

**TOWN COUNCIL
AGENDA
January 7, 2008**

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. | <u>CALL TO ORDER – PUBLIC SESSION</u> |
| 7:01 PM | II | <u>PUBLIC HEARING</u> <ul style="list-style-type: none">A. FY09 Town BudgetB. Ordinance #2007-12 – Relative to the Establishment of a Code of Ethics (Cont. from December 17)C. Resolution 2007-35 – Relative to the Adjustment of Building and Other Fees |
| 8:30 P.M. | III. | <u>PUBLIC COMMENT</u> <ul style="list-style-type: none">A. Chris Davies |
| 8:45 PM | IV. | <u>OLD BUSINESS</u> <ul style="list-style-type: none">A. Collective Bargaining UnitsB. Staffing Levels - DPW |
| 9:00 PM | V. | <u>NEW BUSINESS</u> <ul style="list-style-type: none">A. FY09 Bond IssuesB. Ordinance #2008-01 – Relative to Amendments to the Zoning OrdinanceC. Order #2008-01 – Relative to Expenditure from Capital Reserve FundsD. Ordinance #2008-02 – Relative to the Penalty Provision for Municipal OrdinancesE. Order #2008-02 – Relative to the Expenditure of Highway Impact Fees for Additional Traffic Studies |
| 10:15 PM | VI. | <u>APPROVAL OF MINUTES</u> |

- A. Minutes of the Council's December 17, 2007 Non-Public and Public Meetings and December 20, 2007 Non-Public and Public Meetings.

10:20 PM

VII. OTHER BUSINESS

- A. Liaison Reports
- B. Town Manager's Report
- C. Board/Committee
 - Appointments/Reappointments/Resignations
 - 1. Appointment of Chris Davies to an Alternate Position on the Planning Board, term to end 12/31/10.

10:30 PM

VIII. ADJOURNMENT

MEETING SCHEDULE:

- A. Town Council, January 21, 2008 @ 7:00 PM, Moose Hill Council Chambers – Council Meeting (Bond Public Hearing – FY09 Budget)
- B. Town Council, February 4, 2008 @ 7:00 PM, Moose Hill Council Chambers – Council Meeting
- C. Town Council, February 7, 2008 @ 7:00 PM Moose Hill Council Chambers – Council Meeting (Final Public Hearing – FY09 Budget & Warrant)
- D. Town Council, February 18, 2008 @ 7:00 PM, Moose Hill Council Chambers – Council Meeting

Introduced: 11/05/07
Second Read: 11/19/07
Public Hearing: 12/03/07
2nd Public Hearing: 12/17/07
3rd Public Hearing: 1/7/08
Adopted: XX/XX/XX

ORDINANCE 2007-12
*AN AMENDMENT TO THE MUNICIPAL CODE,
CHAPTER XXVI, CODE OF ETHICS*

WHEREAS there is a need to establish guidelines for the ethical standards of conduct for Town Officials, Board Members and Employees:

WHEREAS it is important that the public have confidence in the integrity of its government and that Town Officials, Board Members, Volunteers and Employees have an opportunity to protect their personal reputation;

WHEREAS the Town Council has the authority pursuant to state statute and Town Charter to enact such regulations;

NOW THEREFORE BE IT ORDAINED by the Town Council of the Town of Londonderry that the Municipal Code of the Town of Londonderry, Chapter XXVI Code of Ethics, is hereby amended as attached.

Joseph Paradis
Chairman - Town Council

A TRUE COPY ATTEST:

Marguerite Seymour - Town Clerk

xx/xx/xx

Town Seal

CHAPTER XXVI CODE OF ETHICS

SECTION I PURPOSE

The purpose of this code is to establish guidelines for the ethical standards of conduct for town officials, board members and employees.

- It is expected that our public servants and volunteers to act in the best interest of the town.
- It is expected that town officials, board members and employees to disclose any personal, financial or other interests in matters affecting the town which come before them for action.
- It is expected that town officials, board members and employees to remove themselves from decision making if they have a conflict of interest or even the appearance of one.
- It is expected that town officials, board members and employees to be independent, impartial, and responsible to their fellow townspeople in their actions.
- It is expected that the town's official decisions and policies be made through the proper channels of government.
- It is expected that public office or a volunteer position in our town not be used for personal gain.

It is important that the public have confidence in the integrity of its government and town officials, board members, volunteers and employees have an opportunity to protect their personal reputation.

This code establishes a process by which one may obtain guidance regarding potential ethical issues and it establishes a course of action for resolving disputes in a manner that is fair to all of the parties involved.

CHAPTER XXVI CODE OF ETHICS (Cont'd.)

SECTION II CODE PROVISIONS

A. No Conflicts of Interest

Officials, board members and employees of the Town of Londonderry shall avoid conflicts of interest.

As a town official, board member or employee, you shall not participate in any matter in which you, or a member of your family, have a personal interest which may directly or indirectly affect or influence the performance of your duties. In such instances, you shall recuse yourself from discussion and decision-making.

Recusal means to withdraw from participation in a matter in one's official capacity.

Officials, board members or employees who have been recused shall immediately leave the room or shall seat themselves with the other members of the public who are present. When recused, you shall not participate in further discussions, unless you clearly state for the record that you are doing so only as general member of the public. As a recused person, you shall not deliberate or vote on the matter in question.

Town officials, board members or employees, or members of their families having professions outside their relationship with the Town that routinely do business with the Town of Londonderry or within the town limits, shall not participate in any non public meetings of land use boards or committees where information that is divulged by any means may provide them with any information that can be used for personal or professional gain in the conduct of their profession above and beyond what is routinely available to all other members of the public.

Town officials, board members or employees, or members of their families having professions outside their relationship with the Town that routinely do business with the Town of Londonderry shall not be awarded any work, of any value, except that it be done through a complete and open competitive procurement process as set forth in Municipal Code, Title VI, Chapter VI, Public Purchasing .

CHAPTER XXVI CODE OF ETHICS (Cont'd.)

SECTION II CODE PROVISIONS (Cont'd.)

B. A Duty to Recuse in Quasi-Judicial Actions

A "quasi-judicial action" is any action where the board or committee you are a member of is acting like a judge or a jury. For example, when your board or committee has a duty to notify the potential parties, hear the parties, and can only decide on the matter after weighing and considering such evidence and arguments as the parties choose to lay before you, you are involved in a quasi-judicial action. The work of the planning and zoning boards is largely quasi-judicial.

Not only do officials, board members and employees of the Town of Londonderry have a duty to recuse themselves as outlined in the section above, you must recuse yourself in a quasi-judicial action if you would not be qualified to sit as a juror in that case.

For example, jurors are not qualified to sit in a case if they have advised or assisted either party in a matter being decided, are prejudiced to any degree regarding the pending matter, or believe they cannot for any reason be totally fair and impartial. As a representative of the Town of Londonderry, you are expected to hold yourself to this same standard.

C. No Unfair Personal Use of Town Property

No official, board member or employee of the Town of Londonderry shall use town property, services, or labor personally, or make the same available to others *unless* such use is available to other residents upon request on equal terms.

D. No Misuse of Confidential Information

No official, board member or employee of the Town of Londonderry shall use any confidential information acquired by virtue of that individual's official position for personal benefit, or for the benefit of any other person or business. This does not apply to information which is readily available to the general public.

CHAPTER XXVI CODE OF ETHICS (Cont'd.)

SECTION II CODE PROVISIONS (Cont'd.)

In addition, no official, board member or employee of the Town of Londonderry shall violate the privacy of others by publicizing, gossiping, or discussing information confidentially acquired in the course of official duties without a legitimate reason to do so.

E. No Improper Gifts

No official, board member or employee of the Town of Londonderry shall accept a gift (or allow acceptance of such gift by a family member) from any individual, group, or corporation which has *or is likely to have* a matter pending before the board, committee, or commission on which the official or employee serves.

This provision of the code is not meant to apply to gifts of minimal value traditionally exchanged at holidays or birthdays, for example.

F. A Duty to Cooperate

All officials, board members and employees of the Town of Londonderry shall cooperate with the Ethics Committee regarding any complaint or inquiry alleging violation of this Code of Ethics.

G. Fair and Equal Treatment

Acting in their official capacity, all officials, board members and employees of town government shall give each and every person fair and equal treatment. No official, board member or employee shall in the course of their official duties give or deny any person special consideration, advantage, or treatment as a result of the person's public status, position, sex, race, religion, creed, sexual orientation, or national origin.

SECTION III DEFINITIONS

As used in this ordinance, the following terms shall have the meanings indicated:

- A. Appointing Authority:** The Authority which is responsible for the conduct of its appointees and for the administration of this Code as it applies to its appointees. For Town Employees, the Appointing Authority is the Town Manager; for the Town Manager and appointed board, committee and commission members, it is the Town Council; for elected officials, it is the registered voters of the community.
- B. Board:** Any board, committee or commission, permanent or special, established by the Town Charter or Town Council under New Hampshire law.
- C. Complainant:** A resident of the Town of Londonderry who has submitted a petition to the Appointing Authority requesting an inquiry or alleging a violation of the Code of Ethics.
- D. Conflict of Interest:** A situation, circumstance, or financial interest which has the potential to cause a private or personal interest to interfere with the proper exercise of a public duty.
- E. Employee:** A person who is paid by the Town of Londonderry for his/her services, but who is not an independent contractor.
- F. Family:** Any person who is related to the official, board member or employee in one of the following ways: spouse, parent, grandparent, child, grandchild, sibling, or similar relation to the individual's spouse. This includes all persons who are members of the same household as the official, board member or employee in question, regardless of whether they are related by blood or marriage.
- G. Interest:** Any legal or equitable right, share, or claim, whether or not subject to an encumbrance or a condition, which is owned or held, in whole or in part, jointly or severally, including but without limitation, a right, share or claim to land.
- H. Official:** Any elected or appointed officer, board member, or agent of the Town of Londonderry.
- I. Principals:** Those people who are the subject of the action or application which is before the board.
- J. Public Servant:** A person who serves the Town of Londonderry in an official capacity, whether elected or appointed, paid or unpaid. A town official, board member or employee.

CHAPTER XXVI CODE OF ETHICS (Cont'd.)

SECTION III DEFINITIONS (Cont'd.)

- K. Recuse:** To withdraw from participation in a matter in one's official capacity.
- L. Respondent:** An official, board member or employee named in a petition submitted to the Ethics Committee as an inquiry or alleging a violation of the Code of Ethics.
- M. Resident:** A resident of the Town of Londonderry.
- N. Quasi-judicial Action:** Any action where the board or committee has a duty to notify the potential parties, hear the parties, and can only decide after weighing and considering such evidence and arguments as the parties choose to lay before them.
- O. Town:** The Town of Londonderry, including all of its departments, boards, commissions, and committees.

SECTION IV EXCLUSIONS

The provisions of this Code of Ethics shall not be interpreted so as to bar:

- A. Any official, board member or employee who is a resident of the Town of Londonderry from fully participating in any Town Meeting;
- B. Acceptance of donations for the expressed purpose of financing a political campaign, provided such contributions are reported in accordance with all local, state and federal laws which pertain to such donations;
- C. Participation in a matter which relates to a person or business from which an official, board member or employee has merely purchased goods or services, if the individual in question has no other conflict of interest relating to that person or business;
- D. Police officers, fire fighters, and other emergency personnel from acting in the course of their official capacities when responding to emergencies in accordance with the rules and regulations of their departments; and,
- E. Supervisors of Town employees from appropriately carrying out personnel policies.

~~End of Chapter~~

CHAPTER XXVI CODE OF ETHICS

SECTION I PURPOSE

The purpose of this code is to provide an educational tool and to establish guidelines and community expectations for the ethical standards of conduct for town officials, board members and employees. 11

- Town officials, board members and employees (defined as an elected town official, a volunteer appointed by the Town Council, and a person who is an employee of the Town, one who is paid for their service, but who is not an independent contractor -individually and collectively know hereafter as Community Officials) shall act in the best interest of the town. 10
- Community Officials shall remove themselves from decision making if they have a conflict of interest. (A conflict is when a Community Official votes or acts on a matter in which they have a direct, immediate and definite personal and pecuniary interest, which is capable of being demonstrated.) 1,8
- Community Officials shall be impartial, and responsible to the community in their actions. 10,11
- The town's official decisions and policies shall be made through the proper channels of government as established by the Town Charter and Ordinances, and State Statutes. 1,8
- Public office, a volunteer position or town employment shall not be used for personal gain. 1,7,8,9,10

This code establishes guidelines and expectations regarding potential ethical issues, and it establishes a course of action for bringing complaints.

SECTION II CODE PROVISIONS

B. No Conflicts of Interest

Community Officials of the Town shall avoid conflicts of interest. In such instances, you shall recuse yourself from discussion and decision-making. (Recusal means to remove yourself completely from all further participation in the matter in question.) 1,8

CHAPTER XXVI CODE OF ETHICS (Cont'd.)

SECTION II CODE PROVISIONS (Cont'd.)

A. No Conflicts of Interest (Cont'd.)

Community Officials or members of their families having professions outside their relationship with the Town that routinely do business with the Town of Londonderry shall not be awarded any work, of any value, except that it be done through a complete and open competitive procurement process. (Family is defined as a Community Official's lineal ascendant, lineal descendants, siblings and offspring, a Community Official's spouse, the spouse's lineal ascendants, lineal descendants, siblings and offspring.) 2,8,9

B. A Duty to Recuse in Quasi-Judicial Actions

A "quasi-judicial action" is any action where the board or committee you are a member of is acting like a judge or a jury. For example, when your board or committee has a duty to notify the potential parties, hear the parties, and can only decide on the matter after weighing and considering such evidence and arguments as the parties choose to lay before you, you are involved in a quasi-judicial action. The work of the planning and zoning boards is largely quasi-judicial. Community Officials are expected to recuse themselves if a conflict exists or if they believe they cannot for any reason be totally fair and impartial. 1,9

C. No Unfair Personal Use of Town Property

No Community Official shall use town property, services, or labor personally, or make the same available to others *unless* such use is available to other residents upon request on equal terms. 3,7,8

D. No Misuse of Confidential Information

No Community Official shall use any confidential information acquired by virtue of that individual's official position for personal benefit, or for the benefit of any other person or business. This does not apply to information which is readily available to the general public. 4,8,10

CHAPTER XXVI CODE OF ETHICS (Cont'd.)

SECTION II CODE PROVISIONS (Cont'd.)

E. No Improper Gifts

No Community Official shall accept a gift (or allow acceptance of such gift by a family member) from any individual, group, or corporation which has *or is likely to have* a matter pending before the board, committee, or commission on which the Community Official serves. (This provision of the code is not meant to apply to gifts traditionally exchanged between family members, or for those gifts normally exchanged during the holiday season with a value of less than \$50.00.) 5,8,9

SECTION III REPORTING PROCESS

Any resident of the Town who believes that a Community Official has violated this Ordinance may report the alleged violation to the Community Official's Appointing Authority using the attached form. The Appointing Authority is:

- A. For all employees, the Town Manager ¹³
- B. For the Town Manager, the Town Council ¹³
- C. For all appointed board, committee and commission members, the Town Council ¹²
- D. For a member of an Elected Body, the Elected Body on which the member serves. The elected body has no disciplinary authority over the actions of its individual members. Citizens, however may utilize Section 7.6 of the Town Charter, Recall of Officeholders. ⁶

The Appointing Authority shall investigate alleged violations and act as appropriate within the procedures established within state statute, the Town's Personnel Policy and/or Collective Bargaining Agreements.

CHAPTER XXVI CODE OF ETHICS (Cont'd.)

SECTION IV EXCLUSIONS

The provisions of this Code of Ethics shall not be interpreted so as to prevent:

- A. Any Community Official who is a resident of the Town of Londonderry from fully participating in any Town Meeting;
- B. Acceptance of donations for the expressed purpose of financing a political campaign, provided such contributions are reported in accordance with all local, state and federal laws which pertain to such donations; 9
- C. Participation in a matter which relates to a person or business from which a Community Official has merely purchased goods or services, if the individual in question has no other conflict of interest relating to that person or business;
- D. Police officers, fire fighters, and other emergency personnel from acting in the course of their official capacities when responding to emergencies in accordance with the rules and regulations of their departments; and,
- E. Supervisors of Town employees from appropriately carrying out personnel policies.

Employees and volunteers under the direction of the Leach Library Board of Library Trustees, and Community Officials elected, hired or appointed by the Londonderry School District, School Board and/or Superintendent are not subject to the provisions of this code.

This Code is adopted pursuant to RSA 31:39-a; which requires that affected officers and employees shall be exempt from the provisions of this Ordinance. The exemption shall be for a period no less than one year. As all of this Code's provisions are rooted in current state statutes or current local ordinance, this provision does not allow community officials to rely upon the exemption and disregard the underlying regulation.

Annotations:

- 1. Town Charter, Article 6, Conduct of Officials**
- 2. Town Charter, Section 6.3 Disqualification from Decision Making Process**
- 3. Town Charter, Section 6.4 Private Use of Town Property and Personnel**
- 4. Town Charter, Section 6.7 Misuse of Information**
- 5. Town Charter, Section 6.5 Acceptance of Gifts and Gratuities**
- 6. Town Charter, Section 7.6 Recall of Officeholder**
- 7. Municipal Code, Title VI, Chapter XXV, Fraud Policy**
- 8. Municipal Code, Title VI, Chapter VI, Section X Ethics in Public Purchasing**
- 9. RSA 640 Corrupt Practices**
- 10. RSA 643 Abuse of Office**
- 11. RSA 31:39-a, Conflict of Interest Ordinance**
- 12. RSA 673:13 Removal of Members, Local Land Use Boards**
- 13. Town Charter, Article 4, Town Manager**

RESOLUTION 2007 - 35

A Resolution Relative to the Adjustment of Building and Other Fees

First Reading: 12/17/07
Hearing/Second Reading: 01/07/08
Adopted: xx/xx/xx

WHEREAS The Town continually reviews its fee and permit schedule to reflect the costs of providing those services; and

WHEREAS The Building and Health Department has reviewed its fees and offers recommendations for adjustment; and

WHEREAS RSA 41:9-a requires the Town Council to conduct a public hearing on the Establishment of Fees;

NOW THEREFORE BE IT RESOLVED by the Londonderry Town Council that the attached fee structure be adopted in order to insure that the town does not incur non-reimbursable expenses providing these service.

Joseph Paradis - Chairman
Town Council

(TOWN SEAL)

Marguerite A. Seymour
Town Clerk/Tax Collector

A TRUE COPY ATTEST:
xx/xx/xx

**TOWN OF LONDONDERRY
MODIFICATIONS TO FEE STRUCTURE**

SERVICE	FEE		
Plumbing Permit – Residential	\$	35.00	
Plumbing Permit – Non-Residential New Construction	\$	125.00	
Plumbing Permit – Non-Residential Renovations	\$	75.00	
Electrical Permit – Residential	\$	35.00	
Electrical Permit – Non-Residential New Construction	\$	125.00	
Electrical Permit – Non-Residential Renovations	\$	75.00	
Building Permit – All \$6.00/\$1,000 of value	\$25.00	Application	+
Junkyard License	\$	250.00	

Introduced: 1/07/08
Second Read/Pub Hrg: 1/21/08
Adopted: 1/21/08

ORDINANCE 2008-01
***AN AMENDMENT RELATING TO REVISIONS
TO THE ZONING ORDINANCE***

WHEREAS the Planning Board and Staff have undertaken the process of systematically reviewing and updating sections of the Zoning Ordinance; and

WHEREAS this process has resulted in the rewrite of the Excavation Standards, and to include an omission in the Sign sections of the Ordinance as adopted by the Council under Ordinance 2007-08; and

WHEREAS the Planning Board has recommended that the Town Council act favorably upon these revisions;

NOW THEREFORE BE IT ORDAINED by the Town Council of the Town of Londonderry that the Town Zoning Ordinance be amended to reflect the revisions to Sections 3.1.2 Local Excavation Standards and 3.11.6.3 Signs, as recommended by the Planning Board.

Joseph Paradis
Chairman - Londonderry Town Council

A TRUE COPY ATTEST:

Marguerite Seymour - Town Clerk
1/21/08

Town Seal

ORDER 2008-01

An Order Relative to
THE DISTRIBUTION OF CAPITAL RESERVE FUNDS

First Reading: 01/07/08
Hearing/Second Reading: Waived
Adopted: 01/07/08

WHEREAS the Town of Londonderry by adoption of Article No. 7 at the Annual Town Meeting of March 12, 1994, created a Capital Reserve Fund to procure Ambulances, and,

WHEREAS the Town needs to replace its front-line ambulance pursuant to the Fire Department's replacement schedule; and,

WHEREAS it has been determined that sufficient funds have been allocated to the fund for the Department to now replace an ambulance and related equipment; and

WHEREAS the cost of replacing one ambulance is estimated to be \$161,819; and

IT IS THEREFORE ORDERED by the Londonderry Town Council that the Town Treasurer is hereby directed and authorized to expend, from the Ambulance Capital Reserve Fund the sum of \$161,819 to be paid pursuant to the contract with Professional Vehicle Corporation for the purpose described herein; and further, to authorize the Town Manager to sign such documents as are required to complete said transaction.

Joseph Paradis - Chairman
Town Council

(TOWN SEAL)

Marguerite Seymour - Town Clerk

A TRUE COPY ATTEST:
01/07/08

ORDINANCE 2008 - 02

An Ordinance Relative to the Adjustment of the Penalty Provision for Municipal Ordinance

First Reading: 01/07/08
Hearing/Second Reading: 01/21/08
Adopted: xx/xx/xx

WHEREAS The Town continually reviews its Municipal Code to standardize language and processes; and

WHEREAS The Building and Health Department has reviewed the penalty provisions of various Ordinances; and

WHEREAS It is in the public interest to vest in the Courts the penalty for violation of town ordinances and codes;

NOW THEREFORE BE IT ORDAINED by the Londonderry Town Council that the attached amendments to the Municipal Code be adopted in order to provide uniformity in the administration of its codes.

Joseph Paradis - Chairman
Town Council

(TOWN SEAL)

Marguerite A. Seymour
Town Clerk/Tax Collector

A TRUE COPY ATTEST:
xx/xx/xx

First Reading: 01/07/08
Second Reading/Public Hearing: waived
Adopted: 01/07/08

ORDER 2008-02

***AN ORDER RELATIVE TO THE EXPENDITURE OF RTE 28
WEST IMPACT FEES FOR TRAFFIC STUDIES RELATED TO
TOWN-WIDE ECONOMIC DEVELOPMENT INITIATIVES***

WHEREAS the Town Council under Order #2006-11 authorized the use of Rte. 28 East and West Impact Fees and other Funds, and to partner with private developers to complete traffic and economic development studies; and,

WHEREAS that phase of the studies has been completed, however, NHDOT has requested additional information which will directly impact upon the Town's ability to expand its non-residential tax base; and

WHEREAS this new information is critical to the Town's overall development and is not associated with any one development; and

WHEREAS the Town has sufficient funds in the Rte. 28 East and West Impact Fee Fund to complete such additional studies;

NOW THEREFORE BE IT ORDERED by the Town Council of the Town of Londonderry that the Town Manager is hereby authorized to execute contracts for traffic studies at a cost not to exceed \$35,000, and that the Treasurer is hereby ordered to transfer up to \$35,000.00 from the Rte. 28 West Impact Fee Fund to complete this study.

Joseph Paradis - Chairman
Town Council

Meg Seymour

Town Clerk

(TOWN SEAL)

A TRUE COPY ATTEST:
01/07/08

TOWN COUNCIL MEETING
December 17, 2007

The Town Council meeting was held in the Moose Hill Council Chambers, Town Hall, 268B Mammoth Road, Londonderry, NH.

PRESENT: TOWN COUNCIL; Chairman Joe Paradis; Vice Chairman, Marty Bove; Councilors Mark Oswald; Brian Farmer, and Kathy Wagner; Town Manager Dave Caron, Assist. Town Manager/Finance Dir. Sue Hickey, and Margo Lapietro, Executive Assistant.

BUDGET COMMITTEE: Mike Brown, John Robinson, (7:38 PM) Ron Campo, (School Liaison), Tom Freda, (7:25 PM) Tom Dolan. Absent: Sean O’Keefe, Jay Hooley.

CALL TO ORDER – PUBLIC SESSION

Chairman Paradis opened the meeting at 7:05 PM with the Pledge of Allegiance. He dedicated this moment of silence to Burt Boucher, a member of our community who devoted a lot of his time to the Town, specifically to Old Home Day.

PUBLIC HEARING

B. Ordinance 2007-12 – Relative to the Establishment of a Code of Ethics.-

Chairman Paradis explained this item was continued from the 12/3/07 meeting. Reed Paige Clark, III, asked Councilors not to rebut every statement from the public. Lynne Laval-Yeh asked about the recusal procedure. She expressed concerned about due process being blocked and safety issues that were not addressed. Feels that she is being stonewalled, and that she has gone to State for help. After more discussion it was determined that her issues are with the School Board; Chairman Paradis told her that the Council has no jurisdiction in the matter. Schools are completely separate from the Town per state RSA’s. Ms. Revalier offered her input to an Ethics Committee saying it was not a good idea. It is up to communities to follow administrative laws.

Mike Brown, 5 Carousel Court purposed adding an additional sentence to the “Whereas” section, paragraph 2 referencing the document as an educational tool. Change the sentence that contains “appearance of conflict of interest” it is to judgmental. Tom Dolan stated he would like to see it shorter. The referenced the second “Whereas” where it states “have an opportunity to protect their personal reputation”. He said if someone is accused unjustly, what is mechanism used to protect one’s reputation. He wanted a reference recourse to clear a person’s name. Councilor Farmer said a section on inquiries had a specific forum to ask that question. T. Dolan responded if misused and someone is injured what is

recourse so people can protect themselves. That concern is foremost on a lot of peoples' minds. Councilor Farmer asked what is recourse under the Town Charter for conflicts of interest. Town Manager Caron said if an issue arose concerning an employee it would be directed to him; if someone had a concern about the Town Manager they would go to the Town Council; similar process regarding an appointment board or commission member. If an elected official is involved in an allegation, there are no procedures as those positions are responsible directly to the public through the election process. There is a recall procedure for Councilors only. Councilor Farmer said Council has no authority to act at all with a Board/Committee member under the Town Charter, can't remove them without cause and we have no vehicle to find cause. Councilor Farmer read David Ellis's letter requesting Council draw on the RSA's and the Charter pull it together and that would be our Code of Ethics.

Mary Wing Soares, 2 Gale Rd, questioned bringing complaints to the State Attorney General. Isn't that the vehicle to use if we found someone on a committee that was unethical? By adding ethics committee it gives the Town another layer between the Town and State's Attorney, and questioned the need to do that. She suggests appointing a taskforce and bring it back to the Council. She agrees with Mike Brown about the code including an education component. Councilor Wagner agrees with Mary, indicate RSA's in the code. Have we decided to strike out the employees on the Code? Employees are already covered, concerned that we are opening ourselves up to liability. Councilor Oswald agreed with Councilor Wagner, people don't want more government but want more from their government. Agrees with Tom Dolan, be succinct and concise, reduce size of the document. Maria Newman, 26 Otterson Rd. asked what are the requirements when volunteers are sworn in. Chairman Paradis said when a person is sworn in they agree to follow the law. M. Newman said the person being sworn in should know what they are signing, make it simple and to the point. Art Rugg, Chair of the Heritage Comm. said that we are a Certified Local Government and there is a code of conduct provision for that organization. It is a one page document, very short and succinct, covers everything we are talking about. He proceeded to give a copy of the document to Chairman Paradis to read. Paul DiMarco, Secretary of the Planning Board and Emergency Council said the Town Charter and common sense dictate how people behave. Code needs to be shortened. Leadership Londonderry classes would be a good place to expand on an Ethics Code. Councilor Oswald said he is in favor of omitting employees from Ordinance because they are already covered. We should include sanction groups, identify a dollar amount for contributions, or gifts given to elected or appointed officials, should be declared. Councilor Farmer said that by petition any elected official can be recalled from office according to Charter. Bar is very high on recalling. Educational component is a real mechanism here, in favor of some re-work not in favor of taskforce. Don't include an elected committee, but needs to describe how to handle a complaint. He talked about the inquiry and complaint process. Councilor Oswald said he would be in favor of having this issue discussed again on 1/7/08; have Town Manager Caron reference RSA's in the

revised document. Councilor Bove requested that he put something concise into play, starts with education. Cautioned him to be careful of what he lists in there, would like to see that employees follow code but fall under the Town Manager. He said he would also like to see it whittled down. Councilor Wagner said she would like to see the bar held high, future Councils could change it. Chairman Paradis asked Town Manager Caron to cite the RSA's and the Charter. He instructed the other Councilors to get comments to him before the next meeting. **Chairman Bove made a motion to continue this Ordinance to the Public Hearing held on 1/7/07. Seconded by Councilor Oswald, Council's vote 5-0-0.**

PUBLIC COMMENT

Councilor Oswald announced "Toys for Tots" deadline is 12/20. Holiday Food Drive deadline is 12/21, collection points are the Londonderry High School Lobby and the ReMax Office at the Crossroads Mall. The second annual Londonderry Non-Profit Open House is scheduled for 1/27. Town Clerk/Tax Collector Meg Seymour spoke about Toys for Tots ending 12/20/07.

She proceeded to list the Town openings that will be on the ballot.

- Town Council – Two, three year terms
- Budget Committee three, three year terms
- Town Moderator one, two year terms
- Supervisor of the Checklist one, six year term
- Trustees of Leach Library two, three year terms
- Trustees of Trust Funds one, three year term
- Trustee of Trust Funds one, two year term

The filing period is from 1/23/08 – 2/1/08, interested candidates must be a registered voter prior to 1/23; file at Town Clerk's Office during regular business hours

Richard Bielinski, 9 Hall Rd., and Gerard Adams, 54 Hall Rd were present to talk about a Town Council meeting they attended on 10/15/07 regarding the salvage yard and the beauty salon that was not operating anymore. R. Bielinski asked what has happened with questions he asked 2 months ago, Town Manager Caron said Council voted to start an investigation, but he not received direction from Council since that time. Councilor Wagner asked for clarification on what they are investigating. R. Bielinski proceeded to review the issues with junkyard and

questioned why aren't things followed through with Town. Town Manager Caron said the motion that was adopted was to consult with legal counsel; after that the Council will then determine whether to proceed with a thorough review. Chairman Paradis asked to set it up for January meeting. R. Bielinski asked what is requirement for vehicle left out overnight of gate. Front end loader couldn't be removed by Skip's towing. G. Adams called police to verify. Code Enforcement wrote a letter dated 10/19; issue of citation not warranted per letter. The Town reviewed the situation with its legal staff and prosecutor, who advised that given the circumstances of the matter, it would be prudent to pursue legal action. Chairman Paradis questioned the citation. Town Manager Caron did not hear about the resolution on the second instance. R. Bielinski then brought up the new building and asked the Council that if the building permit has been issued, if it has not then it should not be issued. It is in direct violation of 1997 court order and our own zoning. He is compiling a list of information and putting it on a website so developers can use it. G. Adams complained about trucks on property facing wrong way. Town is the problem, not enforcing orders.

Reid Paige Clark, III announced that primary day is 1/8/08.

OLD BUSINESS

FY09 Budget Recommendations:

Planning & Economic Development - Budget Committee recommended a reduction of \$7,075, Reductions based on \$2,000 and Dave's memo of 10/24. Budget Committee member Mike Brown explained the adjustments are not a cut just a reduction in what was requested, more than was actually spent. Andre Garron, Dir. of the department talked about seminars & workshops, money not spent because employee could not attend. Has been level funded for 4 years. Miscellaneous supplies had already been reduced to meet objective of Town Council, supplemented postage increases. Line item will be over next year because of reductions from last year. Dues and subscriptions are level, by cutting does not allow any increases that may be incurred. in future Councilor Wagner asked about the \$100 continuance fee, discussion ensued. Councilor Wagner said it might make sense to charge it because of time that Staff has to spend on the outstanding issues. Councilor Farmer asked how would it be implemented, cost will get passed onto the buyer a business would consider it minor. Budget Member Tom Freda said the developer should bear the costs, won't get passed onto consumer. Councilor Farmer would like Planning Board comments on charging for continuances, make it fair and reasonable, and make conditions clear. The Planning Board should probably seek legal guidance. Chairman Paradis asked A. Garron to come back with a fee schedule. Tom Dolan spoke about undeveloped land bringing in tax relief. He suggested spending time & money to do more Londonderry marketing for industrial property. The Planning and Economic Department is one of the few departments that we can spend money to generate more money. It was agreed to have A. Garron be on agenda for January

meeting to discuss this subject. Councilor Farmer requested strategic investments on what we can do if we market the area. He said this is a status quo budget. **No motion.**

Building - Budget Committee recommended a reduction of \$4,793. Town Manager Caron reminded everyone that the Management Services should be \$7,500. The town had not funded EEE and West Nile virus prevention program in the budget; the Town Manager is planning to return to Council to use FY08 funds to pay for that project. T. Freda explained \$4,000 reduction is from Town Manager's memo of 10/24/07. \$720 is to eliminate monthly meetings. Councilor Farmer asked for clarification on monthly meetings. Jim Smith explained building officials meet, interact with other towns, offer training seminars each month. They have been going on for a number of years, offers continued education accreditation. **No motion.**

Public Works – Budget recommended a decrease of \$73,500 in several line items. Public Works Director Janusz Czyzowski stated that it will get to the point that services will not be provided. Quoted comments from a report of 11/26. Reminded Council to look at the bottom line over several years. He explained that he has started the budget season already under budgeted. Budget has been over expended each year by a quarter of a million dollars. Unexpended items were diverted. He addressed each line item. Councilor Oswald asked who is maintaining pathway for snow removal. J. Czyzowski said last year he put in \$30,000 on budget for snow removal, cut by Council. No funds to maintain; the Town doesn't have equipment for regular sidewalks. John Robinson said the mindset he is detecting is that they are entitled to the money. Every time the Budget Committee makes a recommendation Department Heads have an excuse. Council is not listening to advice of Budget Committee. Chairman Paradis explained we have to go through the process and look at the bottom line. T. Dolan asked how much money is being spent on signage; replacing and erecting new signs. J. Czyzowski responded about \$2,000. T. Dolan suggested cutting back on specialty signs, stick with state speed limits instead of putting ours up. Would save money with Public Works and Police Dept for enforcement. J. Czyzowski explained that all signs with new speed limits are all in place. T. Freda said the Budget Committee looked at the '07 budget it was overspent by \$39,518, Budget committee was cognizant of that fact. Tom Freda talked about not receiving 5 year trend analysis for each department. S. Hickey responded that information is in the Budget Book that was provided at the beginning of the budget season. **No motion.**

Solid Waste - Budget Committee recommended a decrease of \$25,438. Councilor Wagner asked about decreasing phones by \$650, why are costs going up. S. Hickey responded some departments have increased, some have not. Family Mediation and Fire Dept. are included in phone service now, not included in their budgets. Town had signed a contract with Centrex in 1999 for a ten year term, which cannot be changed until 2009. The Town will go out to bid when contract

is up. Councilor Bove asked Town Manager Caron what his 1.1% reduction included in his memo. He responded it included the amount we are budgeting for actual solid waste disposal. When budget was developed for solid waste disposal and recycling a trend is analyzed to determine how much actual tonnage is disposed off and estimate how much will be disposed off over the next fiscal year. Calculate that by the known adjustments to our rate for our contract with our two separate contractors. \$24,538 was to come in line with the default minus 1.1% in hopes that we would come under budget with solid waste disposal plan item. J. Czyzowski said we are locked in with the contracts, made estimates on tonnage amounts. Councilor Bove suggested keeping drop-off center open an additional day or through the winter. Would it help to reduce solid waste. J. Czyzowski said it is for bulkier pieces, we are the middle man still paying for disposal of the materials, not a self-sufficient operation. Discussion ensued about recycling at condos and apartments in Town. Donna Limoli Admin. Assist. in the Public Works Dept. said only two are in non-compliance. Councilor Farmer asked Town Manager Caron to review this issue in Town. **No motion**

Sewer Service – Bud Committee recommended a reduction of \$8,200. J. Czyzowski stated that funding that is not expended goes back into the Sewer Fund. Does not have any impact on the tax rate and he does not recommend any reductions. His dept. is the enforcement agency for the industrial permits, sometimes need legal advice to go after the permits. Want to keep that separate from other legal expenses. **No motion.**

Debt Service – Budget Committee recommended no changes. **No motion.**

CIP – Town Manager Caron said the operating and special revenue have been completed and the information is included in this budget. If any bonds are being presented at Town Meeting we are required to have a separate bond hearing, deadline to make that decision is 1/7/08. Two bonds do have some impact to other warrant articles. The two bonds are the fire station bond \$1,909,925M to replace N/W fire station Would provide a structure the same size and design as station erected at Young and Rt. 102 Make a decision on 1/7/08 if you want to advance this to a bond hearing on 1/21/08. T. Freda questioned if the \$1.9M included the first year debt service, Town Manager Caron responded yes, a very small portion. Road bond is similar to fire station. CIP is recommending \$1.5M. If Town Meeting does not approve one but approves the other the appropriation has to be carried in both bonds. S. Hickey said the bonds will be sold together, just broken out. T. Dolan asked if this bond does not pass would it be recommended as a separate warrant article. Town Manager Caron said that will be the recommendation and it will be for \$200K If not passed Town really will fall behind in road maintenance. M. Brown asked if he was transferring what the CIP has proposed for FY09 to the request. What was budgeted last year was what was approved by the voters. No tax impact in current year. **No Motion**

Capital Reserve – Town Manager Caron explained it is a continuation of our

program. In the past 3-4 years the Town has have been paying off short-term leases on new fire equipment. Currently, the Town is able to set aside \$160,000 per year into that account. The Town is scheduled to purchase a new truck in three years. Other reserve funds totaling \$320,000 on par with what the Town has been investing in the past several years **No Motion..**

Special Articles – Town Manager Caron described them, similar to last year. If N/W Fire Station bond is not approved then at the Saturday session there is a motion to defeat the Fire Facilities Additional Cost article. These items do not belong in bond because don't have a useful life equal to the bond. \$398,000 being proposed to be added to the 2002 bond for Bartley Hill/Mammoth Rd. project.

The non capital reserve Master Plan article is the issue which was discussed a few meetings ago. The Eco Park Trust Fund is currently over funded, and it is recommended that funds be reallocated to fund the eventual need to update the Master Plan. The Town has the funds available, and it made sense to bring it before the voters now.

Expendable Maintenance Trust Fund for \$205,000, which is the annual appropriation. For last three years raised that amount contingent upon \$100K in undesignated fund balances being available. Currently completing mediation of Sanborn Road as required by DES. Next large project in addition to maintenance of the buildings is constructing incremental improvements to the Highway Garage Facility.

Supplemental Considerations

Administrative Assistant at Senior Center. Councilor Wagner asked what is the salary, S. Hickey responded \$10,076.04 Councilor Wagner recommended deleting position completely. Councilors Bove and Farmer said they would wait for the public hearing to give their comments.

Additional Paramedics for Fire Dept.
White Fog Lines - DPW

NEW BUSINESS

Resolution #2007-35 – Relative to the Adjustment of Building and Other Fees

– Councilor Farmer read the first reading, second reading scheduled for 1/7/08. **Councilor Farmer made a motion to move. Second by Councilor Oswald.** Town Manager Caron said there are three components to this recommendation. First the Building Dept. has done an analysis to increase flat fee of both residential and non-residential electrical and plumbing permits. Second they recommend to increase the building permit fee; currently \$5.00/\$100 of value, recommend it be \$6.00/\$1000. Third recommendation is to increase junk yard

fee from \$25.00 to \$250.00. Councilor Farmer recommended a table indicating old fees and new fees requested for the public hearing. **Council's vote 5-0-0.**

Staffing Levels – Town Manager Caron announced a vacancy in the Public Works Department, it is a permanent part time position. J. Czyzowski told Council that after 30 years Donna Hines is retiring. He reviewed the secretary/receptionist position. He said it is one of the most essential positions in the Department. Councilor Bove asked if the position could be allocated to other people in the dept. Councilor Wagner stated if the position is filled we should pay fair market value, but she would like to see position eliminated. Councilor Farmer questioned when was the peak time; J. Czyzowski responded morning would be peak. He further stated that he believes it should be a full time position, elimination will paralyze the dept. will not be able to supply services. He anticipates receiving a lot of complaints because his department is not responding. Councilor Farmer stated he agreed with Councilor Wagner, opportunity to restructure. Town Manager Caron informed everyone that there are no benefits provided for this position. Councilor Farmer wants a recommendation from J. Czyzowski on how he can restructure if the position is eliminated. Councilor Oswald suggested capturing information of 30 years of service from Donna before she leaves. Re-examine cross training, look at alternatives. Councilor Farmer asked Town Manager Caron if there was anyway other admin. people like building could be cross trained. He said he can return on 1/7/08 with more information. Councilor Farmer said he would like to see revisions of line item if position eliminated. Councilor Bove suggested getting two part timers to cover full day, asked Town Manager Caron for prices.

Collective Bargaining Agreements – Town Manager Caron said they are in discussions with two labor unions. Council reviewed them tonight, had questions, and will meeting again on Thursday to continue their discussions.

APPROVAL OF MINUTES

Councilor Bove made a motion to approve minutes of the Public Meeting held on November 15, 2007. Seconded by Councilor Wagner. Councilor Oswald had edits. Line 24 change Chairman Farmer to read Councilor Farmer, line 247 should read 2K not 7K and line 487 should read Nelson Road not Perkins Road. **Council's vote with edits, 5-0-0.**

OTHER BUSINESS

Liaison Reports:

Councilor Farmer attended the Exit 4A, I93 Public Hearing; they are looking at the cost of paying for and restoring rail service. Also talked about bus service to travel in the median of the highway It brought forth recommendations. Unable

to attend other meetings, had conflicts.

Councilor Bove was unable to attend the School Board & Budget Committee. Watched from home. He mentioned that Andy Soucy, Music Director at Londonderry High School, was selected to direct a song this weekend at the Boston Pops.

Councilor Wagner attended the Planning Board meeting. They spoke about the mini master plan, it is an important document for Londonderry. Surveys will be completed in January, then will work on scheduling workshops.

Councilor Oswald attended Conservation Commission last week which dealt with Musquash Field Day being held on 2/2/08, more information will be forthcoming. Had a non-public meeting for negotiations for developmental purchase rights with a landowner. Leadership Londonderry is scheduled for this Thursday, dealing with Public Safety. Will have demonstrations by police and fire departments.

Chairman Paradis was unable to attend meetings due to snow cancellations and conflicting schedules.

Town Manager's Report – His items were presented as part of the agenda.

Board/Committee Appointments/Reappointments/Resignations

1. Re-Appointment of Mike Speltz to An Alternate Position on the Conservation Commission, term to end 12/31/09.
2. Re-Appointment of Steve Fassi from an Alternate Position to a Full Position to replace Mike Speltz on the Conservation Commission, term to end 12/31/10.

Councilor Wagner made a motion to accept all of the above. Second Councilor Oswald. Councilor Farmer questioned that terms were staggered, Town Manager Caron confirmed they were. **Council's vote 5-0-0.**

ADJOURNMENT

Councilor Bove made a motion to adjourn at 10:35 PM. Second Councilor

Wagner. Council's vote 5-0-0.

Notes and Tapes by:

Date: 12/17/07

Margo Lapietro

Minutes Typed By:

Date: 12/20/07

Margo Lapietro

Approved:

Date:

Town Council

**TOWN COUNCIL MEETING
December 20, 2007**

The Town Council meeting was held in the Elwood Conference Room, Town Hall, 268B Mammoth Road, Londonderry, NH.

PRESENT: TOWN COUNCIL; Chairman Joe Paradis; Vice Chairman, Marty Bove; Councilors Mark Oswald and Kathy Wagner; Town Manager Dave Caron, and Assistant Town Manager/Finance Dir. Sue Hickey. Councilor Brian Farmer arrived at 6:44 PM.

CALL TO ORDER – PUBLIC SESSION

Chairman Paradis opened the meeting at 6:39 PM.

NON-PUBLIC SESSION

Councilor Oswald made a motion to enter Non-Public Session per RSA 91-A:3 II(a) at 6:39 PM. Seconded by Councilor Bove; Council's vote 4-0-0.

Councilor Oswald voted to exit Non-Public Session at 8:59 PM. The motion was seconded by Councilor Wagner; Council's vote 5-0-0.

OTHER BUSINESS

Councilor Wagner made a motion, per Section 4.7 of the Town Charter, to confirm the Town Manager's appointment of Kevin T. MacCaffrie as Fire Chief, effective January 21, 2008. The motion was seconded by Councilor Farmer; Council's vote 5-0-0.

ADJOURNMENT

Councilor Bove made a motion to adjourn at 9:06 PM. The motion was seconded by Councilor Wagner; Council's vote 5-0-0.

**Notes and Tapes by:
12/24/07**

David Caron

Date:

**Minutes Typed By:
12/24/07**

David Caron

Date:

Approved:

Town Council

Date: