

MINUTES

Non-Public Session – RSA 91A:3 II (c)

Motion by Wetherbee to enter non-public session pursuant to RSA 91-A:3, II (c), seconded by Milz. John Anderson and Nancy Watson were invited to attend the session.

Chirichiello, Milz, Wetherbee, and Benson voted in favor, motion passed. Town Council entered non-public session at 7:16 p.m.

Town Council exited non-public session at 7:26 p.m.

Mr. Olbricht, Mr. Coyle and Mrs. Fairbanks entered the meeting.

Chairman Benson opened the meeting with a salute to flag, explained where to find fire exits, and requested those in attendance turn off all cell phones and pagers.

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

Consent Agenda

- 10-140** Acceptance of Minutes – October 19, 2010
- 10-141** Schedule Public Hearing – December 7, 2010 –
Amend the Code of the Town of Derry Zoning Ordinance,
Article II, Section 165-5
- 10-142** Schedule Public Hearing – November 16, 2010 - Amend the
Code of the Town of Derry – Chapter 118 Second Hand/Pawn
Dealers
- 10-143** Approve Elderly Exemptions
- 10-144** Requests for Tax Interest Adjustment (3)
- 10-145** Request for Abatement after Lien

Chairman's Report – Brad Benson

Establish November and December meeting schedule

The Council will meet on November 16th and December 7th. Mr. Wetherbee suggested meeting with the State Delegation in December to discuss potential bills they will be working on this session. He felt the Council should be working more closely with the Representatives so that everyone is moving in the same direction. Council was in agreement. Dates will be coordinated through the Town Administrator's office. Suggested dates based on availability of Councilors are December 9th, 14th or 16th. Mr. Olbricht said the biggest issue to discuss is funding and Mr. Benson added discussion of acknowledgment of Charter amendments by the State. It was suggested the School Board also be in attendance at this meeting.

Welcome of new Town Administrator

Mr. Benson welcomed John Anderson to his new position as Town Administrator. He hopes that he enjoys the experience and the town is excited to have him in this position. Mr. Benson also thanked Mr. Stenhouse for remaining through today to assist with the transition between Administrators.

Farmer's Market

The Farmer's Market will continue to be held through the winter months. The Market will be open on the first and third Sunday of each month, beginning November 7th and continuing through March of 2011. It will be held at Veteran's Hall between the hours of noon to 4:00 p.m.

Voting

Mr. Benson commented there was a great turnout at the polls yesterday. He commended those who ran for office as they do a great job for the community by stepping forward; he thanked the voters for coming out to vote and the volunteers who manned the booths. They worked very hard and he wanted to thank them.

Moving Derry Forward – Update

Mr. Olbricht reported the Moving Derry Forward committee met last week at Parkland Medical Center. It is good to see Parkland involved and becoming part of the economic development process. The next meeting will be at Cedar Point on November 18th from 8:00 to 10:00 a.m. At the meeting, they went through where they are with regard to the Council's three points and are beginning to fill in the goals with regard to the TIF, the downtown, and capacity resources. On the 18th, they will take the goals and flesh them out so that the Committee can explain to the Council how they recommend the goals can be accomplished. There have been some great ideas that will become good recommendations for the Council. It was noted at the meeting that Derry is at an end point of high bandwidth (fiber optic) to Boston, which is a good selling point for Derry.

Administrator's Report – John P. Anderson

Mr. Anderson thanked the Council for the opportunity to serve the town and thanked the townspeople, Gary Stenhouse, and staff for the warm welcome. He looks forward to working with the Council to implement the goals and objectives they will set later this evening. High points since the last Council meeting include the forthcoming groundbreaking for the new medical office building on Tsienneto Road. Several grants have been awarded to the Fire Department for fire sprinkler systems in three stations. Per the lease, new copiers have been installed throughout the municipal center, and the virtualization integration for the computer systems is continuing. Derry's infrastructure with regard to virtualization and the IT network is well ahead of the curve. Firefighter Ed Gannon retired on Friday and the Department held a nice event to celebrate his many years of service to the town. The Drew Road Bridge project bid was opened today. Continental, the contractor, who has been awarded the bid came in at \$294,000.00, significantly below the original estimate. This project is scheduled to receive 80% of the funds back from the state in 2018. There is no start date for the project at this time.

Mr. Anderson advised Frank Childs, Chief Financial Officer, is present this evening. There was an error in the tax rate calculations. However, the town's safeguard system did what it was supposed to do and caught the error. The Tax, Assessing and Finance Departments have been working diligently on this issue.

Frank Childs advised he has provided the Council with a copy of a press release that will go to the press after this discussion. On Monday, the Department of Revenue Administration (DRA)

approved a new, revised tax rate for Derry that is four cents below the previous rate. The new rate is \$28.48. It is believed the bills can go in the mail on Friday, with a new due date of December 6th. The town will make sure the bills are correct when they go out. There was a clerical error in the MS 1 form but it was caught prior to the issuance of the bills. Mr. Coyle asked why, if the budget was level funded, is there an increase of 2 cents on the town portion; he was surprised by the increase. Mr. Childs explained it has to do with the increases in valuation. He stated the town is still below the tax cap provision.

Public Forum –

Motion by Wetherbee to open the public forum. The motion was seconded and passed unanimously.

Mr. Benson noted a change in the agenda this evening. Under Old Business, the item related to 4 Ashleigh Drive has been removed as the issue is resolved. He declared the public forum open.

Al Dimmock, 42 High Street, introduced himself to Mr. Anderson. He commented on the great voter turnout at elections yesterday and he looks forward to seeing those who were elected to serve Derry, work with the Town Council to make sure Derry gets due justice. He suggested having the meeting with the State Reps in November. It was explained this is not possible as the new members are not sworn in until December.

Jennifer Lutzen, co-owner of the Pinkerton Tavern, located at 13 Manchester Road, expressed frustration on how the upcoming project to widen Route 28 has affected her business. They can not answer basic questions such as if they will be able to hold a wedding reception at the facility next year. They have been trying to remain good citizens. They will still hold their complimentary Veteran's meal on November 11th. She stated they are remaining hopeful they can still work with the town and resolve the issues surrounding this project.

Arnold Goldstein, owner of the parcel located at 13 Manchester Road said he understands the town is considering eminent domain because he declined a friendly offer. He wanted to provide clarification. He received a letter saying the town was going to propose a final figure, but he never received the second letter proposing a purchase price. He spoke with Mike Fowler and advised he was happy with the \$910,000.00, but there was one contingency. The town did not want to accept the property with a lease. That was not something he could do. He told Mr. Fowler he would accept the offer but the property would come with a tenant. There was no offer he could accept because he was limited by that unfair contingency. He still welcomes the opportunity to negotiate without eminent domain proceedings based on the appraised rate. He does not agree with the recent comps. This property is located in an exciting area; Walmart has proposed a new store, and Mr. Scott has a new development proposal. Mr. Goldstein said now he is faced with eminent domain and would like to negotiate a fair price with a tenant in place.

Motion by Wetherbee, second by Fairbanks to close the public forum. Motion passed with all in agreement.

Public Hearing –

10-137 Public Health Emergency Response Funding

Garrett Simonsen, Public Health Network Coordinator presented. He is asking the Town Council to approve the application for, receipt of and expenditure of the PHER funding extension to support planning for mass vaccination services within the Greater Derry Public Health Region. The purpose is to support ongoing planning and training activities related to emergency mass vaccination services. The amount is up to \$75,000.00. The funding will support temporary, part time planning and training positions through June of 2011.

Motion by Coyle, seconded by Milz to open the public hearing. The motion passed unanimously.

Mr. Anderson advised he has met with Mr. Simonsen and commends him and his department for seeking out the funding that is available to the Town of Derry and the other region communities.

Motion by Wetherbee seconded by Milz to close the public hearing. Motion passed with all in favor.

Motion by Wetherbee that the Derry Town Council approve the application for and receipt and expenditure of the PHER funding extension in the amount of up to \$75,000 to support planning for emergency mass vaccination services within the Greater Derry Public Health Region and to authorize the Town Administrator to accept and expend these funds as so designated. Motion was seconded by Milz.

Coyle, Fairbanks, Chirichiello, Milz, Olbricht, Wetherbee and Benson voted in favor and the motion passed.

Old Business

10-53 Layout and Condemnation of 13 Manchester Road – Parcel 08274

Mike Fowler, Director of Public works, presented. He advised the Town Council held an initial public hearing on May 18, 2010 to discuss the possibility of takings along Route 28. No one came forward and spoke at the public hearing. He is glad that Ms. Lutzen and Mr. Goldstein expressed their comments tonight. In May, he advised the Council that many of the parcel owners had not signed off. He had been tasked with working on the friendly agreements, which have been reached with all properties; the one exception being the land and buildings for the Pinkerton Tavern. He would like to provide further clarification of comments made by Mr. Goldstein. There had been a higher offer made several months ago. A new appraisal of the property took place in July of this year to be in compliance with the Uniform Act and eminent domain proceedings. The new appraisal is lower than the original offer. If this evening, the Town Council determines to condemn the property, within 30 days the town can send a formal offer to Mr. Goldstein in the amount determined by the second appraisal. If he objects to the condemnation, the final step is for the town to send the information to the BTLA and the town would deposit the funds and hold a subsequent hearing on the value. The issue at that hearing would not be whether the town could take the land or not, it would be with regard to the value.

The purpose of the Route 28 project is to widen the road. There are bottlenecks during peak periods and the capacity of the roadway is insufficient; therefore, this project is necessary. RSA 498:A outlines condemnation proceedings. He is asking the Council to condemn 13 Manchester Road so that the town can proceed with the subsequent steps. If the town is able to move forward with eminent domain, it keeps the timeline in place for bids for the project in February or April of 2011.

Mrs. Fairbanks asked what is the plan to address the bottleneck to the north and south after the expansion is complete? Mr. Fowler stated the traffic analysis shows north of Scobie Pond Road into Londonderry has sufficient capacity. The bulk of the traffic, about 65%, goes south and splits to Tsienneto. Half of that traffic further splits at Pinkerton. The town needs to upgrade Ross' Corner and Linlew, up to Hannaford, but from there the town does not have the funds to upgrade. Mrs. Fairbanks said if the area is developed, it will create more traffic and add to the bottleneck. She sees a bottleneck no matter how wide the road becomes. That issue is still not addressed.

Mr. Milz confirmed that if the Council votes this evening to condemn the property that the town is not closing off any means it has to negotiate with the landowner. Mr. Fowler stated the town still has an opportunity for a friendly settlement of affairs on one front, but not on another. Mr. Coyle

asked for the assessed value of the property? The property is assessed by the town for a total value (land and buildings) of \$627,300.00. The latest appraisal in July placed the property value at \$700,000.00. Mr. Coyle thought it was prudent to move forward; that is a fair price. Mr. Benson felt the town needed to move forward. The town can still settle with the landowner, and meet the construction timelines. Mrs. Fairbanks asked if the town was still working to relocate the building? Mr. Benson did not think the town was deciding this evening to tear the building down, but is moving forward toward the sale. The options for the building have not been decided yet. There are discussions that will go forward. This is about the process to make sure the project moves forward. Mrs. Fairbanks confirmed the town can still have discussions regarding options for the building. Mr. Wetherbee hoped an agreement could be worked out, but felt the town needed to move forward.

Motion by Wetherbee that as Derry Town Council has previously determined there is an occasion for layout and the necessity to acquire land by eminent domain for public use on Manchester Road, that the Derry Town Council motions to initiate condemnation proceedings in accordance with RSA 498-A, on 13 Manchester Road, Parcel 08274. Olbricht seconded the motion.

Chirichiello, Coyle, Milz, Olbricht, Wetherbee and Benson voted in favor. Fairbanks voted opposed. Motion passed in the affirmative.

Mr. Anderson thanked Mr. Fowler and told Ms. Lutzen and Mr. Goldstein that he looked forward to working with them on an amicable resolution.


Council Requests / Open Discussion

Mr. Anderson explained the new process with regard to the Council notebooks.

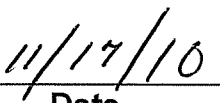
Motion by Wetherbee, seconded by Milz to adjourn. The motion passed in the affirmative and the meeting stood adjourned at 8:20 p.m.

Workshop to Follow Immediately After Council Meeting:

Purpose of the workshop is to hold a Town Council/Town Administrator open discussion



Town Clerk



Date

Recording Clerk: Elizabeth Robidoux
Reviewed by: John Anderson, Town Administrator