

TOWN OF DERRY

Town Council Meeting
Derry Municipal Center

August 22, 2011
Monday, 7:00 PM

7:00 PM

Consultation with Legal Counsel

RSA 91A:3 (d) Consideration of the acquisition, sale or lease of real or personal property which, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general community

Call to order: 7:40 p.m.

Pledge of Allegiance, Warning of Fire Exits, Handicap Access, Turn off all Cell Phones & Pagers

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

Consent Agenda

- 11-79 Acceptance of Non-Public Minutes – July 12, 2011
- 11-80 Acceptance of Minutes – July 12, 2011
- 11-81 Acceptance of Minutes – Special Meeting – July 25, 2011
- 11-82 Acceptance of Minutes – Special Meeting – August 2, 2011
- 11-75 Reschedule Public Hearing (from August 16th) –
September 20, 2011 – Worthley Road Layout, RSA 231:8
and Acceptance, RSA 674:40
- 11-83 Schedule Public Hearing – September 6, 2011 – FY2012
Municipal Water System Improvements/Expansion:
Zone 3 – Route 28
- 11-84 Schedule Public Hearing – September 6, 2011 – FY2012
Municipal Wastewater System Improvements/Expansion:
Route 28, Sunset Acres, Maple Hills
- 11-85 Schedule Public Hearing – September 6, 2011 – Medical
Reserve Corps Grant - \$5,000
- 11-91 Tax Deeding Property

Accepted as written

Chairman's Report – Benson

Frank Santiago from the Heritage Commission has resigned and we wish him well. Derry State Representative Gould has stepped down and is moving out of town and we thank him for his service to Derry.

The Heritage Commission has two openings and they are posted on the website and on cable TV.

Tuesday there will be a Special Vote of the Derry School District at WRB School @ 7pm.

Administrator's Report – Anderson

The Tax deeded property sales are now completed.

On Sunday 9-11 there will be a ceremony jointly by the Police Dept and Fire Dept. Everyone is invited. It will begin at 8am and refreshments will be served after the ceremony.

Public Works has provided the attached list (Attachment "A") of completed road work so far this year. In FY12 there are eight more roads to be repaired.

Our new Economic Development

Consultant is George Kassas, of Bireme Systems, LLC, he is the founder of Cedar Point

Communication. Councilor Olbricht stated Mr. Kassas will present his plan for moving Derry forward and overview at the 9/6/11 meeting.

There is an Update on Exit 4A in the Council packages. The update on Rte 28 TIF District; the final property should be obtained shortly. The RFP bids will be open in September. Eminent domain should be considered in the future for these types of projects. The biggest piece of land to north of the TIF has had a number of inquiries.

George Sioras gave an update of the area: Wal-Mart plans to break ground in the area on this Friday and plans to open in time for Christmas 2012. They have obtained permits. There has also been interest in the old Cormier property. The new owners of the old Allen properties, the Boomer Wolf site is taking shape quickly WOOF/MEOW and GOODWILL has added to the interest. There is also active interest in the old HADCO site.

Frank Childs gave an update on the Town's Bond Rating - Town maintained a Aa2 rating, MOODY'S has affirmed this rating. Which should get us a rate below 4% on bonds (3 ½ - 3 ¾). Mr. Childs also reviewed the towns Strengths and Weaknesses as reported by MOODY'S, in the handout at the meeting, (attached as exhibit "B").

It was asked what the total value of the TIF district was when the plans were set out its value was \$80M today that value is \$73M.

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

Jim Foley asked if there would be input allowed when the discussion on item #11-90 came up. Chairman Benson and Councilors agreed there would be input allowed.

Steve Trefethen – Has come before the Town Council in regards to the Planning Board and Zoning Board on 35 West Broadway. He would like to know if people are living in the building. He requested the Council to get more involved this project. He feels this use was approved without proper notification.

Al Dimmock, High St– Brought three things before board. 1. Loud motorcycles. 2. Code Enforcement needs to come in with plans for rules and regulations and assistance of authority. Zoning Laws are being handled by Code Enforcement.
3. At the Hwy Safety meeting the sidewalks on Tsienneto Rd were discussed.

Maria Potter, Berry Rd – gave background on land rezoning which abuts her property. Mr. Karas wanted the OCR rezoned to low density. She approached the Conservation Commission and brought her concerns. The Conservation Committee said their hands were tied to speak to the Town Council. What can neighbors do to get that land as conservation property? What can they do to preserve it?

Chairman Benson replied this area is being discussed at this time.

Close Public Forum 7-0-0

Chairman Benson asked to have item #11-90 discussed before the Public Hearing. All were in favor.

11-90 Discussion on Rep. Gould's vacancy

There has been a request from Speaker of the House O'Brien to consider a "special election" for Rep Gould vacancy.

James Foley, Republican Committee – Stated a Special Election can be held during Presidential Primary.

Kris Wolfe supports this action.

Chairman Benson asked to find out about intertwining the Special Election with the Presidential Primary, and the associated costs. This item was tabled for additional information.

Public Hearings

- 11-74** Amend the Code of the Town of Derry, Chapter 150, Traffic Ordinance Article I, Section 150-8, One Way Street (McAllister Court)

Open Public Hearing
Close Public Hearing

Councilors asked questions in regards to the width of the street and clearance, also hazardous issue.

Motion: Move to amend the Code of the Town of Derry, Chapter 150, Traffic Ordinance Article I, Section 150-8 One Way Street to read:

Currently: Entire length between East Broadway and Pearl Street.

Amend to: McAllister Court North for a distance of 115ft from East Broadway

Motion by: Councilor Wetherbee seconded Olbricht. 6-1-0 (Fairbanks)

- 11-78** Authorize Town Administrator to accept grant funds associated with the Enforcement of Underage Drinking Laws Grant from the Department of Justice

Open Public Hearing
Close Public Hearing

Chief Garone gave an overview of this Grant and its use of funds for Underage Drinking.

Move to grant authority to Town Administrator John Anderson to accept on behalf of the Town, grant funds associated with the EUDL Grant #2011CD42, from the NH Department of Justice and execute any contracts or documents associated.

New Business

- 11-86** Appointment to Planning Board

Move to appoint Ann Marie Alongi to the Planning Board as an Alternate member to expire March 2014. Motion by Chairman Benson, seconded by Coyle

- 11-87** Motion to Unseal Non-Public Meeting Minutes

Larry Budreau – After conferring with legal counsel it is recommended that sealed minutes be reviewed by the Town Council when the reason for them being sealed no longer exists they should be unsealed. In this case these minutes have a bearing on a legal matter involving the Town and have been requested by the EOAC. Mr. Budreau recommends these minutes be unsealed.

Move to unseal budget review workshop minutes of 4/18/2009. Vote: 7-0-0 Wetherbee/Milz

- 11-88** Rescission of Bond Authorization

Frank Childs – Town Council approved on 8/9/06 the new highway garage. The Highway Garage was constructed but a bond was not issued. State law directs that a vote to rescind a bond cannot take place in less than (5) years. This requires a 2/3 majority vote.

**Move that the bond resolution adopted on August 9, 2006 in the amount of \$600,000 for construction of a new highway garage is hereby rescinded. Motion by Wetherbee/ Milz
Vote 7-0-0**

- 11-89** Authorize Town Administrator to apply for and accept State Aid

Grant for Water System Improvement

Tom Carrier gave an overview of the grant process and stated this grant needs to be applied for by August 24, 2011.

The Derry Town Council moved to authorize John P. Anderson Derry Town Administrator to act on behalf of the Town of Derry in negotiating for and accepting any and all State Aid in connection with water system improvements in the Town of Derry NH. Motion by: Wetherbee/ Milz Vote: 7-0-0

Council Requests / Open Discussion

Chairman Discussion:

Chairman Benson addressed the Town Council in regards to a new process for John Anderson's employment review: Sr. Dept. Managers and the Town Council will receive a questionnaire for input for the review. On September 6th the Council will receive their questionnaires. So if you have any questions please call the Chairman.

Council Milz asked if the change in the review date was in order to align with the Town Budget. Chairman Benson stated date needs to be changed to March/April as this is in line with budget. So there will be a short cycle on review process.

Larry Budreau – explained the process and will provide questionnaires for the Senior Staff and the Town Council for the Performance appraisal by 9/6/11. Eight days later these appraisals will be turned into Mr. Budreau via electronic format. On 9/20/11 Non-Public there the Town Council will review input and draft the performance evaluation. At the 10/4/11 Non-public meeting will be review and recommendation for goals discussion. This will leave time for the completion on 10/27/11.

Councilor Fairbanks was not comfortable with sending her recommendation to Mr. Budreau as he is an employee. She suggested the performance review by councilors be turned into the Chairman of the Town Council. Senior Staff input should be forwarded to Mr. Budreau. All agreed to forward to Town Council Chair.

Fairbanks asked where the benches on bike trail came from.

The Town Administrator will get info and there should be a process on how things are placed.

Business meeting Adjourned at 9:00 p.m.

Workshop to follow immediately after Council Meeting

Charter Amendment Ballot Questions

There are 47 questions that would have to be placed on the Town ballot in March in order to change the charter due to the erroneous errors of the SOS and AG's offices untimely review of the 2010 Charter Commission change.

Brenda Keith, Town Counsel has reviewed the entire Town Charter and sees two issues in the charter that should be addressed one being the Conservation Commission section.

She's concerned with 47 amendments it would be tough for the voters to get through.

Councilor Coyle overall he feels the citizens would never get through the ballot and asked not to put these questions on the ballot.

Councilor Wetherbee agrees even if the ballot didn't contain just the language changes it would be cumbersome.

Councilor Olbricht doesn't want the articles to lose their original intent.

Councilor Wetherbee asked if special legislation could be brought forth.

Ms. Keith stated the idea was pondered to ask for legislation to intervene or maybe a petition. Councilor Wetherbee doesn't want another Charter Commission.

Ms. Keith also stated over an election some areas of concern could be placed on a the ballot and some areas need to be amended as soon as possible (i.e. finance area)

Chairman Benson agrees it makes no sense to put these 47 questions before the voters. What is needed is a workshop with a list of items to move forward with.

Town Council will schedule a workshop for the entire revision and discussion options for another commission. Mr. Benson would like to find out the process to order an election instead of piece mailing which will not work. Going forward he would annually like the Town Council to bring forward charter changes that they feel are necessary.

Councilor Coyle would like to elect a new charter commission in conjunction with the March voting.

Ms. Keith suggested that there are three areas that the Town Council can act upon and place in front of the voters. She has no confidence in the State.

Chairman Benson stated this discussion will be put on agenda for a September meeting on the process to amend the charter.

Town Council Rules

Ms. Keith was asked to look at the current Town Council Rules and Ethics section. She has included her marks in this document.

Councilor Fairbanks asked why legal counsel was reviewing the rules; it should be the council members.

There was discussion on how legal counsel was asked to be involved, and the process to revise the rules. (Fairbanks, Coyle and Milz)

It was explained that this was a first reading (review) and that there was a process to follow.

Discussion Review (edit):

Page 2 Rules of the Derry Town Council

Paragraph 3 add language

Paragraph 4 remove language as rule is obsolete

Agenda

Paragraph 1 add or Town Clerk designee

Page 4 **Principal Votes**

Paragraph 2 remove as this section is governed by Roberts Rule

Page 5 **Motions, Questions, Votes**

Paragraph 2 reworded: A motion for consideration of a vote shall be open for debate. But such motion shall not be considered unless made by a member voting with the majority *at the present meeting or next regular meeting.*

Page 5/6 **Duties of the Chairman of the Council**

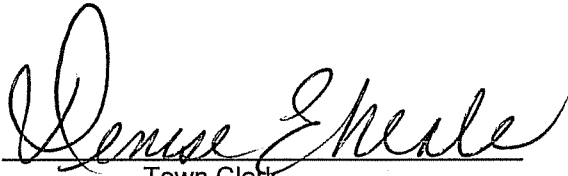
Bullet 9 There was discussion on the amount of time is involved in the process for going over the amount of \$10,000 for the Town Administrator and Council Chairman. Councilor Coyle stated this was put in place due to the history of the town's losses due to employee manipulation of funds. There was discussion on a compromise of the limit. Councilor Chirichiello feels there's no need to change the process.

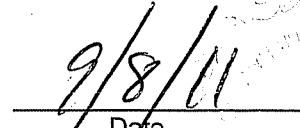
Chairman Benson asked for the next 30 -45 days to track how many po's are over the \$10K

The discussion on the Code of Ethics will be held at the next Town Council Workshop.

Town Administrator discussed a proposal to be filed with legislation regarding holding a Public Hearing on grants of \$5000 or less. Chairman Benson stated this is done by RSA.

Mr. Childs & Chief Klauber are looking for the suggested language to file a bill that would allow the Town Council to place Grants under "New Business". If the grants were over \$50,000 then a public hearing would be held. Mr. Anderson stated the bill would have to be brought to the Senate as the House bills are already completed. Councilor Olbricht suggested \$10,000 be the limit as \$50,000 is too much. Council will have a conversation with Senator Rausch.


Town Clerk


Date

Adjournment 10:05 p.m.