

**TOWN COUNCIL
AGENDA
April 02, 2007**

The Town Council meeting will be held in the Moose Hill Council Chambers, Town Hall, 268B Mammoth Road, Londonderry. **Scheduled agenda times are advisory only.** Regular meetings are cablecast live and videotaped for the convenience of our viewers at home.

- 7:00 PM I. CALL TO ORDER
- 7:01 PM II. PUBLIC COMMENT
- A. Introduction of Mark Tetreault, Fire Prevention Officer
- B. Scott Knox, Trustee of the Trust Fund candidate
- C. Sarah MacGregor, Dragon Mosquito
- 7:45 PM III. OLD BUSINESS
- 7:50 PM IV. NEW BUSINESS
- A. Resolution 2007-21 – Relative to the Appointment of a Deputy Treasurer
- B. Order 2007-09 – Relative to the Administration of Highway Impact Fees
- 8:00 PM V. APPROVAL OF MINUTES
- A. Minutes of the Council’s March 19, 2007 Public Meeting and Organizational Meeting of March 26, 2007.
- 8:05 PM VI. OTHER BUSINESS
- A. Liaison Reports
- B. Town Manager’s Report
- C. Board/Committee
- Appointments/Reappointments/Resignations
1. Appointment of John Weigler to an Ad Hoc position on the Housing Task Force
2. Appointment of Giovanni Verani to an Ad Hoc position on the Housing Task Force
- 8:20 PM VII. ADJOURNMENT

MEETING SCHEDULE:

- A. Town Council, April 16 @ 7:00 PM, Moose Hill Council Chambers
- B. Town Council, May 7 @ 7:00 PM, Moose Hill Council Chambers
- C. Town Council, May 21 @ 7:00 PM, Moose Hill Council Chambers

RESOLUTION #2007-21

A Resolution Relative to the
APPOINTMENT OF A DEPUTY TOWN TREASURER

First Reading: 04/02/07
Hearing/Second Reading: waived
Adopted: XX/XX/XX

WHEREAS RSA 41:29-a allows the appointment of a Deputy Town Treasurer, who performs all duties of the treasurer in his absence; and,

WHEREAS Said appointment by the Town Treasurer requires the confirmation of the Town Council; and,

WHEREAS the Town Treasurer has appointed John Conley to continue as Deputy Treasurer during the Treasurer's new term of office;

NOW THEREFORE BE IT RESOLVED by the Town Council of the Town of Londonderry, that John Conley is hereby confirmed as Deputy Town Treasurer in accordance with RSA 41:29-a, effective upon passage of this resolution.

Joseph Paradis - Chairman

A true copy attest:

Marguerite A. Seymour - Town Clerk/Tax Collector
Dated: 04/02/07

(TOWN SEAL)

ORDER 2007-09

An order relative to

The Administration of Highway Impact Fees

First Reading: 04/02/07

Second Reading: Waived

Adopted: 04/02/07

WHEREAS

the Town of Londonderry by adoption of Zoning Article No. 110 at the Annual Town Meeting on March 10, 1994, added Section X - Impact Fees to the Zoning Ordinance (since revised to Section XIII) which provides for the assessment, collection, and administration of Impact Fees; and

WHEREAS

the Zoning Ordinance allows the Town Council to issue orders to the Town Treasurer for the expenditure of such impact fees collected for Rte. 102 Corridor improvements; and

WHEREAS

Elliot Hospital is constructing a medical facility on Buttrick Road which requires improvements to Rte. 128/Buttrick Road and Rte. 102/Rte. 128 intersections in the amount of \$290,000.00; and

WHEREAS

Elliot's impact fee as calculated pursuant to town policies and ordinances would have totaled \$240,752.86; resulting in an actual expenditure greater than the required impact fee;

NOW THEREFORE BE IT ORDERED by the Londonderry Town Council that Elliot Medical Center be awarded a full credit to their traffic impact fee amount of \$240,752.86.

Joseph Paradis - Chairman
Town Council

Marguerite Seymour - Town Clerk/Tax Collector

(TOWN SEAL)

A TRUE COPY ATTEST:
04/02/07

TOWN COUNCIL/BUDGET MEETING
March 19, 2007

The Council Meeting of March 19, 2007 was called to order at 7:08 PM in the Moose Hill Conference Room, 268B Mammoth Road, Londonderry, NH.

PRESENT: TOWN COUNCIL; Chairman, Brian Farmer; Vice Chairman, Joe Paradis; Councilors Mark Oswald; Tom Dolan, Marty Bove; Town Manager David Caron; and Margo Lapietro, Executive Assistant.

CALL TO ORDER

Chairman Farmer opened the meeting at 7:08 PM with the Pledge of Allegiance. This was followed by a moment of silence for the men and women in the service and for those who have given their lives for this country.

Chairman Farmer explained the RSA's and procedures for the tie vote for the Council seat. A recount of the votes for Mary Soares and himself will be done on Tuesday 3/20/07 at 7:00 PM. He stated that he would not pursue a legal ruling for the tie votes.

PUBLIC HEARING

Councilor Bove made a motion to open public hearing. Second by Councilor Paradis. Council's vote 5-0-0.

Order 2007-03 – Relative to the Licensing of a Junkyard Pursuant to RSA 236 – Murray's Auto Recycling. **Town Manager Caron explained the three major issues brought up at the last hearing**

- 1. Contamination of abutting property wells**
- 2. Site Plan**
- 3. Fencing**

Councilor Paradis directed Mr. Dudek to resolve the fence issue. Al Baldasaro, 41 Hall Rd. stated Mr. Dudek has done everything possible to adhere to requirements stipulated by the Town and State. He has a right to conduct his business, this has to stop, don't rehash, he is an honest man. Claudette & Gerard Adams, 54 Hall Road stated they were not intentionally harassing the man but he signed an agreement in 2000 and the stipulations in that agreement are still pending. They wanted to know when those violations will be enforced. Mrs. Adams stated he is in contempt of court for the past seven years. She questioned the 5 contaminated wells. Town Manager Caron stated that the purpose is to monitor the groundwater until the tests show that the wells are clear. Chairman Farmer asked Town Manager Caron if the site plan mitigates the soil, he responded that it was his understanding that contaminated soils were to be removed during the construction of his new building. Mrs. Adams had some suggestions including moving the business over to new site of

proposed fire station. Chairman Farmer stated that was not financially possible, Town has considerable money invested in the site and intent was to still try to put a fire station there. Her next suggestion was to have Mr. Dudek use the crusher at Rockingham or S&S Metals. Chairman Farmer stated that would be a business decision by Mr. Dudek. Her last suggestion was to postpone the license until he reduces the pile of cars that can be seen over the fence. Chairman Farmer stated that was a good idea. Gerald Adams wanted to clarify something. He said he lives across from the junkyard, A. Baldasaro lives down the street, and he resented A. Baldasaro grandstanding his political position with this issue. Councilor Dolan said no personal confrontations are allowed. G. Adams stated he has collected newspaper articles every year that allow Mr. Dudek more time to stop violations and nothing has been done. Hours of operation were questioned. Frank Holdsworth, Code Enforcement Officer said hours are Monday - Saturday 8-5. G. Adams stated that the agreement in 2000 stated the hours on Saturday were 9:00 AM - 1:00PM. Chairman Farmer suggested that when the expansion goes to the Planning Board have them consider hours of operation. Mary Soares, 17 Gale Road said Council has the option to set the hours. Councilor Dolan questioned Town Manager Caron who responded the application is for a used car dealer and those are the hours for that issue; the application does not restrict hours of junkyard license. Ed Dudek responded the hours on the used car application are for the minimum amount of hours that you are open. He explained that for the past year, March of 06 – 07 he was open maybe twice on Sundays. Trailer trucks have not come before 7:00 AM this past year. F. Holdsworth stated last year's license said he could be open from 8AM-5PM on Saturdays. Chairman Farmer said that mid Sept. of 06 he spoke on the phone with a neighbor complaining about noise prior to 7:00 AM. Richard Bielinski, 89 Hall Rd. talked about fabric fencing. Fencing is a state requirement for all junk yards. Wants written agreement for fencing, when it is a windy day, the fabric fence is blowing and you can see through. Cars are higher over fence than they were two weeks ago. No site plan for parking lot, town did not ask him to put it in, and all they did was ask him to grade it. Councilor Dolan moved the question. Councilor Oswald said he has two items: 1) Have an addendum stipulating 90 days to address the fence on the east side of the property. Keep it from flapping in the breeze. 2) define what process we go through for alleged code violations 24/7, how they are reported and what is a reasonable time frame. Councilor Bove said he has sat here for 7 years and all the junkyards have all done a lot to improve their properties. We only hear complaints once a year; Mr. Dudek has a whole year to keep violations going until he comes up for re-licensing. Code Enforcement Officer should enforce the fines; need to enforce all the ordinances fairly and equally. He stated he won't vote to support this until enforced. Councilor Dolan stated he has also been looking at this for 7 years, and explained the beginning of the process pre-dated a code enforcement officer. Since we have had him we have seen a great improvement, propose a motion to accept and pass the licensing contingent on:

Improve fence on easterly side of property and the junkyard conducting its business hrs. as specified by periodic audit of the town throughout the years. Second Councilor Oswald.

Open for discussion, Councilor Paradis stated the conditions are already in the Order. Councilor Dolan stated he wanted them listed in this year's condition. Councilor Oswald said he would like to have a "not to exceed date" listed. Councilor Bove asked for clarification of enforcement and fines. F. Holdsworth said it is \$275/day and Mr. Dudek was fined in the past. He also stated he has to witness the violation. Mr. Adams has been given the number of Skip's towing to call if he sees cars parked overnight outside the fence; Mr. Dudek is responsible for towing costs. Councilor Paradis said it was not unreasonable, the neighbors had a right to a quiet neighborhood. Councilor Dolan withdrew his motion, Councilor Oswald withdrew his second. Councilor Bove asked Mr. Dudek why the cars were over the fence, Mr. Dudek said waiting for the crusher to show up. Councilor Dolan made a motion to approve on the following conditions:

1) Reach a written agreement to approve fence on east from Mammoth and west from Harvey by 4/19/07 and to have the fence in place by 6/19/07 2) Contingent on the junkyard conducting its business during the following specified operating hours of 8:00 AM -5:00 PM daily, 8:00 AM – 1:00 PM Saturday and closed Sunday 3) and as determined and reported by periodic audit by the Town during the period of license. Second by Councilor Oswald. Councilor Paradis discussed raising the height of the existing mesh fence. Mr. Dudek said there is a section westerly from Harvey he will add mesh fencing in the spring. On the east, he will double up the mesh and see how it works. Chairman Farmer said all of these changes need to be documented in the site plan, basically documenting what is there and what is expected to be there and asked for verification from Jim Smith, Building Inspector. He replied first part of any site plan is existing condition; second part of site plan is what is going to be done to improve it. This site plan deals with the building to enclose the dismantling area, prime object of the upcoming site plan. Anything in addition or over and above that would be up for discussion Chairman Farmer said the Planning Board would have the prevue to have these types of conditions entered in on the site plan as well so they can track and follow the property, is that correct? J. Smith responded you would need a lawyers opinion on that, exactly how far they can go. At this point F. Holdsworth asked for clarification of the dates of 4/19/07 and 6/19/07. Councilor Dolan asked Town Manager Caron if at that point we have the ability to void a license, he responded yes as it is conditional. He will put Mr. Dudek on the agenda for 4/16/07. Town Manager Caron stated that one of the issues that the Council is delegating to Staff to correct the problem, but the Staff is not the approving body as the licensee; therefore staff will return to the Council on 4/16/07 to share the proposed resolution to see if it receives the approval of the Council. Chairman Farmer stated that this is a conditional approval tonight as the motion was a conditional approval with those dates in mind, comes back to the Council on 4/16/07. J. Smith cautioned the height of the fence might not structurally work out considering wind speeds. It was suggested to put cutouts in the mesh to allow wind to pass through the barrier. Chairman Farmer said to come back with that issue on 4/16/07. Mr. Dudek said he could make it one pile less after these cars are picked up, used to be 8 cars high now 4 cars high. Councilor Dolan said if we are limited by the height of the fence due to structural constraints, turn back to the owner and say because of that, we are not agreeing the cars can be indefinitely high, adjust

accordingly. **Chairman Farmer stated the motion is amended to include appropriate fencing on the east and west sides, hours of operation will be fixed at M-F 8:00AM – 5 PM, Saturday 9:00 AM – 1:00 PM, (Saturday hours quoted by Farmer differ from hours on amendment by Dolan). Written agreement will be back here on 4/16/07, and date for implementing changes will be 6/19/07. Councils' vote 5-0-0**

Councilor Oswald made a motion to close the public hearing. Second by Councilor Dolan. Councils' vote 5-0-0

PUBLIC COMMENT

Reed Paige Clark, III, 79 Stonehenge Rd. asked for an update to planned construction at the intersection of Stonehenge/Litchfield Rd. by the State. Town Manager Caron replied the State is looking at Fall,08 or Spring,09. R. Clark stated the blinking lights not working most of today at that intersection.

Councilor Dolan reminded the townspeople that Town Meeting was rescheduled for this Saturday, 3/24/07 at 9:00 AM.

Reed Paige Clark, III, announced that he will not be able to make Town Meeting next week and asked people to get involved.

OLD BUSINESS

None

NEW BUSINESS

Resolution 2007-14 – Relative to the Sanctioning of the Londonderry United (Youth travel soccer) – Councilor Bove read the first and waived the second reading made a motion to adopt. Second by Councilor Oswald. Council's vote 5-0-0.

Resolution 2007-15 – Relative to the Sanctioning of the Londonderry Youth Lacrosse Association - Councilor Bove read the first and waived the second reading made a motion to adopt. Second by Councilor Oswald. Council's vote 5-0-0.

Resolution 2007-16 – Relative to the Sanctioning of the Londonderry Coed Softball – Councilor Bove read the first and waived the second reading made a motion to adopt. Second by Councilor Oswald. Council's vote 5-0-0.

Resolution 2007-17 – Relative to the Sanctioning of the Londonderry Men's Softball League – Councilor Bove read the first and waived the second reading made a motion to adopt. Second by Councilor Oswald. Council's vote 5-0-0.

Resolution 2007-18 – Relative to the Sanctioning of the Londonderry Men Recreation Softball - Councilor Bove read the first and waived the second reading made a motion to adopt. Second by Councilor Oswald. Council's vote 5-0-0.

Resolution 2007-19 Relative to the Sanctioning of the Londonderry Presbyterian Church Softball - Councilor Bove read the first and waived the second reading made a motion to

adopt. Second by Councilor Oswald. Council's vote 5-0-0.

Resolution 2007-20 – Relative to an Agreement for the Placement of a Cellular Tower on Town Property – Councilor Paradis made a motion to accept first reading, second reading waived. Second by Councilor Oswald. **Open for discussion. Councilor Bove asked Town Manager Caron for a date when it would be complete. He responded the application is subject to the ZBA and Planning processes; when all approvals (including FAA) are received, construction should begin in 60 days. Chairman Farmer asked if the payments were going into the General Funds. He responded yes. Chairman Farmer then asked him if future Councils can divert this money to other areas. He responded only through a vote at Town Meeting. Councils' vote 5-0-0.**

Staffing Levels – Cable Division – **Dottie Grover said that Training Coordinator Amber Ward accepted a position in Minnesota, and her last day at the Londonderry Access Center was 4/27/07. Town Manager Caron explained that this position was directly related to level of service. He requested direction as to whether to fill position or alter the level of services offered by the Cable Division. Dottie said this position is crucial for training purposes. John Robinson, 13 Elwood Rd. praised the quality and expertise and professionalism of Amber. Councilor Bove said her passion for what she does shows, community will miss her, she has taught a lot of people a lot of things, her legacy will stay. D. Grover said the plan is to have a new person transition to learn what Amber has been doing. Councilor Dolan made a motion to allow the Town Manager to replace this position under the auspices of paying out of cable funds. Second Councilor Oswald. Vote 5-0-0.**

APPROVAL OF MINUTES

Councilor Dolan made a motion to accept the Public Meeting Minutes of 3/05/07. Second by Councilor Oswald. Council's vote 3-0-2.

OTHER BUSINESS

Liaison Reports - Councilor Bove attended the Southern NH Hazemat Committee, they had a quorum and changed their by-laws. Town can now appoint an alternate with operations people on the board. Up to individual communities who the alternate is, they can fill in for the Board of Directors. District grew to 16 members therefore 9 required for a quorum. We currently pay a flat fee of \$5K to belong as a lot of small communities currently do. Operating Budget is \$80K, and entity receives grants, etc. They have hundreds of thousands of dollars of equipment, equal to a small fire department. They need someone to maintain the equipment, now being done on a volunteer basis. Looking for a part-time person to fill that position. The I-93 abutters are the ones that mainly benefit from the services of this group. The larger communities need to increase their contribution, using population census to come up with prices. Price increase won't affect our budgets yet. Councilor Oswald asked if they looking at incidents rates? Councilor Bove stated there is a new law that lets them go after people who cause spills. He said

with the State widening the road, will have more accidents. They want to hire person to go after funding for the project. Will continue updating the Council.

Councilor Paradis attended Elder Affairs meeting, they are on top of the Joe DeCarolis project.

Chairman Farmer attended the Arts Council. They are contemplating moving their meetings from the first Tuesday of month to the second Wednesday. When finalized Council will be notified. Old Home Day met last week, few changes in parade participants, fire works display shifting.

Councilor Dolan met with the Recreation Commission worked on sanctioning efforts. He stated he would like to stay on Merrimack Water District and asked Council if he could volunteer his time to continue attending those meeting. He stated it meets in the Town of Bedford Cable Studio and there no reimbursement requests. Council unanimously agreed.

Councilor Oswald stated Conservation Commission will meet next week. Addressing review of priorities because Open Space bond failed. Leadership Londonderry will meet this Thursday, Public Safety will meet week after next.

Town Manager's Report: School. District was gracious to move events for the Town's use of Cafeteria for this Saturday's Annual Town Meeting. Recount for the Council seat is scheduled for Moose Hill Chambers tomorrow night at 7:00 PM. All officials elected at Town Meeting, except for the Council members need to be sworn in by Friday. You cannot be sworn in until 5 days after the election which coincides with the expiration of the recount period. Charter requires that those officials to be sworn in no later than ten days after the election. Separate Charter provision which states that the Councilors will be sworn in at the end of the Budgetary Town Meeting. That can't happen this year because there is a five day appeal period for the recount, so can't be sworn in during that appeal period. It ends on a Sunday night, will be able to swear in the successful Town Councilors on the following Monday.

Board/Committee Appointments/Reappointments/Resignations

None.

ADJOURNMENT

Councilor Oswald made a motion to adjourn at 8:50 PM. Second Councilor Dolan. Councils' vote 5-0-0.

Notes and Tapes by: Margo Lapietro Date: 3/19/07

Minutes Typed by: Margo Lapietro Date: 3/21/07

Approved:

Town Council

Date:

MEETING SCHEDULE:

Town Council, April 2 @ 7:00 PM, Moose Hill Conference Chambers

Town Council, April 16 @ 7:00 PM, Moose Hill Council Chambers

Town Council, May 7 @ 7:00 PM, Moose Hill Council Chambers

Town Council, May 21 @ 7:00 PM, Moose Hill Council Chambers