seconded by seconded by Councilor Wetherbee. Vote: 7-0-0

(Copy of this agreement is on file with the Town Clerk)

10-135 Cemetery Trustees - Posting – Forest Hill Cemetery

Mike Fowler – On Monday, September 27, the Department of Public Works received a complaint from a resident of Derry that while visiting the Forest Hill Cemetery, they witnessed a bow hunter hunting Turkeys in the cemetery. The caller was urged to contact the police department if they witnessed such activity again in the future as it was illegal to hunt in a cemetery. However after consultation with the Chief Garone of the PD the statue is for guns/rifles only. Therefore it is necessary to ask the Cemetery Trustees to include "All Hunting" in the rules of the cemetery. In response to a Council concern the Town Administrator stated he would get a ruling from legal Council concerning the mechanics of this action by Council acting as Cemetery Trustees.

Move that the Derry Town Council acting as Cemetery Trustees in accordance with RSA 289:7 authorize the Public Works Department to post the Forest Hill Cemetery "NO HUNTING". Motion by: Councilor Wetherbee, seconded by Council Milz. Vote: 7-0-0

Chief Garone- gave a report on the crimes that are plaguing Derry at this time and the recent newspaper article. There has been an upswing in residential burglaries. Currently there have been 174 burglaries as opposed to 115 last year. They are working diligently to lead to arrests. The burglaries have been 95% residential 5% commercial. All commercial burglaries have been cleared. It's not just unique in Derry. These are mostly drug dependant individuals.

Council Requests / Open Discussion

Councilor Fairbanks asked if the Town was obligated by statute when land comes out of current use that these funds go to conservation.

Mr. Stenhouse replied the Town Council has the authority to determine what, if any percentage of the current use tax goes to conservation.

Councilor Fairbanks asked if staff could provide how much funding was received over the past 5 years and funded to conservation. Her thought was if there was money available through these funds to use it for shortfalls until the economy changes.

Councilor Coyle – questioned a Candidates forum being held by the Chamber of Commerce on Friday in the DMC.

Councilor Olbricht – suggested the PD hold a forum for the downtown business on securing their sites.

Councilor Fairbanks – Asked if Stuart Arnett could check with farmer's market manager in regards to her email address. . A few people interested in the Winter Farmer's Market have not had replies and were concerned they might have used an incorrect e-mail address. .

Adjournment 9:05 p.m.

Town Clerk

Date

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