

TOWN OF DERRY

Town Council Meeting
Derry Municipal Center

October 4, 2011
Tuesday - 7:30 PM

6:30 PM Non-Public Session 91A:3 II (a) – The dismissal, promotion or compensation of any public employee or the disciplining of such employee, or the investigation of any charges against him, unless the employee affected (1) has a right to a meeting and (2) requests that the meeting be open, in which case the request shall be granted

7:05 PM Non-Public Session 91A:3 II (e) - Consideration or negotiation of pending claims or litigation which has been threatened in writing or filed against the public body or any subdivision thereof, or against any member thereof because of his or her membership in the such public body, until the claim or litigation has been fully adjudicated or otherwise settled. Any application filed for tax abatement, pursuant to law, with any body or board shall not constitute a threatened or filed litigation against any public body for the purposes of this subparagraph.

Call to order @ 7:30 p.m.

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

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

Consent Agenda

- 11-98 Acceptance of Minutes – September 20, 2011
- 11-99 Schedule Public Hearing – October 18, 2011 – Amend the Code of the Town of Derry, Chapter 150, Traffic Ordinance Article I, Section 150-4 Prohibited Parking – Eastgate Road
- 11-100 Schedule Public Hearing – October 18, 2011 – Lake Avenue, Rocky Road, Pebble Lane Layout
- 11-101 Schedule Public Hearing – October 18, 2011 – Amend the Code of the Town of Derry, Section 165-30 Zoning Map – Rezone 8 parcels from Office Research Development to Low-Medium Density Residential (LMDR)
- 11-102 Schedule Public Hearing -Eminent Domain 22 Manchester Road

Accepted with addition of #11-102 to agenda. Councilor Chirichiello-Abstained on Item #11-98

Chairman's Report

Derry did exceptionally well this weekend in winning the Mack Plaque

Hours for October's Farmers Market will be from 2:00 to 6:00 PM on Wednesdays

Schedule for November and December Town Council Meetings are:

- November 1st – regular meeting
- November 15th - Workshop will include Assessing Budget and to finalize Council Rules
- December 6th – regular meeting
- December 20th - Workshop will include Cable TV Capital Plan, Adams Memorial Building, Senior Center and Downtown Committee Review

Administrator's Report

Benjamin Klein, Nutfield News, will be filling in for Kaitlyn Woods.

The town's surplus auction will be held on 10/15/11 at the Police Department.

National Take Back Day will be held on 10/29/11 from 10:00 AM – 2:00 PM @ Hood Commons. People can bring unused, unwanted or expired prescription drugs for safe disposal.

There are several new businesses opening in downtown area. A new Century 21 Real Estate office will open on October 5th at West Broadway, Oasis Salon by Bea on East Broadway, and coming soon Kate & Grace Cupcakes on 16 Manning St.

Public Forum – Non Agenda Items

Open Public Forum

Vote: 7-0-0

Ken Hepworth, Kingsbury Rd – spoke in regards to the town taking ownership of the Adams Pond Dam. It will cost \$150,000 - \$200,000 to meet state standards. He gave calculations and assumptions on how to pay for new responsibility. It would be a great gesture if the owner would open an amount of pond to the public.

Richard Holmes, Town Historian - Lent support his support in saving the Adams Pond Dam explaining its history and stating that it is the oldest structure having been built in 1718.

Ellie Sarcione, Chester Rd – gave feedback on the conservation end of the Adams Pond Dam. The State has said the draw down doesn't have to take place until 2014. She asked the Town Council to look into obtaining public money, using conservation money or possibly shifting money from the Beaver Lake Dam project to the Adams Pond Dam. Mr. Gagnon does not have to start on October 8, 2011.

Les Seaboyer, Scobie Pond Rd – looked at Adams Pond factors and historical value. He asked where does progress stop, what effects does this put on the watershed, aquifer areas, and wells; further stating that nothing indicates it needs to occur ASAP. He also asked if the person who inspected it said it was in danger of failure or collapse. He urged the Town Council to take this under consideration.

Close Public Meeting

Vote: 7-0-0

Old Business

11-94 Appointment - Assistant Town Administrator

There was discussion on why there would be "No" votes and an explanation of why this position was being added.

Move that the Derry Town Council confirm the appointment of Larry Budreau to the position of Human Resources Director/ Assistant Town Administrator.

Motion by: Wetherbee, seconded by Milz.

Vote: 4-3-0 (Coyle, Fairbanks and Chirichiello)

11-75 Worthley Road Layout, RSA 231:8 and Acceptance

Councilor Coyle asked Attorney Boutin to review another RSA which could be applied to these Private Roads, and a Superior Court case to see if this had any basis on the private roads issues. The discussion was lengthy and legally debated. Worthley Road will be plowed this winter as stated previously until a vote for layout has been completed. The vote will be put on hold until clarification can be made regarding the RSA's and process.

**11-83 FY 2012 Municipal Water System Improvements/Expansion:
Zone 3 – Route 28**

Tom Carrier gave a revised presentation on the new scope of the Route 28 project based upon previous council input. Mr. Carrier is recommending Alt. 2: All properties in the Water System Master Plan Zone 1 improvements area (Rte. 28 By-Pass North and Rte. 28 West of Island Pond Rd pay existing Derry water connection fees and all properties in WSMP Zone 3 improvements

area (Rte. 28 south of Island Pond Rd pay 100% of gross cost for Zone 3 improvements only. He further recommended that as Water Commissioners the commission needs to schedule a public hearing and vote for a supplemental appropriation for money in the FY2012 Water Division Budget and a Bond Resolution.

11-84 FY 2012 Municipal Wastewater System
Improvements/Expansion: Route 28, Sunset Acres, Maple Hills

Tom Carrier gave a revised presentation on the wastewater system improvements based upon previous council input. Mr. Carrier is recommending Alt. 2: All abutting properties assessed in accordance with the Derry Sewer Betterment Policy (25% of gross cost share) based on the parcel area for commercially zoned properties and the number of living units for residently zoned properties. He further recommended as Sewer Commissioners the commission needs to schedule a public hearing and vote for a supplemental appropriation for money in the FY2012 Sewer Division Budget and a Bond Resolution.

11-90 Vacancy – State Representative

There was discussion on whether this seat would be lost due to redistricting on the State level as well as holding elections in conjunction with the Presidential Primary and Town Election. Councilor Chirichiello will find out if it is correct that Derry will be losing a State Rep position in 2012. Reschedule for 10/18/11 meeting.

11-96 Charter Amendment Discussion

The discussion was in regards to forming another Charter Commission or waiting to see if someone brings a petition forward. There was no resolution to the past Charter Commissions work due to the State's negligence. The Town Council cannot bring the questions forward as there are too many to place on the ballot. Schedule for a vote on October 18, 2011.

New Business

11-103 NH Highway Safety Agency Grant for Operation Safe Commute
Patrols

Chief Garone gave an overview of the grant NH Highway Safety Agency for Operation Safe Commute Patrol.

Move to grant authority to Town Administrator John Anderson to apply for and accept on behalf of the Town, grant funds associate with the NH Highway Safety project titled, "Derry Operation Safe Commute Patrols", project number 12-03, 4 and to execute on behalf of the Town all contact or document associated. Motion by: Wetherbee, seconded by Milz. Vote: 6-1-0 (Coyle) Mr. Coyle explained his no vote.

Chairman Benson added the following the Public Hearing Schedule for 10/18/11:

11-83 FY2012 Municipal Water System Improvements/Expansion: Route 28, Sunset Acres, Maple Hills: Supplemental appropriation for Route 28 Phase only in the FY2012 Water Division Budget and vote on a bond resolution.

11-84 FY2012 Municipal Wastewater System Improvements/Expansion: Zone 3 – Route 28: Supplemental appropriation for Route 28 phase only in the FY2012 Sewer Division Budget and Vote on a Bond Resolution.

Council Requests / Open Discussion

Councilor Fairbanks questioned the status of a stop sign for Hemlock Spring Rd/Overlook Ext. Mike Fowler and Chief Garone gave an overview of the study done. Chief Garone will look into the issue and discuss with Highway Safety Committee at their next meeting on 10/20/11.

Councilor Coyle questioned the status of Pinkerton Tavern and stated that there has not been any activity on its removal. Mr. Anderson stated its completion is scheduled for the end of November.

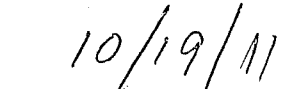
Councilor Coyle also asked about the status of the CLD and Exit 4A. He would like to know the total cost spent to date.

Chairman Benson would like to schedule a Non-Public for the Town Administrators Review process.

Adjournment 9:13 p.m.



TOWN CLERK



DATE

Recording Clerk: Denise E Neale, Town Clerk
Reviewed by: John P Anderson, Town Administrator