

**TOWN COUNCIL MINUTES**  
**REGULAR MEETING**  
**WEDNESDAY, May 22, 2002**

The meeting was called to order at 6:30pm.

**PRESENT:** Chairman T. Young, D. Pichette-Volk, P. Rueppel, M. DiBitetto, R. Dion, R. Holley, M. Jolin, P. Ganley, D. Duford, M. Farrell-Town Administrator.

**MINUTES: May 1, 2002.** P. Ganley moved to approve the minutes. Seconded by P. Rueppel.  
**Motion carried.** D. Duford and M. Jolin abstained.

**MINUTES: May 8, 2002.** R. Dion moved to approve the minutes as amended. Seconded by D. Pichette-Volk. **Motion carried.** R. Holley abstained.

M. DiBitetto moved to reconsider the minutes of May 8<sup>th</sup>. Seconded by D. Duford. **Motion carried unanimously.** R. Holley abstained.

M. DiBitetto noted one change to be made to the minutes to add the word ambulance to the response time on page four line one.

M. Jolin requested that his name be removed from being excused.

**TOWN ADMINISTRATOR'S REPORT:** M. Farrell reported on the following:

1. Received a letter from Richard Tichko, Fish & Game on the installation of a boat dock at Lambert Park. After being without an engineer for a year, they have recently hired one and he has been apprised of the situation and will be working on the boat dock project. A site visit was conducted and there are plans to proceed.

Chairman Young requested that the boat dock be on the agenda for a progress report.

2. On June 20, Victoria Chase, NH DOT Project Manager, will be holding an informational session at the Library, from 6:00pm – 8:00pm and she will answer questions on the Bypass 28 and Route 3 project. The project is scheduled to advertise for construction in February 2003.
3. Rosedale Street is scheduled for closing and construction on June 6, 2002.
4. Indemnification information from a 1975 Town Warrant Article 12 indicated that an indemnification and Hold Harmless Clause was voted on in the affirmative. However it only covered employees, Selectmen and Administrative Staff or Agencies. There was no mention of volunteer coverage which RSA 31:105 deals with. He is still working with Legal Counsel on obtaining the correct language to be used.
5. Met with the Developers in the North Campus in their participation for the Connector Road. They recognize they may not be required to pay on-site impact fees however they do intend on paying off-site impact fees. The traffic study should be completed in a week or two. Part of Head's Pond and Granite Hills are included thus D.O.T. should be able to use that in their estimation for their participation in the project. Once that occurs, everything else can be figured out more precisely.
6. Election results showed 1606 voters, 150 people declined to vote on certain issues.

D. Duford stated Lambert Park, has dead shrubs and a grassy area should be blocked off to avoid parking. The kiosk needs a new sign indicating that it is a carry-in carry-out facility and a guardrail should be installed at the end of the ramp.

M. DiBitetto asked when the Public Hearing is scheduled for on Riverside Street.

M. Farrell stated it would be scheduled for June 12, 2002. The Highway Manager has contacted the state on making Riverside Street one-way.

**PUBLIC INPUT:**

Mary Ruel, 3 Alderwood Court, representing of the Solid Waste Advisory Committee, they recommend that the Council holds off on the Pay As You Throw (PAYT) program at this time. They still support the program and believe it is in the best interest of the Town, but due to the recent vote results it would be legally and morally wrong to move forward with the program without further considering public input and looking at the program in doing some education. At our next meeting we will develop a plan for education and research to be conducted within the next nine to ten months then work with Council to get the info out there.

**OLD BUSINESS:**

**HYDRO DAM.**

Chairman Young stated that if the Hydro Dam would be purchased by another Town then Hooksett would no longer receive any revenue, as it is a non-taxable property.

M. DiBietto asked if we have a current assessed value of the property.

M. Farrell stated that we do not have a current assessed value. The last value was provided by a consent decree by the courts in 1995/1996 and that cannot be changed until the next Town-wide reval is done. MRI is developing their RFP for the reval. He recommends having a utility specialist do a valuation.

M. DiBietto moved to refer the possible purchase of the Hydro Dam to a committee for further study. Seconded by R. Dion.

**Roll call vote.**

D. Duford	yes	M. DiBietto	yes
R. Holley	yes	P. Rueppel	yes
M. Jolin	yes	D. Pichette-Volk	yes
R. Dion	yes	T. Young	yes
P. Ganley	no	<b>Motion carried.</b>	

**PROTEST PETITION VALIDATION.**

M. Farrell stated that this petition is very complex. The agent for the petitioners did an extreme amount of work and should be commended for her time and effort. The landowners needed to provide 20% of the area within 100-foot buffer of the affected property. It includes the Manchester Sand & Gravel property. The main issue of the petition is going to revolve around the Allenstown border. There are two petitioners with at least 7.7 acres of land. The issue of standing has come into question. The RSA doesn't speak to it on point; therefore he has consulted with legal counsel and independent legal counsel Peter J. Loughlin, Esquire who is an eminent municipal attorney who has written books explaining the laws. One treatise on Land Use Planning and Zoning explains, "In all instances, abutters from another community will have no standing to file a protest petition". Based on that and a follow-up consultation with Legal Counsel in verifying this petition we have excluded the petitioners from Allenstown. We have also excluded the perimeter portion that borders Allenstown. In summing up all the borders to obtain a 20% of net perimeter the percentage of land would have to be 30.95%. Our figures show that the petitioners own 22.02% of the bordering land they fall short of 8.92%, thus declaring the petition invalid. **(Attachment #1)**.

M. Farrell stated that the last time we had a similar issue it went to the Supreme Court and his memo was regarded highly in the Justice's decision. He would like time to write the memo with consultation of Legal Counsel and present it at the next meeting requesting the Council table their vote until the next meeting.

D. Duford asked who did the calculations.

M. Farrell stated that Charles Watson, Town Planner, and he did the calculations with the use of information on some of Peter Holden's survey, planning, zoning and Town information.

D. Pichette-Volk asked if we find this invalid then the essence of a challenge would be the Allenstown petitioners.

M. Farrell stated yes that Allenstown is the main issue.

D. Duford asked what is Manchester Sand & Gravel's position.

M. Farrell stated he spoke with David Campbell, Manchester Sand & Gravel's attorney, informing him that the issue deals mostly with Allenstown petitioners. He did his own calculations and the petition comes out insufficient. D. Campbell did indicate, if necessary, they would file an amicus brief.

Chairman Young stated that Council received this tonight and asks that the Council abide by the five-day notice and revisit this at the next Council meeting and at that time M. Farrell will present a position paper.

#### **POLICE COMMISSION.**

##### **Cameras:**

M. DiBietto stated that the Police Commission met last night and in light of the budget issues we are facing they would like to assume liability for installing the cameras and pay for them through their own budget.

M. Farrell stated that the purchase order went out to Pelmac yesterday and there is a six to eight week wait. He accepted the Police Commission's offer to pay for the cameras and thanks them. The Police Chief will be called on the status of the purchase order.

##### **Heating System:**

M. DiBietto stated that on investigating the revisions to the heating system the maintenance contractor determined that the work was beyond the scope that he had originally anticipated therefore he is in the process of finalizing a proposal in working with Delta and we will be advised when that comes in.

#### **AMBULANCE SERVICES.**

D. Duford stated that at the last meeting the EMS Advisory Committee brought in brochures of a new ambulance service in town, Mount Valley Medical Services (MVMS). The service was not discussed and he proceeded to inform the Council that he received a letter from the CEO, Patrick Toomey introducing the company's services. MVMS has two modular ambulances, two wheel chair vans, ALS ambulance service. P. Toomey would be glad to offer his services to the Town and is available to serve the community in the evenings as well.

Chairman Young stated that there was some confusion on the part of the Emergency Medical Advisory Services Committee (EMSAC) as to what their objective was and asked for clarification of the charge.

P. Rueppel asked if we could use more than one ambulance service, do we have to sign a contract with one.

Chairman Young stated one of the agreements we have with Tri-Town is that they will not go after someone who is not able to pay the ambulance service.

D. Pichette-Volk stated that we have a Memorandum of Understanding with Tri-Town. Tri-Town is not just a vendor to the Town of Hooksett.

M. Farrell stated that we have a 27-year agreement with the current ambulance service and have an excellent working relationship with them as well.

Chairman Young requested that the next meeting agenda further review the ambulance services to determine what the subcommittee charge will be.

D. Duford stated that he would like it known that he is still the greatest supporter Tri-Town has.

**ADOPT-A-HIGHWAY:**

D. Pichette-Volk handed the official form for the Adopt-A-Highway Program over to Chairman Young for maintaining Main St.

**ADMINISTRATIVE CODE.**

P. Ganley stated that the Administrative Code subcommittee met and reviewed the changes that were approved unanimously. One of the main changes is in section 5.5.2 was the bidding requirements changed from \$7,500 to \$10,000.

D. Duford asked why he was not notified of the subcommittee meeting.

D. Pichette-Volk moved to accept the changes of the Administrative Code as submitted and to go forward with a Public Hearing. Seconded by R. Holley. **Motion carried unanimously.**

**MANCHESTER PERAMBULATION.**

Chairman Young requested that the Manchester perambulation need for a survey, be on the June 12 agenda under scheduled appointments.

**NEW HOME CONSTRUCTION:**

P. Ganley stated there is a project next to Village School, off of Lafond Ave., homes for those over 55 years of age and over. They are at looking to get site line clearance to the north of Lafond Ave.

M. Farrell spoke with the Chief and it is a DOT issue but it would start with a letter from the Council requesting DOT to create a no parking zone in that area.

**NEW BUSINESS.**

**FIRE DEPARTMENT FEE SCHEDULE UPDATE.**

Chief Howard introduced a proposed fee schedule for July 1, 2002. **(Attachment #2)** The last fee changes were May 2001. The fees are midpoint compared to surrounding towns.

R. Dion moved to approve the fee schedule as presented. Seconded by R. Holley.

**Roll call vote.**

M. Jolin	yes	D. Pichette-Volk	no
R. Dion	yes	D. Duford	no
P. Ganley	yes	R. Holley	yes
M. DiBitetto	no	T. Young	yes
P. Rueppel	yes	<b><u>Motion carried.</u></b>	

**SIGNAGE APPROVAL FOR BICENTENNIAL DRIVE.**

M. Farrell stated that a letter was received from a Manchester resident who abuts Bicentennial Drive. The Highway Foreman, Highway Manager and Police Chief discussed this issue and concur with M. Bernard, Highway Dpt. Foreman's recommendations.

R. Dion moved to approve M. Bernard's request for the four 30 mile an hour signs, the two slow signs and a no thru trucking sign at Donati Drive as presented. Seconded by P. Rueppel.

M. DiBitetto moved to amend to hold off on the no thru trucking signs. Seconded by P. Rueppel

**Roll call vote on amendment:**

R. Dion	yes	D. Duford	yes
P. Ganley	no	R. Holley	no
M. DiBitetto	yes	M. Jolin	yes
P. Rueppel	yes	T. Young	yes
D. Pichette-Volk	yes		

**Motion carried.**

**Roll call vote on original motion as amended.**

P. Ganley	no	R. Holley	no
M. DiBitetto	yes	M. Jolin	yes
P. Rueppel	yes	R. Dion	yes
D. Pichette-Volk	yes	T. Young	no
D. Duford	yes		

**Motion carried.**

**DEFAULT BUDGET DISCUSSION.**

M. Farrell has been meeting with Director of Finance, Diane Savoie and Assistant Administrator, Liz Dinwoodie to discuss options and impacts. It seems that the "no" votes were because of the Pay As You Throw (PAYT) program. We can do PAYT even though there is a default budget. It is more urgent to do PAYT with a default budget than without as indicated on the handout in option 1. Option 1 would have to be cut by \$403,849. Option 2 default budget without PAYT would be cut by \$403,849 and revenue anticipated but not received of \$345,000 would equal \$748,849 which means adding 50 cents per thousand to the tax rate or to keep the tax rate level you would have to take out \$748,849 out of the budget. Option 3 is to do a revised budget without PAYT. The Charter permits Council to accept a revised budget or hold a Special Town Meeting for a single purpose of proposing a revised budget. It would be the same \$10 million budget and the Transfer Station Budget would add \$46,000 because of tipping fees in anticipation of a 20% drop in the waste stream and we would not have been doing any commercial. Commercial will come back if you don't do PAYT and there will be the \$345,000 revenue shortfall. Option #4 revised budget with PAYT is to have a budget somewhere in between the proposed budget and the default budget; the difference between the two is \$398,000. His recommendation is Option #3 to have the Town go for a revised budget and drop PAYT.

Chairman Young moved to not proceed with PAYT. Seconded by D. Pichette-Volk.

**Roll call vote.**

M. DiBitetto	yes	M. Jolin	yes
P. Rueppel	yes	R. Dion	yes
D. Pichette-Volk	yes	P. Ganley	yes
R. Holley	yes	T. Young	yes

D. Duford abstained because he felt that PAYT was not officially accepted. **Motion carried.**

D. Duford moved to uphold the default budget. Seconded by D. Pichette-Volk.

**Roll call vote.**

P. Rueppel	yes	R. Dion	no
D. Pichette-Volk	yes	P. Ganley	no
D. Duford	yes	M. DiBitetto	yes
R. Holley	no	T. Young	yes
M. Jolin	yes		

**Motion carried.**

**PUBLIC INPUT.**

Nancy Winneg, 42 Cross Road, spoke to the Zoning Amendment Protest Petition. She asked the Council to consider the request for Public Hearing under Chapter 43. There is a very good legal basis for pursuing a court action if the Council denies the petition. There were 248 acres in discussion and tonight there are 266 acres in discussion.

R. Dion moved at 9:30pm to enter into nonpublic session under RSA 91-A:3,II,(e) Consideration or negotiation of pending claims or litigation which has been threatened in writing or filed against the body or agency or any subdivision thereof, or against any member thereof because of his membership in such body or agency, until the claim or litigation has been fully adjudicated or otherwise settled. Motion seconded by R. Holley.

**Roll call vote:**

P. Rueppel	yes	R. Dion	yes
D. Pichette-Volk	yes	P. Ganley	yes
D. Duford	no	M. DiBietto	yes
R. Holley	yes	T. Young	yes
M. Jolin	yes		

**Motion carried.**

P. Ganley moved at 9:45pm to exit nonpublic session. Motion seconded by R. Holley. Roll call carried unanimously.

Chairman Young declared the meeting adjourned at 9:46pm.

Respectfully Submitted,

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Tina M. Paquette  
Administrative Assistant

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Michel N. Jolin  
Council Secretary