

TOWN OF DERRY

Town Council Meeting
Derry Municipal Center

March 2, 2010
Tuesday 7:30 p.m.

AMENDED 10/11/2010 Item#10-21 Motion

Non-Public Session - RSA 91A:3 II (c)

Call to order

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

Roll Call: Councilors – Coyle, Chirichiello, Benson, Wetherbee, Fairbanks, Carney and
Chairman Metts

Consent Agenda

- 10-31** Acceptance of Non-Public Minutes – February 16, 2010
- 10-32** Acceptance of Minutes – February 16, 2010
- 10-33** Approve Veterans' Credits & Disabled Veteran Credit
- 10-34** Approve Veterans' Credits – Qualifying Awards – Conditions of Discharge
- 10-35** Tax Deferral
- 10-28** **Reschedule** Public Hearing – March 16, 2010 - Intermunicipal Agreements to provide Transport Ambulance Services to Auburn and Chester

Consent Agenda: Accepted

Chairman's Report –

******* Derry Emergency Management**

Chief Klauber - at last conversation with PSNH anticipates 99.5% restoration by midnight tonight. All roads in town are completely open. Please use caution on the roadways. Communications with utility companies was much better this time. The hotline will remain operational.

Chairman Metts gave his thanks to the people who worked to assist the Town during this emergency situation.

Election Day is March 9, 2010. Polls are open 7am – 8pm District 1 & 4 Vote at Hood School, District 2 & 3 Vote at West Running Brook School.

Boards & Commission applications will be accepted until 3/16/10.

Promotions in the PD & Fire: Lt. Dan Beattie, Sgt. Frank Stoncius
Additions: Marcia Rosenn, Prosecutor, Patrick Starkey, Patrolman, Jonathan Goldman, Civilian IT Communications.

Retirements in last 6 months: Richard Buxton – 23 yrs, Mary Greenhalge – 14 yrs, John Hall – 24 yrs, Gloria Hebert – 32 yrs, Keith Moreau 24 yrs, Anthony Ruggirio – 25 yrs, and Brett Scholbe – 28 yrs.

We wish you well on retirement and thank you for your service. To the employees who were promoted and the additions we wish you good luck.

******* Citation – Erin Jackson – Prudential Spirit of Community Award**

Erin Jackson was one of two young people awarded this citation. She was unable to attend tonight.

The Derry Town Council commends Erin Jackson, Prudential Spirit of Community Award honoree, for her outstanding volunteer contribution to our community and to others.

Administrator's Report –

******* Job Fair**

Nicole Tessier – NH Employment Security Job Fair 4/27/10 at Pinkerton Academy. There hasn't been a job fair in this area in eight years. Derry's unemployment rate is 17%. This will be a regional job fair and companies who have only full-time positions available will be invited. NH Employment & Security is running the job fairs. Police and Fire donated their time at the other job fairs held. The only advertising will be done in the Derry & Salem papers also it will be posted at the libraries and in their offices. WZID will not promote this. It will be called the Salem-Derry Career Fair.

Councilor Fairbanks - is concerned because the UNH job fair was a nightmare. Pinkerton is on By-Pass 28 there is one way in one way out. She has no objections as long as it does not cost taxpayers.

Mr. Stenhouse quoted \$500 per hour or approximately \$3000.00 for PD & FD payroll and costs for a six hour assignment. Councilor Benson feels PD and FD can take the cost from their budgets.

Councilor Carney would like Town Council to support this with a donation for Police & Fire services. He cautioned Ms. Tessier to plan for a larger contingency. This will get coverage state wide. Tonight there are two news reporters in the audience.

Move to waive the fee for the Police & Fire detail for this event. Motion by: Councilor Carney, seconded by Councilor Coyle. Vote: 7-0-0

******* Auditor's Presentation – FY2009**

Bob Vachon gave a presentation on the Annual Audit Report for 2009. The Town continues to receive an "Unqualified Opinion" on its financial statement. This is good. General Fund Revenues exceeded General Fund Expenditures. Combined Governmental Fund Expenditures exceeded Revenues; this decrease in fund balance pertains to an unrealized loss on investments in the Town's permanent funds. Mr. Vachon also discussed that FY2009 was the year for the Town to begin complying with GASB-45 (Other Post Employment Benefits) regarding accruing the liability on the government-wide financials over a 30 year period.

Enterprise Funds: The Water Fund generated a positive cash flow. However, the Sewer Fund generated a negative cash flow due to scheduled repayment of long-term debt.

General Fund: Total revenues exceed budget, while total expenditures were less than final budgeted amounts in Police & Animal Control, Finance and Public Works. Budgetary variances have been addressed in the Management's Discussion and Analysis. Remaining unreserved budgetary fund balance is 15.8%. GFOA and DRA recommend a fund balance between 8 – 17% of retained in Fund Balance. No significant conditions were found during the audit and no written management letter was deemed necessary. Mr. Vachon extended congratulations to the Town and the finance staff for the excellent condition of its finances, accounting and financial reporting.

Move to accept the Annual Audit Report for 2009. Motion by: Councilor Benson, seconded by Council Wetherbee 7-0-0.

Mr. Stenhouse thanked Mr. Vachon and his company for their service. The Town must change auditors every five years and this is the year to change.

***** 2nd Quarter Financial Report

Controller Janice Mobsby highlighted the balance sheet. There is \$32.1 million in fund balance. There is about \$20 million in future payments from that number to the school district, which are paid in the second half of the year. Based on trends, the Town is on track with tax collections, and general billing receivable. Capital assets are growing in terms of new constructions in progress from the bridge projects. However, the replacement of capital assets is not keeping pace with depreciation, an item that has been highlighted in past reports. This will continue to be monitored.

CFO Frank Childs stated he would not make any comments on expenditures because there is a lot of narrative in the report discussing expenditures, but nothing unusual to report. He addressed five areas with respect to revenues. The first was current property taxes collections, which continue to be very strong and slightly ahead of last year, percentage-wise. Motor vehicle revenue are tracking behind budget by approximately \$117,000 after six months and may be as much as \$200,000 below budget at year end. This is due to more used vehicles being registered, rather than new a vehicle, which changes the value in revenue. Building permits are running behind where they were last year. It is questionable whether we'll reach the budgeted amount. However, with the proposed new medical building on Tsienneto Road and the addition of the freshman building at Pinkerton, those permit fees may come in. The fourth item includes the \$700,000 budgeted for sales of Town-owned land, of which any amount above \$350,000 was to be transferred into the Land and Building Capital Reserve Fund. We have one parcel that we have been trying to sell, which has some issues. We have decided to remedy these issues (an updated survey and clarifying the property access) and make the parcel more saleable before again auctioning it. There are also nine lots in a Planned Residential Development whose septic permits have expired and the Town is pursuing new permits on all of those parcels to also make them more saleable. The concern here is about the timing of an auction and whether the sales can be closed by June 30, the end of the fiscal year; if so, the shortfall would be less. These are all issues that will have to be dealt with going forward during the remainder of the fiscal year. The last item is the most significant item; it has to do with the interest on the town's invested funds. Mr. Childs explained that the original interest income budget was \$440,000, that during the tax rate setting process that number was reduced to \$343,000 and that we are expecting the number to be approximately \$220,000 lower than the revised budget by year-end. This decline is due to the extremely low rates of return on invested funds that are available.

Council Benson asked if the land is not sold, are we looking at a possible \$740,000 shortfall in revenues. Mr. Childs reply yes. We will sell some of the parcels, but we are not sure what or how much. Council Benson asked when third quarter numbers would come out and Mr. Childs replied towards the end of May. In response to Mr. Benson's request for an update sooner than that, both Mr. Stenhouse and Mr. Childs stated that they would provide and update during the budget review process in April as to how the management team was dealing with the potential revenue shortfall.

Public Forum – Non Agenda Items
Open Public Forum 7-0-0

Maureen Rose, Windham Rd – Would like her statement put into the body of minutes. At the last meeting there was a snowstorm people couldn't attend. She asked in regards to the Low properties what if the grants are not received? What is the length of protections from the grants? Is it on one or both parcels? Is Pennichuck dependent on this land for these wells? One of the Low properties is landlocked. Has the Town Council done a sitewalk to see this land?

Mr. Metts has been civil to the public and she wanted to thank him for that. Mr. Chirichiello hopefully you will not be back.

John Burtis, Lori Rd &— His father was a naval officer and he brought the cap in to remind us of leadership. Leadership is critical, leadership sets an example for all of those who lead, and it's a contract. He wanted to bring forward that the Town Administrator was not present during the storm.

Al Dimmock, High St – Certain Councilors on this board will not be back. Someone said being on the Town Council is a thankless job. I wanted to say Thank You Brent Carney for dedicating your time over the years. Also Mr. Metts - we've had our differences but Thank You for what you've done over the period you've been on this council. Everyone knows I'm running against Brian Chirichiello but like Maureen Rose I have to say I hope you are not re-elected.

Joe DiChario, Humphrey Rd – I am also running against Brian Chirichiello and I hope he doesn't get re-elected. We could actually split the vote and he could get back in. I would like to thank Rick Metts he has done a fantastic job and I honor you for just serving one term and doing the great job you have done. You made a lot of improvements. Brent Carney you have a great political future ahead of you, you should be able to move up. Brian Chirichiello I would like to see you retire that would be nice. He was pleased to see new people running. The School Board should not be running unopposed.

John Burtis, Lori Rd – Thanked Brent Carney for serving his district; he has always returned emails. Mr. Metts he appreciated his service. Mr. Chirichiello you have an interesting blog. Thank all of you who have a thankless job for the money your offered.

Paul Dionne, Worthley Rd – Wanted to comment on statements about wetlands not being valuable - it really is a matter of education. Wetlands filter out sand, salt, heavy metals, volatile organic compounds. The talk that wetlands should not be considered is silly. In Derry, we do not have a buffer we have a setback. It can be used for buildable lands. We would not have drinkable water without the wetlands.

Al Dimmock, High St – Commented on the smiles on faces of these gentleman that are leaving. It is nice to see them smiling at the end of their term.

Roberta Robie, Chester Rd – Read a statement. The concept of Exit 4A was in fact from the Southern NH Planning Commission researching the traffic issues and recommended Exit 4A to alleviate the gridlock in the downtown and to prevent Exit 4 from becoming in a failed state time and time again. I have consistently stated that it was not about the money. Representative Carol Shea Porter is seeking to secure funding for Exit 4A, which has been my goal all along. I have been consistently opposed to Derry taxpayers funding Exit 4A. In my opinion, the opposition just wants to kill Exit 4A at any cost. Those delays cost money. The opposition, shares responsibility for the rising cost. As a member of the Advisory Committee Task Force for Exit 4A, I never saw these people attend any of these meetings, and they cannot have possibly read the stacks and stacks of documentation that I possess. I would like to touch upon the CLD and the EIS bashing. First and foremost, I am not in love with CLD. We had 47 alternatives for Exit 4A; it was narrowed down to a handful. Suddenly, the feds wanted more alternative studies or the EIS would not be accepted. The feds demanded more studies, they did not ask for them. Consequently, the cost increased. The Town Council refused to appropriate any more money and brazenly stated they didn't care what the Feds said the Town Council wouldn't do it. Eventually, the Council relented. The delays cost money. This has been the pattern and the reason for the escalating costs. The opposition uses another tactic, they say, Londonderry gets all the benefits. Londonderry backed out of Exit 4A. They were sued and lost then were forced into Exit 4A. Londonderry gains nothing by alleviating the traffic in downtown Derry. The concept of Exit 4A was for traffic congestion with economic development being a secondary benefit. The opposition neglects to mention the federal approval for Exit 4A specifically states no westerly access. It is unfortunate that the opposition presents its case with fear tactics and omissions to justify their agenda. I hate to disappoint some of you with my regards, to owning land in the area

of Exit 4A and for my volunteering and my support for Exit 4A as my personal endeavor. I do not stand to benefit financially or otherwise. There are still some of us who give back to their community, unselfishly without monetary gain. I must admit, I do receive personal gratification when our efforts have contributed in some small manner to the community for all to enjoy and benefit in a positive manner

Close Public Forum 7-0-0

Public Hearings

10-29 Supplemental Appropriation of \$396,000 for Senior Citizens Center

John Moody, Horseshoe Dr. & Jim Barton, Hood Rd.

Dr. Moody gave an overview of what is being asked from the Town to match \$396,000 which will be returned to the town. The Nutfield Senior Center Corp has received a Federal grant for \$396,000; however, it cannot be used for construction purposes. They intend to put a 5000 sq ft addition on the Boys & Girls Club of Greater Derry. The (NSCC) encourages vendors in Derry be involved in the construction project. Interested parties contact Sullivan Construction. The Nutfield Senior Center Corp. is asking the town for an additional \$341,000 for the capital project to build the senior center. \$55,000 has been previously set aside by the town for the purpose of the senior center.

Open Public Hearing 7-0-0

Maureen Rose – doesn't support taxpayer money being used for private properties.

John Burtis - Is concerned if this is the right place to build a senior center attached to a private facility. He questioned if the town funds this project would they be responsible for the building? What are the costs for town employees handling the center? What are the arrangements to handle the club members during the day and the seniors? What are the off-hours? The second question is what the cost to the town is if we are already having Eric Bodenrader and the recreational staff involved with this project. What is the amount of time that they are involved, what percentage of their total cost is now involved? And will the town now be responsible for plowing the area due to the senior center? Are we going to be responsible for providing maintenance to the building as well? What is the income that will be provided by the senior center to defray the costs of the town? Who is going to oversee the operations? Who is going to keep an eye on the place in a full-time capacity? Is that going to be a town cost or a cost borne by the Center?

Joe DiChario - His basic concern is attaching this building to another building and how is it going to be insured? Who owns the land? What about liability insurance? What kind of agreement do you have that ties all these things together? I appreciate you wanting to do this but I feel there are an awful lot of loose ends. Do we have any kind of agreement if the Boys and Girls Club sell their part of the building?

Close Public Hearing 7-0-0

John Moody – The NSCC is a 501C3 nonprofit organization. It is not connected to the town. The expenses do not fall on town. They would like to raise two years of operating capital so that the senior center will support itself, get a head start that is their goal in excess of the cost of building. They are not associated with the Recreation Department. The commitment of the town at this point is zero. There are a lot of unanswered questions and he understands that. Our arrangement with the Boys & Girls club is a memorandum of understanding. We will own that 5000 sq ft part of the building. It is premature to answer some of the questions as they are still being looked at. He doesn't want to start getting legal opinions yet until they have answers. He is just here to see whether council will invest 396K to put toward community for the senior center. He will get answers to the questions asked.

Chairman Metts answered some questions for Mr. Burtis & Mr. DiChario. (hours of operation for the Boys & Girls Club, if they own the building and their operating status)

Councilor Coyle – Conceptually likes what they are doing, however, he has a serious question that they want taxpayer money for it. The NSCC is building a building and if they fail they would have used tax payer's money. What protections are in place for the addition? Does it revert to the Boys & Girls Club? He asked for a copy of the Memorandum of Understanding. Is there a lease agreement for the land? Another concern is when the addition was added to the Boys & Girls club, there were oppositions from the neighbors around it. They were promised there would not be another addition to the building. Have you spoken to any of the neighbors about this? He would like to see a plan in place for fundraising annually. He just wants protection for town and town funds.

John Moody – The "Memorandum of Understanding", states that if the Corporation fails, that the Boys & Girls Club has first option to purchase. If they cannot, it would be sold to another non-profit group. He believes that the town has an obligation to the senior community.

Councilor Fairbanks –Thanked John for his involvement with the group.

John Moody - he is not available from March 5 – 9th. He would like to get answers to the questions asked for the Town Council in April. Move to the 1st meeting in April (4/6/10)

- 10-24** Change the Purpose of the Recreation Facility Capital Project Fund to allow for the Town to perform renovations to Veterans Hall to supplement \$133,200 received from an EECBG Grant, and approve use of up to \$145,000 for the renovation project at Veterans Hall from the Recreation Facility Capital Project Fund Balance

Frank Childs on behalf of Mike Fowler - it is recommended that the Town Council authorize the change of the Recreation Facility Fund to allow renovations of up to \$145,000 at Veteran's Hall. The fund was originally set up for the future to build a new Recreation Facility no renovation of the present facility.

Open the Public Hearing 7-0-0

No public input

Close the Public Hearing 7-0-0

Move that the Derry Town Council moves to change the purpose of the Recreation Facility Capital Project Fund to allow for the Town of Derry to perform renovations to Veterans Hall to supplement \$133, 200 received from an EECBG grant. Further, the Town Council approves use of up to \$145,000 for the renovation project at Veterans Hall from the Recreation Facility Capital Project Fund balance. Motion by: Benson, seconded by Councilor Carney Vote: 7-0-0

- 10-26** Approve application and authorize Town Administrator to accept and expend the 2010 Medical Reserve Corp Capacity Building Award Grant for \$5,000

This grant is for the renewal and extension of the Medical Reserve Corp Capacity Building Grant.

Open Public Hearing 7-0-0

Al Dimmock High St – Thinks this a good idea.

Brent Carney – Thanked Garrett Simonsen for the community work.

Close Public Hearing 7-0-0

Move that the Derry Town Council approve the application for, and authorize the Town Administrator to accept and expend the 2010 Medical Reserve Corps Capacity Building Award Grant, in the amount of \$5,000. Motion by: Councilor Benson seconded by Councilor Carney Vote: 7-0-0.

- 10-30** Authorization to apply for and expend grant for Enforcing Underage Drinking Laws and related purposes for \$9,387.50

This grant is for the period starting July 1, 2010 to June 30, 2011.

Open Public Hearing 7-0-0

No public input

Close Public Hearing 7-0-0

Move that the Town Council authorize the Town Administrator or his designee, to apply for and expend a grant application in the amount of \$9,387.50 for the purpose of Enforcing Underage Drinking Laws and related purposes. Motion by: Councilor Carney, seconded by Councilor Coyle. Vote: 7-0-0

Old Business

- 10-18** VOTES - Wind-Powered and Solar Energy Property Tax
& Exemptions
10-20

There was discussion on the prior conversation and issues from the last meeting.

Move that the Derry Town Council adopt a property tax exemption from the assessed value for local property tax purposes, for persons owning real property, which is equipped with solar energy systems and/or wind-powered energy systems. Such local property tax exemptions shall be in the amount equal to 100% of the assessed value of qualifying solar and wind-powered energy equipment under these statutes effective 4/1/2011. Motion by: Councilor Carney, seconded by Councilor Wetherbee Vote: 4 -1 -2 (Chirichiello) abstained (Fairbanks & Metts)

- 10-21** VOTE - Approve Conservation Commission to purchase 67+/- acres from Robert C. Low, parcel 06-096 for \$80,000 and to purchase 65.9+/- acres from Benjamin F. Low, parcels 06-027 and 06-025-001, for \$160,000. Funding for purchases shall be drawn from Conservation Commission Land Acquisition Fund

Councilor Wetherbee – he did not realize the proximity of this property. Meadowbrook and Pennichuck had come to the Council as they have some water quality and quantity issues there. It needs to recognize that drilling a well no longer means you get good water. It's an ecology and fiscal issue for the town.

Councilor Fairbanks How much of the criteria does the Low property meet? She had a list of conservation land protection that the Commission had made that was five years old. The Low properties were not on the list. Is this property in threat of development? \$240,000 is a lot of money at this time.

Margaret Ives answered it meets 8 of 12 criteria. At the current time, it is not in threat of development. However both of the Low brothers have been approached by developers. If they

could not put this land into conservation they would have to sell the parcels for development. They do timber the properties.

Councilor Wetherbee – Motion to release a legal opinion on official's recusing themselves from certain votes. (No second) There was discussion.

Whereas Derry Conservation Commission has authorized an appropriation of \$240,000 for a land purchase in support of land conservation, I move the Derry Town Council to approve the Derry conservation commission to purchase 67+/- acres from Robert C Low parcel 06-096 for \$80,000 and to purchase 65.9+/- acres from Benjamin F. Low 06-027 and 06-025-001, for \$160,000. The funding for said purchases shall be drawn from the Derry Conservation Commission Land Acquisition Fund, established per RSA 36-A: 5-1. Motion by: Councilor Benson, seconded by Councilor Carney. Vote: 5-1-1 (Fairbanks) (Coyle – abstained he thinks this is a good purchase but he cannot stand behind it as he has said previously) (for the record)

Motion to extend: 10 minutes. Vote: 7-0-0

*******Emergency Preamble to temporarily suspend fees from Storm Damage**

It is anticipated the impact of the February 25–26, 2010 wind/flood event has caused debris that will need to be disposed of.

The Public Works Department anticipates that residents who have flooded basements or damaged structures will bring post-storm debris for disposal.

Move to suspend fees charged under Section 128:12-D (1) limited to the following items:

- Construction and Demolition debris
- Furniture
- Bulky Items (mattresses)

The temporary suspension would apply to storm-related residential debris ONLY. The suspension of fees would end on April 3, 2010 and the fees would revert back to the regular fee structure on April 6, 2010. Motion by: Councilor Benson seconded by Councilor Coyle Vote: 7-0-0

Move to suspend building and electrical permit fees related to storm damage ONLY. The suspension of fees would end on April 2, 2010 and the fees would revert back to regular fee structure on April 5, 2010.

Motion by: Councilor Benson seconded by Councilor Coyle. Vote: 7-0-0

Council Requests / Open Discussion

Council Benson made a motion to institute a hiring freeze from this point forward that all unfilled positions do not get filled without Town Council discussion , seconded by Councilor Coyle Vote: 7-0-0

Mr. Stenhouse asked if there are already open positions that have been given a conditional offer of would they not be included in the freeze.

Councilor Benson asked for a list of open positions.

Councilor Fairbanks - She asked Mr. Stenhouse to provide her information on the site walk the Conservation Commission did on Windham Rd, the one that been filling in wetlands. She asked for any updated information.

In regards to the Farmer Market, there are area farmers who would like to speak to the Town Council.

Councilor Coyle thanked Rick Metts and Brent Carney. As is tradition, he presented them with certificates for their chairs.

Councilor Wetherbee -Thanked Rick and Brent for their hard work and contributions and they are both appreciated.

Councilor Benson- Echoed Councilor Wetherbee's sentiments.

Councilor Chirichiello also thanked both of them and they were both appreciated

Councilor Fairbanks thanked them and told them to "enjoy their Tuesday nights".

Mr. Stenhouse enjoyed working with them.

Councilor Carney thanked the voters for the last three years and he was proud to serve. He thanked his family and thanked the Town Staff.

Chairman Metts thanked the Councilors for their confidence in him, thanked Mr. Stenhouse for teaching his valuable lesson about governing, and thanked the voters and the staff.

Adjournment 10:15 p.m.

Denise E Neale, Town Clerk

Date

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