

**TOWN COUNCIL
AGENDA
July 17, 2008**

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

PRESENT: Town Council: Chairman Marty Bove (7:08PM); Vice Chairman, Brian Farmer; Councilors Kathy Wagner, Paul DiMarco and Mike Brown; Town Manager, Dave Caron; ATM/F&A Dir., Sue Hickey and Margo Lapietro, Executive Assistant.

CALL TO ORDER – PUBLIC SESSION

Vice Chairman Farmer opened the meeting at 7:05 PM with the Pledge of Allegiance. This was followed by a moment of silence for the men and women fighting for our country and the police and firefighters who protect our community.

PUBLIC COMMENT

Interview of Mike Gallagher for Alternate Position on ZBA - Councilor Brown asked about what he learned with the Leadership Londonderry Class and queried him on his knowledge of ZBA. Councilor DiMarco asked about time commitments. Chairman Bove asked him if he had any interest in serving on other boards; he replied he would be also be interested in the Planning Board. Councilor Farmer asked if he had any conflicts of interest, Mike responded no. **Council's vote to appoint as an alternate to the Zoning Board, 5-0-0.**

Interview of Joseph Green for Budget Committee – Joe reviewed his background for the Council. Councilors DiMarco and Wagner both asked if he had any time limitations, he responded no. Councilor Farmer asked what his role was in Boston and also asked for his philosophy on budgets and taxes. Joe responded he a Division Manager for Tedeschi Food Shops; supervises a staff of 110 employees. Has been a member of the Beacon Hill Business Associations Executive Committee, the Cambridge Street Community Development Committee, Mass. Ave. Shines Neighborhood Group and has worked closely with Mayor Menino. He is presently VP of 11-12 year old Boys Baseball for LAFA, coached baseball, basketball, and soccer. He stated he is conscious of the fiduciary process. He is aware of the particular needs of the community. Budget Committee Chair, Jaye Hooley said if Mike can make the commitment to the time involved in the Budget Committee, they would gladly accept his service. Chairman Bove asked if he had any interest in serving on other boards, he replied Recreation Dept. Chairman Bove explained the application deadline for this position is August 1, and they would wait until that date to make an appointment.

Chairman Bove thanked both candidates for their interest in volunteering for the Town.

Brookview Circle Mitigation Efforts – Town Manager Caron explained the flooding events on that street. He explained he has been meeting with the homeowners and with the State Office of Emergency Management to possibly obtain funding sources to help mitigate the problem. He was here tonight to obtain permission from Council to continue working with the residents.

Bobbie Fosmire 13 Brookview Dr. and Richard Verville from the State Hazard Mitigation were in attendance. B. Fosmire said he and the homeowners were here tonight to appeal to the Council for help to identify potential mediation solutions to their problem. The eight homes in the neighborhood have been built in a flood district, and have been flooded 27 times in the last 33 years. He stated that he and the neighbors have met with the Town Manager, former Congressman Jeb Bradley's aids, and Congresswomen Carol Shea Porter. The Army Corps of Engineers did a second study of the area and met with them recently and stated they still could not help them because road was built between two brooks. Richard Verville from the State Hazardous Dept. said his office administers FEMA programs in NH. FEMA grants are available to communities as the applicant, but not to individual residents. There are three grants that seem to fit this type of mitigation. They involve acquiring the homes, removing them and property becomes owned by the Town as open space and can never be built on again. The pre-disaster mitigation grant program which is an annual program provided by FEMA, typically about \$100 - \$150M annually provided by state that typically acquires homes, elevates homes to reduce flooding risks. Application from Londonderry would compete with other communities in the nation for these funds. NH received just over \$1M in pre-disaster mitigation money. The second program for those who have flood insurance is Flood Mitigations Assistance. Same type project: involves acquisition of home, elevation of homes to mitigate flooding hazards. State has a small allocation annually, approximately \$500,000. A home on that street has made the severe repetitive lost property list; town has a better chance of receiving funding through any of these programs because of that house. He explained that the pre disaster mitigation grant provides 75% federal funding, 25% local match. The match does not have to be hard cash, but can be in-kind services or donations. Community Development block grant money can be used to match funds. The match requirements under flood mitigation program are 90% federally funded for homes protected through policy from National Flood Insurance Program with 10% local match. Chairman Bove asked how many properties are affected; B. Fosmire said 8 houses, four to be acquired, and four which can be elevated. He asked for an estimate of what that would cost. R. Verville stated the grant program has been opened, needs to show effort between residents and town government. He suggested having a committee develop the application to get the cost; will have several workshops in the next months. Final cost is usually fair market value of the homes, participation is voluntarily. Chairman Bove asked if any people in Windham experience this problem with Beaver Brook, R. Verville said at this point in time no applications from Windham. Gerry Gleason of Brookview Circle said Windham is only affected by a dam, and the homes are located on higher ground in Windham which are not impacted. Councilor Farmer verified that Council is being asked to give consent to work with the community and state for grants, and identifying the costs. He asked if the 4 property owners who are the most adversely affected are here tonight, B. Fosmire responded they are in attendance. Councilor Farmer asked them if they were willing to participate in this grant. All four homeowners are in agreement. Gerry Gleason said they are worried about development at South School because of its close proximity to Brookview Circle. R. Verville stated that the homeowners on Brookview Circle are not committed to be part of the grant however once the grant is awarded you cannot add to it. He stated if anyone in Town has a water problem they should be part of this application process. Additional applications can be grouped by sections of town. Councilor Wagner asked how the price of the home is determined. R. Verville said usually done by a realtor, fair marked value in the area. Councilor Bove asked if this area could be part of the I93 widening, R Verville responded no. Councilor DiMarco said he supports taking to the next step, asked if other heavily hit areas going to get more money than NH. R. Verville responded Hazardous Mitigation Program is driven by declared disasters. He responded these events will not take away from funding available to NH, and stated that Congress is increasing funds to \$250M. Chairman Bove

asked if state has done this in Allenstown, R. Verville said this is first time they have been working in acquisition programs. First year they have had successful applications from the acquisition area. Deadline for local applications not set yet, probably mid-November. Town Manager Caron said tonight he is looking for authorization to proceed and to prepare the application, and he will return back to the Council with a draft application, including estimated costs. Councilor Brown asked how their homeowner's insurance policy has handled the situation in the past. B. Fosmire responded flood insurance addresses any claims, not the homeowner's policy. Many are required to obtain flood insurance for mortgage. He was told when he purchased the home that it was in a flood zone "B", which he interpreted as not a problem. Now in the past 10 years it is a flood zone "X" which is the most severe, flood prone zone. Jane MacDonald said she has flood insurance, which costs about \$12K a year, does not cover content because it is in a basement. Councilor Brown clarified that there will be a local match, Town Manager Caron responded yes. Councilor Farmer requested the Town Manager come back after the workshops with preliminary costs in September before budget season. Chairman Bove asked how do we pay, Town Manager Caron said the 4 houses scheduled for demolition have a total assessed value of \$886K, and a 10% - 25% local match on those four would give the Council a sense of what the local match may be. There would be additional costs to elevate the other four homes. Demolition costs are not significant. Town Manager Caron was directed to move forward with application, with a goal of returning back to Council in September with more information. R. Verville urged the Town to submit a letter to the state for access to the FEMA e-grant system. The homeowners thanked the Council for their help.

Gerry Adams, 54 Hall Road – Gerry and Claudette Adams were in attendance to complain about cars partially under water, with an oil sheen at Murray's Junkyard belonging to Mr. Dudek on Hall Rd. He showed pictures of the cars. He said complaint was made to DES to Mr. Carrigan, who is now on vacation. His supervisor is Carl Woodbury, provided his telephone number of 271-2891 if anybody wanted to check with him. The original complaint was allegedly made by a customer. Councilor DiMarco asked when the picture was taken, G. Adams responded 6/30 by a DES employee named Carrigan. Councilor Farmer asked Town Manager Caron if he knew of this, he responded it was the first he heard of it, but he will call DES in the morning to obtain more information. Mr. Adams said he submitted a complaint on 6/10 at 6:15 AM about trucks that had running engines on behind the gate, heard the slamming of metal parts, called police and it was verified. Received an e-mail from Frank, a summons was issued for a \$275 fine because the owner plead guilty. On 7/8 at 7:10 AM same thing happened – slamming of metal parts- called LPD who witnessed same thing. Frank replied that Mr. Dudek will be summoned at increased penalties provided for in the statute. He tried to get copy from Derry District Court, but could not get a copy of it in time for tonight's meeting. On 7/10 at 7:21AM a dump truck was on the property, called police. Councilor DiMarco said he has police scanner, heard the call come through, drove past the property. Police said they found Mr. Dudek working quietly in his office, he didn't know dump truck was there. Councilor DiMarco said he drove past, saw Mr. Dudek talking to the truck driver, the engine was off, garbage truck coming up the road at the same time, did not see anything out of the ordinary. Mr. Adams said tow trucks constantly making delivery after hours, has 14 pages of complaints, gets no response to them other than Frank looking into it, complaints go back to March. As recently as Tuesday night it happened at 9:12 PM. Chairman Bove asked Town Manager Caron if he has seen the whole list of complaints, he responded no. Chairman Bove asked Mr. Adams if he had made those formal complaints, Gerry responded yes. He called Mr. Caron about the opening on Saturday mornings for one month prior to signing the new agreement. At meeting of 5/5/08 he asked Mr. Caron if he checked on his complaints, he responded yes, they are illegal. On 5/4 on Sunday he made a

comment to Councilor Brown that the gate was open, truck was there for an hour and a half. Councilor Brown said on 6/10 and 7/8 Mr. Adams called police and summons issued and paid on first summons, second infraction a summons issued for \$550. Councilor Brown stated enforcement was followed, the process worked per the agreement. These violations may be considered during the licensing renewal. Councilor Farmer said the Town is creating a record. G. Adams said the owner is also establishing a trend. He said that construction is taking place and a sign on post says "55", new sign added by construction company advertising their work. Court order says no signage. Received an e-mail from Frank referring to a regulation, Mr. Adams believes the court order supersedes the regulation. He recently called about cars above fence, showed two pictures taken that day, Frank said it was unfounded. He said he has a stack of things from Frank basically telling him that he has misinformed the Council or misquoted, altered the negatives, etc. When he sent him the information about the most recent violations, he told me the owner of that property was going to be fined at double the rate. Frank all of a sudden became his buddy, doesn't know how that happened. He said "this is where we we've been trying to get to", Mr. Adams said it took a long time. He said Mr. Bielinski has supported him, finds it unnerving that the situation regarding him seems almost vengeful. Mr. Dudek made a phone call to Mr. Holdsworth about something happening on Mr. Bielinski's property and he received a nasty letter from the Town Attorney, it sounded vengeful to him.

Ed Dudek, Murray's Auto Recycling – Mr. Dudek requested that the Council remove hours on his business or change them. Would like to change hours from 8 AM – 5:00 PM to 7 AM -7 PM, because it is hard to run the business with construction on Rt. 28. He said he does not understand complaints about noise. He had requested Frank complete a noise test with noise meter, which results show that sound is very low, does not break any laws. Nobody else in the neighborhood complains. The truck Mr. Adams was complaining about was a construction vehicle with fill; he never heard the truck. The sign is not his; it was put up by the construction company working on his property. Regarding the water issue, he said he has been in touch with DES and John Trottier in Public Works, something is going on with the bridge, it is an engineering issue with water flows and beavers. Councilor Farmer asked Town Manager Caron to contact John Trottier and talk to NH Fish and Game as well as DES. Mr. Dudek said he talked to Carl Woodburry, the supervisor at DES. The LeBlanc's live next door to Adams, they don't complain. Chairman Bove asked Town Manager Caron if there is a process we would need to follow to consider the request to change hours of operation. Town Manager Caron advised the Council that if the request is not to be considered, then no public hearing is necessary. If you do consider the request, he will check with Town Counsel to see if the Council can re-open the license application. Councilors Farmer, DiMarco and Bove said they would like to have the information before considering changing the hours. Councilor Brown said the revised agreement made it less burdensome on Mr. Dudek, tried to find a good balance comparing him to other business in town. He wants to keep the existing agreement in place until March to see how it went particularly with violations in place. Chairman Bove said because business hours of operation was a vital part of the licensing, he doesn't want to change in the middle of the licensing year. Councilor DiMarco said he agreed with Councilors Brown and Bove. He asked if there was anyway to notify vendors hours of operation and telling them can't arrive early/late. Ed Dudek said he needs one day a month to open at 7:00 AM. He stated again that he is being harassed by the Adams', if noise is so bad, no one else complains. He asked if anybody else in the town complains about him. He said none of the other 3 junkyards in town have time restrictions, one is also in a residential zone, and they don't have restrictions like he does. Councilor Wagner stated that Council bent over backwards and asked you what we could do to work with you. Should have told us you needed one day a month, not comfortable with opening

up licensing process again. Councilor DiMarco said we need to look at specifying operation hours versus business hours. He has no problem with him going to his business at 2 AM doing his own quiet business would like to wait until March about changing hours. The Council agreed to wait until the Town Manager learned about the license reconsideration process before making any decisions.

Richard Belinski - R. Bielinski said Mr. Dudek was brought to Derry District Court a few years ago; he was palletizing parts after hours. The judge said if doing paperwork OK, palletizing parts after hours is not. R. Belinski talked about the May 5 Council meeting at which time this issue was discussed before the advisory time. He talked to David Scanlon at Office of Secretary of State and to Attorney Hiltz at Dept. of Justice. The 5/5 meeting was illegal because didn't have conditions drawn-up, conditions were new conditions. Whole new set of conditions were brought up on 5/5 should have been brought up to a new public meeting. Dave Scanlon wanted to know why conditions were "back doored". The 5/5 meeting had issues on code enforcement, he was told he needed complaints in writing, he did written complaints and never got answers back. On 6/08 Frank said he got complaints about R. Bielinski from 4 phone calls. He asked F. Holdsworth who made complaints, he did not give him that information. No formal compliance, just phone calls received off the web complaining that he had a secondary housing unit in his yard. Got letter from Frank Holdsworth followed up by a letter from lawyer. He spoke to Dave about second letter, heard from no one. He proceeded to read the letter from Frank, dated 6/9/08, about motor home, letter does not say he is in violation. He said he spoke to the attorney at Upton and Hatfield who wrote the second letter and when they got done with their conversation he said the attorney said that the letter does not mean anything, it is totally wrong. Letter from Upton Hatfield, dated 6/25/08, referenced a motor home; he proceeded to read the letter. R. Bielinski said it is a class "A" 34 ½ foot motor home, a self-contained registered motor vehicle owned by his father. The letter said he was in violation of Town ordinances. Chairman Bove asked Town Manager Caron to discuss with Frank and the attorney. Town Manager Caron stated he spoke with Attorney today, who state that he never said anything about the entire letter or part of the letter being wrong. He did not respond back to R. Bielinski's telephone request because Mr. Bielinski wasn't interested in the Town's position. If he wants to speak in a civil tone or put something in writing he will be happy to respond to him. He said he will not be subjected to 9 minutes of being yelled at on the phone. Chairman Bove said process is to go through the Town Manager, if he is not doing his job then it will go to Council. R. Belinski said he had a cease and desist from the lawyer. Councilor DiMarco said it does not state that in the letter from Upton and Hatfield. Chairman Bove asked Town Manager Caron if he had everything he needed to follow up the complaint. He responded all he had was the letter from the attorney; he questioned Mr. Bielinski if he was going to submit something to the Chairman or to himself. Mr. Bielinski said if he is in violation, file court papers.

Councilor DiMarco reminded the public that there was paving on Mammoth Rd; the double line still exists on the road, so there is still no passing.

OLD BUSINESS

Status of Jack's Bridge Development - Andre Garron, Community Development Director gave a status update on Jack's Bridge development. TIF District approved by Town Council in 2006, funding was not. Council asked him to look into two aspects of the area: traffic study and economic analysis of the project. Both studies completed in 2007. DOT input was not received

until late in 2007. DOT made presentation before Council about Exit 5 and Park and Ride. Some of data about traffic plan was submitted by Stantec. Some adjustments have been made to the TIF District plan, final presentation will be in August/Sept. Plan is in 5 phases: 1, 1A, 1B, 2A and 2B. Phases 1, 1A and 1B and 2A will build by itself. Harvey Industries is there, Penske broke ground. Page Rd. and 28 intersection needs updating and is in failure. Page Road is the main trucking route to the airport. DOT said there is potential for this area qualifying for a State Aid Reconstruction grant to help upgrade the intersection, it is a 1/3 - 2/3 match. He recommends applying for the grant for this very important section. UNH did phone survey on 400 homes for Small Area Master Plan, presented at 6/25/08 Planning Board meeting. Participated in a self-assessment survey through the Northeastern Center for Urban and Regional policy. It is a 247 question survey, takes in all aspects of the planning process and how we operate with business as well as our taxes and assessments. Sent survey back in early June, waiting for results. Initial feedback we received are we rated strong in 50; rated 167 on the average question and 47 responses were weak. We seem to fall in the average or above in the self-assessment. Flexible Industrial District workshop will be held in September. Conservation Subdivision Ordinance on track again. Talked about potential surplus lot of 67 acres currently owned by FAA as possibly being owned by the Town. The Town sent a letter to Senator Sununu expressing interest in the property. Community Development website being updated, site selection feature has been added. We are also meeting with landowners at the Airport Industrial Area. The preliminary engineering for Pettingill Rd is almost complete; the process for obtaining ROW is close, and staff is still working with landowners. Have to decide how to go about financing this project. State Airport Access Road is currently being built and he proceeded to show pictures of the construction.

Andre then reviewed general economic activity. Councilor Farmer asked about response to letter regarding Coca Cola. Town Manager Caron responded he received a response from the Commissioner acknowledging the letter and the importance of working together with business. He received another letter from Coca Cola advocating the same process to DES. The Town has not heard if the expedited process has been approved. A. Garron said he had a meeting with Coca Cola last week, and they were still waiting to hear from DES. Councilor Farmer asked A. Garron for sample of types of questions asked from survey from NE Center for Urban and Regional policy. He also asked if the RFP for website design will come back in time for budget decisions and asked if funds already in the budget. A. Garron responded it depends on costs associated with the RFP has some funds in the management services line. Councilor Farmer recommended doing whatever we can to shift the money so we can move it out to establish website. Councilor DiMarco agreed with Councilor Farmer, important because we are marketing town. He asked how is website publicized to potential customers? A. Garron said he talked to Steve Young about search engines, how to get in the top three, and that information will be part of the RFP. Councilor Brown said we don't have enough funding to do all things, asked A. Garron to prioritize: Funding TIF's at Jack's Bridge; Pettingell Road, or Page/Grenier Field Connector. A. Garron responded Pettingill Rd. has always been the top priority. The Page/28 intersection is important to both sections. The intersection is at near failure now, critical that that intersection be upgraded. It is the major entranceway from the east into the airport area. Both areas are very critical. Town Manager advised the Council to look at importance of 28/ Page Rd. intersection. The airport access road constructed by the state is going to be completed in FY13. It is a question of phasing and how they inter-relate. 28/Paige is the linchpin for development both on the west end of Jack's Bridge and for Grenier Field and airport as well. Look at similar fund mechanism used for Litchfield/Mammoth Rd. First thing is to determine if it is eligible for state funds, when will they be available, what is state share and where can source the Town's

1/3 share found. The Town needs to address Page Rd and Rockingham, as that bottleneck restricts the development in the entire North Londonderry area. Councilor Wagner said developing intersection at Rt. 28/Page Rd first priority. Can't get business into that corridor because the first developer has to pay entire cost of intersection, developers are afraid to touch that intersection. If we are willing to do this, developers will move in quickly. Councilor Wagner asked Town Manager Caron what his ideas were if the Town proceeds with building the intersection. He responded depends on the timing, if the Town proceeds with construction with the intersection and the State approves it on their funding list. If within one year of each other we work with the auditors to allow us to book a receivable for the state share, which we would be allowed to do based upon our cash flow. If more than one year, auditors might be uncomfortable, might have to float a bond for the entire amount and pay it off when the state repays us. It depends on the timing of the project. Local share can come from impact fees already accumulated on Grenier Field and Rte. 28, some undesignated fund balance if those funds are available, and from future impact fees from developers. Depends on the amount of the project and timing of the project to determine how cash flow will work. Councilor Wagner asked why not on CIP, Andre responded they just completed traffic study. Town Manager Caron said it was always perceived to be state responsibility in a 10 year state plan, now it is pushed too far back to help Londonderry. Councilor Wagner said if the Town puts the intersection in developers will come to the area. If State invests the 2/3 we should do it. Priority is Page Rd then Pettengill. A. Garron said the engineering costs for Pettengill were in the CIP plan, the construction costs were pushed off past 2013. He said alternate financing might help with the development of Pettingill and Page Rd. intersections. John Farrell, chairman of CIP and Vice-Chairman of the Planning Board said one of the questions in the mini master plan was should the Town continue to require developers at Exit 5 and the airport area to fund infrastructure, water, sewer, transportation and drainage improvements necessary to promote economic development. 93% said should be done. We need a plan quickly to support all the projects, similar to what the schools did. Chairman Bove agreed we have to educate public. Councilor Farmer proposed CIP team keep meeting to focus on developing the next steps to support Andre with marketing these projects with the citizens in town. Councilor DiMarco volunteered to work with the CIP team and suggested Leadership Londonderry ask new members to participate. Councilor Wagner said we have a resource with School Board members to help out. She said there is a lot going on and asked Andre if August/September was enough time to obtain figures on cost of construction of Page Rd. intersection. He responded the state felt they could do it by then. Councilor Farmer would like to hear during the upcoming budget season information about expanding staffing in the Planning Dept. He does not want full time employees being hired, wants to see cost of using consultants for 2-3 years. Andre said he will work with the Town Manager on that, however currently we are moving ahead on schedule. Councilor Wagner also gave credit to Art Rugg and John Farrell for their work behind the scenes. J. Farrell said if the CIP is run on a yearly basis it could be an effective mechanism.

NEW BUSINESS

None

APPROVAL OF MINUTES

Councilor DiMarco added his comments to line 41 of the Council's June 12, 2008 Public Meeting and **made a motion to accept as amended. Second by Councilor Wagner, Councilors' vote 5-0-0.**

OTHER BUSINESS

Liaison Reports

Councilor Wagner reminded the public that Old Home Days will take place from 8/13 to 8/17. Events will be televised.

Councilor Brown said he sent a copy of Supreme Court decision on the Cell Tower at Kelly Rd to his fellow Councilors, and asked the Council to review it. Town Manager Caron said the ZBA did a great job documenting the case; it was very clear in the Supreme Court decision.

Councilor Bove attended SNH Hazemat meeting, he was elected chairman again, meeting in Sept.; encouraged Councilor’s to attend. There will be no increase for the district this year. Hired a part-time former chief to do work volunteers were not able to do before.

Town Manager Report

Town Manager Caron said the Town ended the year with a very small surplus. Tax collections as of 7/11/08 were at 86.4% of tax revenues this year, last year at this time was 88% In both years the Town collected \$26.1M in those time periods; Collections are holding steady.

Councilor Brown asked Town Manager Caron if he has met with SAU Supt. Nate Greenberg about combining services. He responded he has met with Nate several times, looking at same areas, IT, cable, finance, facilities. School has retained someone to look at finance operation, expanded that to look at the IT and finance operations of the School and Town. The group will meet again the first week of August, and are on tract for mid Sept.

Board/Committee Appointments/Reappointments/Resignations

Councilor Farmer made a motion to appoint Jim Smith as an Alternate Member to the ZBA. Second by Councilor Wagner, Council’s vote 5-0-0.

Councilor Farmer made a motion to appoint Sue Joudrey as an Ad Hoc Member to the Demotion Delay Committee. Second by Councilor Wagner, Council’s vote 5-0-0.

Council agreed to accept the resignation of Gladys Frederick and Florence Silva from the Elder Affairs Committee.

ADJOURNMENT

Councilor Farmer made a motion to go into a non-public meeting at 10:02 PM per RSA 91 –A, with a by Second by Councilor DiMarco.

Aye Kathy Wagner, Aye Paul DiMarco, Aye Brian Farmer, Aye Marty Bove.

Notes and Tapes by: Margo Lapietro Date: 07/17/08

Minutes Typed by: Margo Lapietro Date: 07/22/08

Approved: Town Council Date: 08/18/08