

Official

TOWN COUNCIL MINUTES Regular Meeting Wednesday, February 28, 2007

CALL TO ORDER

Chairman George Longfellow called the meeting to order at 6:40 pm

ATTENDANCE

G. Longfellow, M. DiBietto, J. Hyde, D. Ross, P. Rueppel, S. Werksman, and Town Administrator D. Jodoin

Excused: M. Jolin, J. Gorton, and P. Loiselle

APPROVAL OF MINUTES

January 6, 2007

***P. Rueppel motioned to approve. Seconded by S. Werksman
Voted unanimously in the affirmative.***

January 15, 2007

***S. Werksman motioned to approve. Seconded by P. Rueppel
Voted unanimously in the affirmative.***

January 24, 2007

***P. Rueppel motioned to approve. Seconded by S. Werksman.
Voted unanimously in the affirmative.***

February 15, 2007

***P. Rueppel motioned to approve. Seconded by S. Werksman.
Voted unanimously in the affirmative. M. DiBietto abstained.***

PUBLIC INPUT

D. Marshall: I'm here at the request of the Planning Board. The last time I was here, we were discussing the warrants for the highway and the plans for the use of impact fees in corridors of the town. When I left that meeting, it was my understanding the Council would reword that article. I now know that the Council rejected that Article. The Planning Board wanted me to come here because this will tie the hands of the Planning Board and the town. The RSA states impact fee must be held separately in a fund and shall be used solely for the purpose it was collected. This means you must have a plan. The people paying this money need to know where this going; not generally but specifically. The Town Planner and the Planning Board don't have the expertise to develop those plans. The amount is \$34,000 to develop those plans. I would hate to think that we had impact fees accumulating and then find out as we go to spend that money, a developer questions the use, based on the lack of plans. Don't tie our hands. Money collected also gives us a better shot of getting into the States two-thirds matching funds. Please reconsider your vote.

G. Longfellow: Is \$34,000 the complete cost?

D. Marshall: Yes, for those three zones with the emphasis on 3A. I would not recommend writing a contract with any firm that didn't deliver the finished product.

NOMINATIONS/APPOINTMENTS

SCHEDULED APPOINTMENTS

Public Hearing, Mountain View Road Acceptance (canceled from Feb. 14th)

Open hearing at 7:04 pm

Close hearing at 7:05 pm

D. Ross motioned to approve the acceptance of Mountain View Road and release the balance of the bond. Seconded by J. Hyde

Roll call vote unanimously in favor

Public Hearing, Acceptance of \$500 Donation to Town Hall Renovation Fund, per RSA 31:95 (b)

This donation was received from the Raymond D' Amante Revocable Trust fund.

Open hearing at 7:05 pm

Close hearing at 7:06 pm

M. DiBietto motioned to accept the donation and forward a letter of thanks to the donor. Seconded by S. Werksman

Roll call vote unanimously in favor

Mitchell Kincaid, re: Noise Ordinance

Mitch Kincaid, 35 Zapora Drive: Since last year we've had a problem with noise from the Space Center. We kept a diary starting Oct. 18, 2006 and up until tonight. Some of these times are in violation of the town's current noise ordinance. The noise is from a base. It is a thumping sound. You can hear it inside and outside our home. We have spoken with the owners and have had no success. We've worked with the Town Code Enforcement Officer who has issued cease and desist orders. Does the Town Council have any authority and can you do anything with the noise as far as shutting them down. I did come up with a proposed addendum to the current noise ordinance. I'm not an expert so I don't know if these are legal. What I have, I got from the Internet and what other towns have done?

M. DiBietto stated he had a conflict and recused himself.

M. Kincaid: In addition to the definition, I would like the ordinance to state 7:00 am to 10:00 pm as well. Most people in the apartments and the Oteros have thought it was a car and can't hear it inside their house. The way sound travels, it can change frequency over a distance. The front of our house faces down the road.

D. Ross: They have been cited. They are going to be required to pay money. One problem with the ordinance is the definitions are too broad. The problem is people in the parking lot after closing. If they are operating outside their parameters of operation, you need to let the Code Enforcement Officer know. It must be scientific to be proven in court.

M. Kincaid: A decibel meter requires equipment, which we don't have. This is all recent. They added a second floor and a new laser tag area.

J. Hyde: Is there anyone that can answer the zoning of the space center?

Chief Agrafiotis: Introduced Attorney, Kimberly Chabot, that has been working with our Code Enforcement Officer.

K. Chabot: Once the complaint from the Kincaids came to light, The Code Enforcement Officer took action but she works in the day, so when the calls come in, the officers have responded. There are three complaints pending at the Hooksett Court and there are definitive dates that we were able to obtain. That is what we're doing to enforce that noise ordinance. The cease and desists were issued with no response. The Space Center has retained an attorney. The Fire Department has been working to assess their building specifications. We are also exploring their laser tag area. The Fire Department was in to look at the laser tag room and it has been in operation for close to two years so that doesn't explain why this noise is more prevalent in 2006. There were some new games and we are now negotiating with their attorney. I have some concerns with the changes Mr. Kincaid is proposing for the noise ordinance. I worked on the drafting of the current noise ordinance. We looked at a variety of noise ordinances and we went to a broad ordinance to curb the building noise specifically. It has been rare that the noise

ordinance has been violated by a commercial enterprise. My recommendation, if the Council were to receive this change, that they review it and have their attorney, Bart Mayer review it.

J. Hyde: How many feet are you from the Space Center.

Kincaid: I'm 940 feet per Google Earth. We noticed this in September and started keeping records in October. We have lived there for 15 years.

J. Hyde: Is the Code Enforcement Officer an officer of the court or an employee of the town?

D. Jodoin: She is an employee only.

J. Hyde: Michelle Bonsteel, who is not an officer of any kind is writing this violation. She ordered them to cease and desist. I don't know that she has any legal right to do that.

K. Chabot: The noise ordinance itself allows enforcement by the Code Enforcement. This was alleged because she did not hear it herself. I have filed the allegations and then we will call the necessary witnesses in court.

J. Hyde: Is it solely the Kincaids calling to have the citations written or have there been others?

K. Chabot: The only complainers have been the Kincaids but the officers have heard the noise as well and other times the officers have not been able to hear the noise.

Kincaid: There is a giant movie theatre going in across the street, which could be another issue. We try to get kids to bed at 9:00 pm which is difficult with them blasting music until 10.

G. Longfellow: I live near Frazer Park and in the summer, the music is fine, but when you get the low base that shakes the ground, it's not a comfortable noise. I don't know how you control something like that.

K. Chabot: That is why you work in conjunction with other departments like the Fire and the Code Enforcement Officer which could address this from all angles.

M. Kincaid: I didn't propose to change the whole noise ordinance only section 3 item b, which are electronic devices.

P. Rueppel: Would you be willing to wait until this plays out in the court. If you over regulate this you will create a hardship on some other businesses in town.

P. Bouchard: I live in the neighborhood about 4-5 houses away and last summer, a few times, people left their dogs outside and they were barking.

Chief Agrafiotis: We tell anyone if they are disturbed, call the station and we will take whatever action we can.

Diane Boyce, Solid Waste Department Superintendent, re: Tipping Floor Bids

D. Boyce presented the bids for the tipping floor.

D. Boyce: This is a specialty floor therefore it was difficult to get bids. The Council suggested looking into repairing the floor. No one recommended repairing this that bid. 4M Construction was the low bid at \$34,000. They are insured and they have done all the floors in town including the Court House and the Transfer Station.

D. Ross recommended approving the bid for \$34,000 with 4M Construction. Seconded by P. Rueppel.

Roll call vote unanimously in the affirmative.

Manchester Marathon Committee

They cancelled Hooksett's portion of the Marathon.

OLD BUSINESS

Warrant Articles

Article #3 Sewer Bond

M. DiBitetto motioned to recommend. Seconded by D. Ross.

Roll Call

Michael DiBitetto	Yes
Jason Hyde	No
David Ross	Yes
Patricia Rueppel	Yes
Stuart Werksman	Yes
Chairman George Longfellow	Yes

5:1 motion carried

Article #5

\$10000 for computer fund

P. Rueppel motioned to recommend. Seconded by S. Werksman

Roll Call

Michael DiBitetto	Yes
Jason Hyde	No
David Ross	Yes
Patricia Rueppel	Yes
Stuart Werksman	Yes
Chairman George Longfellow	Yes

5:1 motion carried

Article #6

Revenues and deposit in Conservation Current Use fund

M. DiBietto motioned to recommend. Seconded by P. Rueppel

J. Hyde: This was previously recommended by Council and it was changed by the voters.

D. Ross: We are voting to put it back where it was when current use taxes were first instituted by the voters.

P. Rueppel: I support it because I was against the change last year.

Roll Call

Michael DiBietto	Yes
Jason Hyde	No
David Ross	Yes
Patricia Rueppel	Yes
Stuart Werksman	Yes
Chairman George Longfellow	No

4: 2 motion carried

Article #7

\$20,000 Fire department Air packs

M. DiBietto motioned to recommend. Seconded by D. Ross

Roll Call

Michael DiBietto	Yes
Jason Hyde	No
David Ross	Yes
Patricia Rueppel	Yes
Stuart Werksman	Yes
Chairman George Longfellow	Yes

5:1 motion carried

Article #8

\$50,000 Assessing Certification

M. DiBietto motioned to recommend. Seconded by D. Ross

Roll call vote unanimously in favor

Article #9

\$50,000 Park and Recreation Facilities development

M. DiBietto motioned to recommend. Seconded by S. Werksman

Roll Call

Michael DiBietto	Yes
Jason Hyde	No
David Ross	Yes
Patricia Rueppel	Yes
Stuart Werksman	Yes
Chairman George Longfellow	Yes

5:1 motion carried

Article #10

Town Building maintenance for #35,000

S. Werksman motioned to recommend. Seconded by D. Ross

Roll call vote unanimously in favor Roll Call

Article #11

Police contract (see attached detail of contract)

\$167,459.10 over 3-year period.

\$70,942 is the first year's appropriation, which is 6%.

M. DiBitetto motioned to recommend. Seconded by S. Werksman

Roll Call

Michael DiBitetto	Yes
Jason Hyde	No
David Ross	Yes
Patricia Rueppel	Yes
Stuart Werksman	Yes
Chairman George Longfellow	Yes

5:1 motion carried

Article #12

If #11 fails

D. Jodoin stated this will go on the warrant as written.

No action taken by Council

Article #13

Revolving fund for police special details

D. Ross motioned to recommend. Seconded by S. Werksman

Roll call vote unanimously in favor

Article #14

J. Hyde recommended removing the cola and give the Town Administrator a wage pool. What I'd like to see is a merit pool where the department heads give to their employees the amount deserved. It should be in the Administrators budget and not in a warrant.

M. DiBitetto: Is it too late to make change in the warrant articles that will significantly changing the nature of the warrant articles.

D. Jodoin: The Budget Committee has spoken in favor of such a change. If a change were made here, they could review it at their meeting tomorrow.

J. Hyde: The Budget Committee's fear was that this wouldn't be taken care of before the next vote and there would be no mechanism for giving the town employees a raise.

M. DiBitetto: This could be adjusted on the floor at the town meeting.

D. Jodoin: If this is in the budget, and we get a default, would I have the jurisdiction to shuffle funds?

D. Ross: We all recognize the need to change. Trying to set up a merit based wage pool would be good. We could do it in increments. Leave this warrant article, raise the sum of \$60,000 for pay increases which would be a cola of 2% and the remaining funds be used for a merit based fund. You will need to meet with the department heads to decide how to divide the money.

J. Hyde: Councilor Ross wanted to reword the article; we should scrap the entire article if we are going to reword it. We should call it a wage pool and put in 2 or 3 %. 2% of that is \$59,226. I suggest we ask the Town Administrator to come up with a merit-based system. I am loath to put any warrant articles in. Given the current system, if we don't put some warrant in a Warrant article, there won't be any money if there's a default. If we put it in the Administration line and if fails, we won't have anything.

M. DiBitetto stated it would be easy to change the current article to eliminate cola and add merit.

G. Kearney, Budget Committee Chair: The School District has two warrant articles which have 3.5 for non-classified and teachers getting 4.7% in the first year with 4.9 the second year and 3.5 the third year not including step for some teachers. The Budget Committee supported that and cut the Operating budget. Unfortunately, 66 people at the Deliberative Session put it back. We know that the Police Department has a contract, which gets 6% increase in the first year. We felt that a 2% cola was inadequate in a year where you are making the employees pay a larger portion of the insurance costs. We talked about a petition article by the Budget Committee to add to the town's portion of the Operating Budget. The Budget Committee doesn't like the cola because it's not tied to position or performance. We thought about a 3.5 merit pool as a warrant or in the budget which would be consistent with what other employees are getting and help with the increase in medical insurance. We hoped to influence the Town Council or get a petition warrant article.

J. Hyde: I would say that they are not going to be paying that additional health care cost until July and then we can hopefully get a better, less expensive plan. Doing it this way gives the department heads the ability to give one person 5% and another, less productive employee nothing.

G. Kearney: I agree and the 3.5 pool would allow them to go with merit but we feel 2% is unfair based on what other employees are being given.

M. DiBitetto: If we reword this to be merit-based pool, the money can be modified at the town meeting. The amount could be debated there.

J. Hyde: 2% is 59,226 with 25% benefits. 3.5 is 103,000 with benefits.

***D. Ross motioned to strike the last sentence in article #14 and appropriate the sum of \$60,000 for salaries and benefits to be set-aside in a wage pool for non-union town personnel. (Strike cola)
Seconded by S. Werksman***

Roll call voted unanimously in the affirmative.

Community Development

\$34,000 for traffic studies

D. Marshall: We are asking for \$34,000 for the entire plan. It could be done in stages but we recommend hiring a firm that could do the entire plan.

M. DiBitetto: We could add this back into the Planning Department's studies line.

D. Ross: My concern with this is I don't feel we've been completely understanding this. We were given this at first as a requirement. Then we find out that isn't necessarily true. The town planner said this wouldn't cover all of the plans. We have 6 years to spend the fees collected. We need a lean budget to get it passed. We're looking at the next 2 and 3 budget cycles.

J. Hyde: I thought we, as a Council had come to the conclusion at the last discussion that this was impeding and we had time next year to address this.

P. Rueppel: I voted no because we have a new planner coming on board and we should wait to see what they will do.

D. Marshall: This reminds me of past years when we wanted to draw sewer lines in anticipation of future business. But we only vote once a year. You say you have 6 years to spend. Do you know how many years it takes to get the plans going on a State highway? We will be dealing with State highways. If you think you have time you will run out quick. The Planning Board will go after these plans for \$34,000. If we can't do it, then we will have to wait. The RSA says to collect those funds you must use them solely for the purpose they were intended.

D. Ross: That doesn't say for specific plans. It's open ended. We are putting the cart before the horse.

D. Marshall: I have done what the Planning Board asked me to do. This town needs to start investing in its future. What I've seen in my years on the Planning Board is an unwillingness to do that.

M. DiBietto motioned to add \$34,000 to the Planning Department studies line for use of Impact fees within the impact fee corridors. Seconded by S. Werksman.

Roll Call

Michael DiBietto	Yes
Jason Hyde	No
David Ross	No
Patricia Rueppel	Yes
Stuart Werksman	Yes
Chairman George Longfellow	Yes

4:2 motion carried

***M. DiBietto motioned to create a line item for a reval under the assessor's budget and place \$1.00 in that line. Seconded by D. Ross
Roll call Vote unanimously in favor***

New bottom line 14,987,013 operating budget.

Conservation Commission

Steve Couture, Conservation Commission

Cost of community services committee

Requested additional bids and only received one response for \$11,500. The original proposal was \$5000 from Innovated Resource Solution

M. DiBietto motion to suspend the three-bid rule. Seconded by P. Rueppel

Roll Call

Michael DiBietto	No
Jason Hyde	No
David Ross	Yes
Patricia Rueppel	Yes
Stuart Werksman	Yes

Chairman George Longfellow Yes

4:2 motion carried

D. Ross motioned to accept the bid for \$5000. Seconded by P. Rueppel.

M. DiBietto: This money will come from the Conservation Commission Fund.

D. Jodoin: how much staff time will be needed?

S. Couture: 10 to 15 hours between everyone but more for departments with larger budgets. It will be coordinated through the Administrator and the department heads.

Roll Call

Michael DiBietto	Yes
Jason Hyde	Yes
David Ross	Yes
Patricia Rueppel	Yes
Stuart Werksman	Yes
Chairman George Longfellow	No

5:1 motion carried

Acquisition of Conservation Land

S. Couture: We are looking at 260 acres of land in the general area of Clay Pond. There are multiple lots. We are not looking for action from the Council but we are looking for a letter of intent from the developer. When we have that we can go into non-public and discuss this.

Health Insurance

P. Rueppel: Has a committee been formed to research health insurance.

D. Jodoin: April is the time to sit down with a consultant to do the study. We have \$7500 from prior years available to do this study. We will try and involve all departments in the study.

NEW BUSINESS

The Escrow Agreement received from Cabela's has been sent to the attorney. Each Councilor was asked by D. Jodoin to forward all concerns to him via e-mail so that they can be sent on to our attorney. A workshop will be scheduled at a later time to discuss issues.

P. Rueppel asked if the Council would entertain a TIF expert coming to give a seminar. By consensus, the Council agreed.

P. Rueppel suggested two people who will be contacted by the Town Administrator.

D. Ross motion for the Chairman to schedule a workshop to develop an agreement for the funds and have the TIF 101 presentation. Seconded by P. Rueppel.

D. Jodoin asked if you want anyone here from the State at that meeting.

D. Ross: That should be a separate meeting.

Tentatively schedule for March 7th and possibly the March 24th.

Roll call vote unanimously in the affirmative.

TOWN ADMINISTRATOR'S REPORT

D. Jodoin thanked Liz Dionne for being part of the Friends Program

The Department of Revenue has just released the Towns ratio study and we are at 83.7%

A letter was received from Representative D. Hess on the Cabela's presentation.

Al Dionne is being recommended as deputy health officers because he is local and can respond on nights and weekends.

***D. Ross motioned to give the Administrator the authority to assign Al Dionne as deputy health officer. Seconded by M. DiBitetto.
Roll call vote unanimously in favor***

NON-PUBLIC SESSION per RSA 91- A:3 II (b) The hiring of any person as a public employee.

Roll Call Unanimous

ADJOURNMENT

Respectfully submitted,

Lee Ann Moynihan

Jason M. Hyde
Town Council Secretary