

**TOWN COUNCIL
AGENDA
March 1, 2010**

The Town Council meeting will be held in the Moose Hill Council Chambers, Town Hall, 268B Mammoth Road, Londonderry. Regular meetings are cablecast live and videotaped for the convenience of our viewers at home. *All regular meetings will be adjourned by 10:00pm unless otherwise notified.*

7:00 PM

I. CALL TO ORDER – PUBLIC SESSION

- A. Scott Benson – Alternate, Planning Board
- B. Presentation of Volunteer Awards
- C. Introduction of Members of Leadership Londonderry Class

II. PUBLIC HEARING

- A. Resolution #2010-05 – Relative to Renaming Alamogordo Avenue and Barksdale Avenue
- B. Citizen’s Petition on the Definition of Marriage. (2nd Petition)

III. PUBLIC COMMENT

- A. Town Moderator Cindi Rice-Conley; Town Clerk-Tax Collector Meg Seymour.

IV. OLD BUSINESS

V. NEW BUSINESS

- A. Order #2010-03– Relative to the Licensing of a Junkyard Pursuant to RSA 236 (Murray’s Auto Recycling)
- B. Order #2010-04 – Relative to the Licensing of a Junkyard Pursuant to RSA 236 (S&S Metals)
- C. Order #2010-05 – Relative to the Licensing of a Junkyard Pursuant to RSA 236 (Hill’s Salvage Facility)
- D. Order #2010-06 - Relative to the Licensing of a Junkyard Pursuant to RSA 236 (Londonderry Salvage Facility)
- E. Resolution #2010-06 – Relative to Awarding a

Construction Contract for the North/West Fire Station Project

F. Confirmation of Administrative Support Coordinator

VI. APPROVAL OF MINUTES

A. Minutes of Council's Public Meeting of 2/1/10, 2/4/10 and 2/8/10

VII. OTHER BUSINESS

- A. Liaison Reports
- B. Town Manager Reports
- C. Board/Committee Appointments/Reappointments
 - 1. Alternate Vacancy on the Planning Board, term to expire 12/12

VIII. ADJOURNMENT

IX. MEETING SCHEDULE:

- A. Town Elections – March 9, 2010, Londonderry High School Gymnasium, 7:00 AM – 8:00 PM
- B. Budgetary Town Meeting – March 13, 2010, Londonderry High School Cafeteria, 9:00 AM
- C. Town Council Meeting – March 15, 2010, Moose Hill Council Chambers, Town Hall, 7:00 PM
- D. Town Council Meeting – April 5, 2010, Moose Hill Council Chambers, Town Council, 7:00 PM
- E. Town Council Meeting – April 19, 2010, Moose Hill Council Chambers, Town Hall, 7:00 PM
- F. Town Council Meeting – May 3, 2010, Moose Hill Council Chambers, Town Council, 7:00 PM

SUPPORTING DOCUMENTATION COUNCIL MEETING OF MARCH 1, 2010

I. CALL TO ORDER – PUBLIC SESSION – Moose Hill Council Chambers at 7:00 PM

- A. Interview – Scott Benson, PB Alternate – Mr. Benson has expressed an interest in serving on the Planning Board in the vacant alternate position. Mr. Benson has another commitment this evening, resulting in the placement of his interview at the beginning of the meeting.
- B. Presentation of Volunteer Awards – Margo has been finalizing the annual volunteer awards, which when completed, will be sent to the Council under separate cover.
- C. Introduction of Leadership Londonderry Class – Members of the Class of '10 will be introduced to the Town Council.

II. PUBLIC HEARINGS –

- A. Resolution #2010-05 – Relative to Renaming Alamogordo Avenue and Barksdale Avenue – Attached is Resolution 2010-05 which sets forth recommended street name changes which conform to State E911 addressing standards. Staff will be in attendance to provide an explanation and any questions.
- B. Citizen's Petition Requesting Definition of Marriage – The Town received the attached petition on Tuesday, February 2, which seeks to amend Representative Baldasaro's petition on the same subject.

The petition has been reviewed by legal counsel, who advises the following:

- 1) The petition is submitted pursuant to RSA 39:3, and as a non-budgetary petition, per the Town Charter it is not placed on the Town Meeting warrant.
- 2) The petition seeks an amendment to another citizen's petition, which is not authorized under state statute; thereby the relief sought by the petition is not legal.
- 3) As you know, this petition is not an initiative petition as authorized under Section 7.1 of the Town Charter.
- 4) This petition cannot be elevated to the level of an initiative petition, as Section 7.1. C states, in part..."No hearing shall be held upon more than one petition containing the same

- subject matter in any given twelve (12) month period”.
- 5) Town Counsel has opined that the petition before the Council is on the same subject matter as Representative Baldasaro’s petition.
 - 6) The Council should proceed as follows:
 - i. To maintain consistency with the requirement that petitions be submitted to the Legislative Body (Town Council) even if they are flawed, the Council should schedule a public hearing on this petition for March 1, 2010.
 - ii. The petitioners have been notified of both the hearing date and the illegality of the petition.
 - iii. After public input, it is recommended that the Council deny the relief sought in the petition.

III. PUBLIC COMMENT

- A. Town Moderator Cindi Rice-Conley & Town Clerk-Tax Collector Meg Seymour – This time is reserved for the Council to assign responsibility for the presentation of warrant articles at the Budgetary Town Meeting scheduled for March 13, 2010.

IV. OLD BUSINESS –

- A.

V. NEW BUSINESS –

NOTE FOR ORDERS #2010-03 THROUGH #2010-06. State statute stipulates that *“Licenses shall be renewed thereafter upon payment of the annual license fee without a hearing, if all provisions of state law are complied with during the license period, if the junk yard does not become a public nuisance under the common law or is not a nuisance under RSA 236:119, and if the applicant is not convicted of any type of larceny or of receiving stolen goods.”* Accordingly, these agenda items have not been advertised as a public hearing; a hearing can be scheduled for March 15, 2010 should the Town Council believe there is sufficient reason to not renew any or all of the licenses.

- A. Order #2010-03 - The Licensing of a Junkyard Pursuant to RSA 236

(Murray's Auto Recycling) –Senior Building Official Richard Canuel will be submitting a memo regarding his inspection of the facility, located on Hall Road.

B. Order #2010-04 – The Licensing of a Junkyard Pursuant to RSA 236 – (S&S Metals) - Senior Building Official Richard Canuel will be submitting a memo regarding his inspection of the facility, located on Rockingham Road.

C. Order #2010-05 – The Licensing of a Junkyard Pursuant to RSA 236 – (Londonderry Salvage) - Senior Building Official Richard Canuel will be submitting a memo regarding his inspection of the facility owned by Doris Iodice, located on Rockingham Road.

D. Order #2010-06 – The Licensing of a Junkyard Pursuant to RSA 236 – (Hill's Salvage Facility) - Senior Building Official Richard Canuel will be submitting a memo regarding his inspection of the facility owned by Kenneth Hill, located on Litchfield Road.

E. Resolution #2010-06 – Relative to Awarding a Construction Contract for the North/West Fire Station Project – Staff is meeting Friday with Seaver Construction, who is the apparent low bidder on the project, to review the bid and related issues. It is anticipated that staff will be in a position to recommend award of the work at the Council's March 1 meeting. Additional information shall be forthcoming.

F. Confirmation of Administrative Support Coordinator – Section 4.6 B of the Town Charter requires Council confirmation of employee appointments who report directly to the Town Manager. Accordingly, I am seeking Council confirmation of Stephen Cotton as Administrative Support Coordinator. Mr. Cotton has experience both in the private and public sectors as a long-time project manager in the software industry, a Trustee of Trust Funds in Danville, web site maintenance, facilities management and grant writer and manager for municipal grants. Pursuant to Council directive, the position was established under a 32 hour per week work schedule.

VI. APPROVAL OF MINUTES – Minutes of the Council's meetings of 2/1/10; 2/4/10 and 2/8/10.

VII. OTHER BUSINESS

D. Liaison Reports –

E. Town Manager Reports –

F. Board/Committee Appointments/Reappointments -

a. Alternate Vacancy on the Planning Board

VIII. ADJOURNMENT –

MEETING SCHEDULE:

- G. Town Elections – March 9, 2010, Londonderry High School Gymnasium, 7:00 AM – 8:00 PM
- H. Budgetary Town Meeting – March 13, 2010, Londonderry High School Cafeteria, 9:00 AM
- I. Town Council Meeting – March 15, 2010, Moose Hill Council Chambers, Town Hall, 7:00 PM
- J. Town Council Meeting – April 5, 2010, Moose Hill Council Chambers, Town Council, 7:00 PM
- K. Town Council Meeting – April 19, 2010, Moose Hill Council Chambers, Town Hall, 7:00 PM
- L. Town Council Meeting – May 3, 2010, Moose Hill Council Chambers, Town Council, 7:00 PM

**FOLLOW-UP FROM COUNCIL'S
February 8, 2010 MEETING**

ISSUE	ACTION	RESPONSIBILITY
Citizen Petition (II)	Advertise for 3/1 Public Hearing <i>(Done)</i>	Dave
Strategic Services	Review DRC process to insure consideration Of ongoing service delivery impacts Study appropriateness of decision matrix Continue to investigate alternate funding sources <i>(All in process)</i>	Dave/Staff
M/F Bldg. sizes	Follow-up on Legal's input to PB <i>(In process)</i>	Dave/Andre
Outside Web Services	Investigate CBA <i>(In process)</i>	Sue

RESOLUTION 2010-05

A Resolution Relative to renaming Alamogordo Avenue and Barksdale Avenue

First Reading: 2/01/10
Second Reading/Public Hearing: 3/01/10
Adopted: X/XX/XX

- WHEREAS** The Town of Londonderry is enabled by NH RSA 231:133 to name public highways; and
- WHEREAS** The Town Council established a Street Naming System Task Force to enhance public safety by reviewing and correcting addresses which are non-compliant with NH 9-1-1 addressing standards; and
- WHEREAS** Alamogordo Avenue and Barksdale Avenue have been identified as non-compliant; and
- WHEREAS** The Task Force seeks to have these streets become compliant to address other issues that have arisen due to the renaming of Eglin Boulevard and pending building changes in the same Mobile Home Park.
- WHEREAS** The Task Force, in cooperation and consultation with property owners recommend the following alternate street names.

NOW THEREFORE BE IT RESOLVED by the Londonderry Town Council that the two streets, Alamogordo Avenue and Barksdale Avenue, be renamed with the single name "Barksdale Avenue", to become effective on March 19, 2010. Properties will be renumbered according to the Town Addressing policy.

Mike Brown, Chairman
Town Council

(TOWN SEAL)

Marguerite A. Seymour
Town Clerk/Tax Collector

A TRUE COPY ATTEST:
xx/xx/xx

To the inhabitants of Londonderry in the County of Rockingham in said State qualified to vote in Town Affairs:

Voters are hereby notified to meet at the Londonderry High School Gymnasium in Londonderry on Tuesday the tenth (9th) day of March, 2010, at seven o'clock in the morning to choose all necessary Town Officers for the ensuing year, and to act upon bond and note articles, all by official ballot, the polls to be open at seven o'clock in the morning and to close not earlier than eight o'clock in the evening.

Voters are further notified to meet at the Londonderry High School Cafeteria on Saturday, March 14, 2009 at nine o'clock in the morning to discuss, amend and act upon articles, the proposed Fiscal Year 2010 budget and all other matters to come before the meeting.

ARTICLE NO. 1 [ELECTION OF OFFICERS]

To choose all necessary Town Officers for the ensuing year, or until another is chosen or appointed and qualified.

**Town Council – Vote for Two
Three Year Term**

Tim Siekmann _____
Tom Dolan _____
John Farrell _____
Tom Freda _____
Joe Green _____

**Budget Committee – Vote for Two
Three Year Term**

Lisa I. Whittemore _____
John Curran _____
Dan Lekas _____

Town Clerk/Tax Collector – Vote for One

Three Year Term
Deborah Shimkonis Nowicki _____
Meg Seymour _____

Town Moderator – Vote for One

Two Year Term
“Cindi” Rice Conley _____

**Town Treasurer – Vote for One
Three Year Term**

Robert W. Lincoln _____

**Trustees of Leach Library – Vote for Three
Three Year Term**

Pauline A. Caron _____
Robert J. Collins _____
William B. Feldmann _____

Supervisor of the Checklist – Vote for One

Six Year Term
Deborah Currier _____

Trustees of Trust Funds – Vote for One

Three Year Term
Elizabeth Durkin _____
Scott Knox _____

Charter Commission – Vote for Nine

Cris Navarro _____ Marie O’Keefe _____ Chris Paul _____
Debra Paul _____ Tammy Siekmann _____ Kathy Wagner _____

Anne Warner	___	Gregory B. Warner	___	Steve Young	___
Al Baldasaro	___	Marty Bove	___	Dana Coons	___
Bruce L. Dornier	___	Glenn Douglas	___	Brian Farmer	___
Fred Heinrich	___	James "Jay" Hooley	___	Robert R. Lebreux	___
___ Jim Loiselle	___	Lara M. W. McIntyre	___	Chris Melcher	___
___	___				

ARTICLE NO. 2 [CHARTER COMMISSION]

Shall a charter commission be established for the sole purpose of establishing official ballot voting under Londonderry's current Town Council-Budgetary Town Meeting form of government?

Voted by ballot on March 9, 2010; polls open from 7:00 AM and close at 8:00 PM.

Voting Results: (Yes -) (No -) (Blanks -)

ARTICLE NO. 3 [MARRIAGE RESOLUTION TO STATE ELECTED OFFICIALS]

To see if the Town will vote to approve the following resolution to be forwarded to our State Representative(s), our State Senator, the Speaker of the House, and the Senate President.

Resolved: The citizens of New Hampshire should be allowed to vote on an amendment to the New Hampshire Constitution that defines "marriage".

Voted by ballot on March 9, 2010; polls open from 7:00 AM and close at 8:00 PM.

Voting Results: (Yes -) (No -) (Blanks -)

ARTICLE NO. 4 [BOND ISSUE FOR HIGHWAY RECONSTRUCTION]

To see if the Town will vote to raise and appropriate **ONE MILLION FORTY-EIGHT THOUSAND DOLLARS (\$ 1,048,000)** for the reconstruction of roads.

Said sum to be raised by the issuance of serial bonds or notes not to exceed **ONE MILLION DOLLARS (\$1,000,000)** under and in compliance with the provisions of the Municipal Finance Act (NH Revised Statutes Annotated Chapter 33) and to authorize the Town Council to issue and negotiate such bonds or notes, to determine the rate(s) of interest thereon and to take such other actions as may be necessary to effect the issuance, negotiation, sale and delivery of such bonds or notes as shall be in the best interest of the Town of Londonderry, and to authorize the Town Council to accept any funds from the State of New Hampshire, the Federal Government, and private sources, as may become available, and pass any vote relating thereto and **FORTY EIGHT THOUSAND DOLLARS (\$48,000)** for the first year's interest payment and bond issuance costs on said bond and to authorize the transfer of the June 30 fund balance in that amount for this purpose. (Ballot Vote – 60% approval required)

(If passed, this article will require the Town to raise \$0 in property taxes, resulting in a tax rate impact of \$0.00 in FY 11; \$140,000 in property taxes, resulting in a tax rate impact of \$0.04 in FY 12; and \$136,000 in property taxes, resulting in a tax rate impact of \$0.04 in FY13, based upon projected assessed values.)

This article is supported by:

Town Council - (Yes: 5-0-0) Budget Committee - (Yes: 7-0-0)

Voted by ballot on March 9, 2010; polls open from 7:00 AM and close at 8:00 PM.

Voting Results: (Yes -) (No -) (Blanks -)

ARTICLE NO. 5 [EXPENDABLE MAINTENANCE TRUST FUND]

To see if the Town will vote to raise and appropriate the sum of **TWO HUNDRED THOUSAND DOLLARS (\$200,000)** to be placed in the Town's Maintenance Trust Fund created by the voters at the 2003 Town Meeting for the purpose of repairing and maintaining town facilities and to authorize the use of the June 30 Fund Balance in the amount of \$150,000 towards this appropriation.

(If passed, this article will require the Town to raise \$50,000 in property taxes, resulting in a tax rate impact of \$0.01 in FY 11 based upon projected assessed values.)

This article is supported by:

Town Council - (Yes 5-0-0) Budget Committee - (Yes 7-0-0)

Motion: _____

Second: _____

Presenting: Dave

Budget Committee: Deb Nowicki

The Expendable Maintenance Trust Fund is used to maintain town facilities, such as replacing carpeting; installation of a new roof and windows at the Senior Center; purchase of equipment for the Recreation Division, such as bleachers and lighting; tennis court renovations; remediation of an abandoned site on Sanborn Road and improvements at the Highway Garage.

Due to recent economic conditions, Town Meeting in 2009 reduced this appropriation; this year's request represents the first phase of a multi-year plan to restore funding to appropriate levels:

CATEGORY	FY 09	FY 10	FY 11	FY 12	FY 13
Expend. Mtn. Trust	\$ 205,000.00	\$ 100,000.00	\$ 200,000.00	\$ 200,000.00	\$ 200,000.00
UFB	\$ 100,000.00	\$ 100,000.00	\$ 150,000.00	\$ 100,000.00	\$ 100,000.00
Taxation	\$ 105,000.00	\$ -	\$ 50,000.00	\$ 100,000.00	\$ 100,000.00

ARTICLE NO. 6 [FISCAL YEAR 2011 TOWN OPERATING BUDGET]

To raise such sums of money and make appropriations of the same as may be necessary to defray Town charges, exclusive of warrant articles and increases resulting from collective bargaining agreements, for the ensuing fiscal year, July 1, 2010 through June 30, 2011.

(If passed, this article will require the Town to raise \$14,848,486 in property taxes, resulting in a tax rate impact of \$4.44 in FY 11 based upon projected assessed values.)

This article is supported by:

Town Council - (\$25,913,414 - Yes: 5-0-0)

Budget Committee - (\$25,913,414 - Yes:

7-0-0)

Motion: _____

Second: _____

Presenting: Dave/Sue

Budget Committee: Mark Oswald

Staff Resource: Dave Caron, then to appropriate Department Heads

Article 6 funds the operation of town government for the year beginning July 1, 2010, such as Public Safety, Public Works, Recreation, Tax Collection and Administration, Debt Service Payments, General Assistance, Planning and Economic Development

The FY11 Budget represents a 2.44% increase over the current budget; it is approximately \$72,318 less than what a default budget would be. Cost savings include lower debt service payments, lower general government and Finance Department expenses. Revenues are stabilizing, with slight increases in motor vehicle permit fees anticipated in FY11; the Town continues to benefit financially from its contract with Manchester-Boston Regional Airport to provide law enforcement services. Impact fees have also been included to help defray debt service charges on the Library and Police Station.

Capital Reserve Programs	\$ 325,000.00	\$ 225,000.00	\$ 325,000.00	\$325,000.00	\$ 40
UFB	\$ -	\$ 100,000.00	\$ 150,000.00	\$ 75,000.00	\$
Raised by Taxation	\$ 325,000.00	\$ 125,000.00	\$ 175,000.00	\$250,000.00	\$ 40

ARTICLE NO. 8 [RATIFY COLLECTIVE BARGAINING AGREEMENT BETWEEN AFSCME Local 3657 and THE TOWN OF LONDONDERRY]

To see if the Town will vote to approve the cost items included in the collective bargaining agreement reached between the Town of Londonderry and the American Federation of State, County and Municipal Employees (AFSCME), Local 3657, which calls for the following appropriations for salaries and benefits over what was raised under any current agreements and policies for the employees of the Union:

<u>Year</u>	<u>Cost Increase From Prev. FY</u>	<u>Tax Increase From Prev. FY¹</u>	<u>Total Estimated Cumulative Cost</u>	<u>Average Rate Incr.</u>
FY11	\$160,739.00	\$ 0.03	\$ 160,739.00	3.0%
FY 12	\$157,605.00	0.03	\$ 318,344.00	3.0%
FY 13	\$165,445.00	\$ 0.03	\$ 483,789.00	3.0%

and further, to raise and appropriate the sum of \$ **104,980.00** for the FY11 expenses (\$0.03 on the tax rate; the balance of the appropriation, \$55,759, shall be funded by the Manchester-Boston Regional Airport law enforcement agreement), such sum representing the additional cost attributable to the increase in salaries and benefits over those of the appropriation at the current staffing levels paid under any existing agreements. (AFSCME Local 3657 represents 72 full time and 2 part time Police Department employees.)

(If passed, this article will require the Town to raise an additional \$104,980.00 in property taxes, resulting in a tax rate increase of \$0.03 in FY 11 based upon projected assessed values.)

This article is supported by:

Town Council - (Yes: 5-0-0) Budget Committee - (Yes: 5-0-0)

¹ Projections are based upon projected assessed values.

Motion: _____

Second: _____

Presenting: _____

Budget Committee: **Don Jorgenson**

Staff Resource: **Dave Caron**

The proposed agreement covers a period of three years, from July 1, 2010 through June 30, 2013. The parties have agreed to the following:

- *Cost of living adjustments annually at 3% per year.*
- *The step system for new employees has been changed to provide a 2.5% increase between steps.*
- *Employees will continue to pay 20% of their health care*

premium costs.

- *Employees have agreed to reduced sick leave accrual and sick leave payment upon separation*

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ARTICLE NO. 9 [RATIFY FACTFINDER REPORT FOR COLLECTIVE BARGAINING AGREEMENT BETWEEN LONDONDERRY ADMINISTRATIVE EMPLOYEES ASSOCIATION and THE TOWN OF LONDONDERRY]

To see if the Town will vote to accept the Fact Finder’s report for the Collective Bargaining Agreement between the Town of Londonderry and the Londonderry Administrative Employees Association, and in doing so, to approve the cost items within said Agreement, which calls for the following appropriations for salaries and benefits over what was raised under any current agreements and policies for the employees of the Union:

<u>Year</u>	<u>Cost Increase</u> From Prev. FY	<u>Tax Increase</u> From Prev. FY ¹	<u>Total</u> <u>Cumulative Cost</u> <u>Incr.</u>	<u>Estimated</u> <u>Average</u> <u>Rate</u>
FY 11	\$117,852.00	\$ 0.04	\$ 117,852.00	10.80%
FY 12	\$118,468.00	\$ 0.04	\$ 236,320.00	7.65%

and further, to raise and appropriate the sum of \$ 117,852.00 (\$0.04 on the tax rate) for the FY 11 expenses, such sum representing the additional cost attributable to the increase in salaries and benefits over those of the appropriation at the current staffing levels paid under any existing agreements. (LAEA represents 26 full time management and professional positions in eight Departments.)

(If passed, this article will require the Town to raise \$117,852.00 in property taxes, resulting in a tax rate increase of \$0.04 in FY 11 based upon projected assessed values.)

This article is supported by:

Town Council - (Yes: 0-5-0) Budget Committee – (Yes: 0-5-0)

¹ Projections are based upon projected assessed values

Motion: _____

Second: _____

Presenting: _____

Budget Committee: **Jay Hooley**

Staff Resource: **Dave Caron**

ARTICLE NO. 10 [RATIFY FACTFINDER REPORT FOR COLLECTIVE BARGAINING AGREEMENT BETWEEN LONDONDERRY EXECUTIVE EMPLOYEES ASSOCIATION and THE TOWN OF LONDONDERRY]

To see if the Town will vote to accept the Fact Finder’s report for the Collective Bargaining Agreement between the Town of Londonderry and the Londonderry Executive Employees Association, and in doing so, to approve the cost items within said Agreement, which calls for the following appropriations for salaries and benefits over what was raised under any current agreements and policies for the employees of the Union:

<u>Year</u>	<u>Cost Increase</u> <u>From Prev. FY</u>	<u>Tax Increase</u> <u>From Prev. FY¹</u>	<u>Total</u> <u>Cumulative Cost</u> <u>Incr.</u>	<u>Estimated</u> <u>Average</u> <u>Rate</u>
FY 11	\$ 25,180.00	\$ 0.01	\$ 25,180.00	3.0%
FY 12	\$ 24,958.41	\$ 0.01	\$ 50,138.41	3.0%
FY 13	\$ 25,842.95	\$ 0.01	\$ 75,981.36	3.0%

and further, to raise and appropriate the sum of \$ **25,180.00** (\$0.01 on the tax rate) for the FY 11 expenses, such sum representing the additional cost attributable to the increase in salaries and benefits over those of the appropriation at the current staffing levels paid under any existing agreements. (LEEAA represents 6 full time and 3 part time Department Heads, and the Police Prosecutor.)

(If passed, this article will require the Town to raise \$25,180.00 in property taxes, resulting in a tax rate increase of \$0.01 in FY 11 based upon projected assessed values.)

This article is supported by:

Town Council - (Yes: 0-5-0)

Budget Committee – (Yes: 0-5-0)

¹ Projections are based upon projected assessed values

Motion: _____

Second: _____

Presenting: _____

Budget Committee: Tom Dolan

Staff Resource: Dave Caron

ARTICLE NO. 11 [AUTHORIZATION FOR SPECIAL MEETING ON COST ITEMS]

To see if the Town will vote, if Article 8 is defeated, to authorize the Town Council to call one special meeting, at its option, to address Article 8 cost items only.

(This article, if passed will have no tax impact.)

This article is supported by:

Town Council - (Yes: 5-0-0) Budget Committee - (Yes: 5-0-0)

Motion: _____

Second: _____

Presenting: _____

Budget Committee: Todd Joncas

Staff Resource: Dave Caron

This Article would allow the Town Council to schedule a Special Town Meeting without having to seek Superior Court approval should voters reject the proposed Agreement with our Police Department employees, and the Town and AFSCME are able to reach agreement on a revised proposal. Should Article 8 receive Town Meeting approval today, this article is moot.

ARTICLE NO. 12 [NORTH/WEST FIRE STATION CONSTRUCTION AND ASSOCIATED COSTS]

To see if the Town will vote to raise and appropriate **ONE HUNDRED SIXTY THREE THOUSAND FOUR HUNDRED FIFTY SIX DOLLARS (\$163, 456)** for the purpose of funding the balance of the construction costs beyond the \$1.655 Million ARRA Grant received for this purpose, and the acquisition of communications, furnishings and other equipment for the North/West Fire Substation, construction inspection testing, clerk expenses and other associated costs; and to authorize the use of the June 30 Fund Balance for these purposes.

(If passed, this article will require the Town to raise \$0.00 in property taxes, resulting in a tax rate impact of \$0.00 in FY 11 based upon projected assessed values.)

This article is supported by:

Town Council - (Yes: 5-0-0) Budget Committee - (Yes: 5-0-0)

Motion: _____

Second: _____

Presenting: _____

Budget Committee: Mark Oswald

Staff Resource: Chief MacCaffrie

The Town was awarded a grant through the federal ARRA program to construct a replacement substation on Grenier Field Road. Bids were received on the construction portion of the project, with a final project budget currently being developed. At this time, the following is recommended: (Final adjustments are anticipated to be made after a Feb. 26 meeting with the low bidder.)

<u>Expenses:</u>	Project Cost, including LEED & ARRA Redesign and Bid Requirements:	\$1,865,000
	Soft Costs, including Material Testing, Furniture, Communications	\$ 110,000
	Clerk	\$ 40,000
	Enviro	\$ 25,000
	Total Project Cost:	\$2,040,000
<u>Project Revenues:</u>		
	ARRA Grant Funds	\$1,655,171.00
	Fire Bond #1 - Balance	\$ 156,169.00
	Fire Impact Fees	\$ 65,204.00
	Undesignated Fund Balance	\$ 163,456

| **Offsetting Revenues:** **\$2,040,000** |

ARTICLE NO. 13 [ESTABLISH CAPITAL RESERVE FUND FOR PILLSBURY CEMETERY EXPANSION]

To see if the Town will vote to establish a Capital Reserve Fund under the provisions of RSA 35:1 for the purpose of expanding Pillsbury Cemetery and to raise and appropriate the sum of **TWO HUNDRED TEN THOUSAND DOLLARS (\$210,000)** to be placed in this fund; to authorize the use of the June 30 Fund Balance for this purpose; and to designate the Town Council as Agent to Expend (Majority vote required).

(If passed, this article will require the Town to raise \$0.00 in property taxes, resulting in a tax rate impact of \$0.00 in FY 11 based upon projected assessed values.)

This article is supported by:

Town Council - (Yes: 5-0-0) Budget Committee - (Yes: 5-0-0)

Motion: _____

Second: _____

Presenting: _____

Budget Committee: Jay Hooley

Staff Resource: Dave Caron

The Trustees of Trust Funds estimate that all lots in Phase I will be sold by 2014. This article would create a Capital Reserve Fund for the expansion of Pillsbury Cemetery at an estimated cost of \$210,000.00, to be funded from Undesignated Fund Balance. With the savings realized through the competitive bid process under Article 12, the Town has surplus funds available for this project.

ARTICLE NO. 14 [FUND SPECIAL REVENUE ACCOUNTS]

To see if the Town will vote to raise and appropriate the sums set forth below from the special revenue funds already established. Such appropriations shall be used for the purpose of covering Police Outside Details, Cable and Sewer Expenses, and shall be funded from various vendors and users of Police, Cable and Sewer Services. Any surplus in said funds shall not be deemed part of the General Fund accumulated surplus and shall be expended only after a vote by the legislative body to appropriate a specific amount from said funds for a specific purpose related to the purpose of the funds or source of revenue.

Sewer Division Fund	\$ 2,686,076
Cable Franchise Fee Fund	371,052
Police Outside Detail Fund	<u>447,183</u>
	\$ 3,504,311

(These services are funded through user fees and require no property tax support)

This article is supported by:

Town Council - (Yes: 5-0-0) Budget Committee - (Yes: 7-0-0)

Motion: _____

Second: _____

Presenting: Dave Caron

Budget Committee: Don Jorgenson

Staff Resource: Sewer: Janusz; Cable: Dottie; Details: Captain Hart

This warrant article funds:

- 1) Municipal Sewer System which utilizes both the Derry and Manchester Treatment Plants; operating costs are funded by quarterly sewer charges paid by all users.*
- 2) Cable Access Center operations, funded by franchise fees paid by all cable subscribers.*
- 3) Police Outside Details, paid by those entities requesting this service; a fee is also charged for the use of police cruisers on detail assignment.*

ARTICLE NO. 15 [APPROPRIATION OF LAND USE CHANGE TAXES TO THE CONSERVATION FUND AND THE GENERAL FUND]

To see if the Town will vote pursuant to the provisions of RSA 79-A:25 IV, to place twenty (20%) percent of revenues received from the Land Use Change Tax in the Conservation Fund; currently one hundred (100%) of the revenues received from the Land Use Change Tax are placed in the Conservation Fund. (By petition)

This article is supported by:

Town Council - (Yes: 1-4-0) Budget Committee - (Yes: 1-4-0)

Motion: Petitioners

Second: Petitioners

Presenting: Petitioners

Budget Committee: Tom Dolan

Staff Resource: Dave Caron

Article #15 was submitted by petition; The Town's receipts from this revenue source averages \$216,000 annually.

ORDER 2010-03

An Order Relative to

THE LICENSING OF A JUNKYARD PURSUANT TO RSA 236

First Reading: 03/01/10

Adopted: 03/01/10

WHEREAS Edward Dudek, Jr., who resides at 36 Strafford Lane, Bedford, NH, and is the owner of Murray's Auto Recycling, 55 Hall Road, Londonderry, NH desires a license to continue operations of said business; and

WHEREAS Edward Dudek, Jr., has complied with the requirements of RSA 236 and other conditions of operations as set forth by the Town Council; and

WHEREAS the Londonderry Town Council, acting as the Governing Body of the Town has such licensing authority and with approval of the Londonderry Building/Health Inspector who has oversight authority, it appears that the public good so requires such license be granted;

IT IS THEREFORE ORDERED by the Londonderry Town Council that Edward Dudek, Jr., doing business as Murray's Auto Recycling, be granted a license to operate an auto recycling facility with the conditions as set forth in the attached agreement.

Michael Brown - Chairman
Town Council

Meg Seymour - Town Clerk/Tax Collector

(TOWN SEAL)

A TRUE COPY ATTEST:

xx/xx/xx

ORDER 2010-04

An Order Relative to

THE LICENSING OF A JUNKYARD PURSUANT TO RSA 236

First Reading: 03/01/10

Adopted: 03/01/10

WHEREAS Vito J. Solomini, who resides at 39 Tsienneto Road, Derry, NH, and is the owner of S & S Metals, 196 Rockingham Road, Londonderry, NH desires a license to continue operations of said business; and

WHEREAS Vito J. Solomini has complied with the requirements of RSA 236 and other conditions of operations as set forth by the Town Council; and

WHEREAS the Londonderry Town Council, acting as the governing body of the Town has such licensing authority and with approval of the Londonderry Building/Health Inspector who has oversight authority, it appears that the public good so requires such license be granted;

IT IS THEREFORE ORDERED by the Londonderry Town Council that Vito Solomini, doing business as S & S Metals, be granted a license to operate an auto recycling facility and that renewal of said license be hereby granted, and conditioned upon compliance with the attached agreement.

Michael Brown - Chairman
Town Council

(TOWN SEAL)

Meg Seymour - Town Clerk/Tax Collector

A TRUE COPY ATTEST:
xx/xx/xx

ORDER 2010-05

An Order Relative to

THE LICENSING OF A JUNKYARD PURSUANT TO RSA 236

First Reading: 03/01/10

Adopted: 03/01/10

WHEREAS Doris and Anthony Iodice, who reside at 211 Rockingham Road, Londonderry, NH and are the owners of Londonderry Salvage, 211 Rockingham Road, Londonderry, NH desires a license to continue operations of said business; and

WHEREAS the Londonderry Town Council, acting as the Legislative body of the Town has such licensing authority and with approval of the Londonderry Building/Health Inspector who has oversight authority, it appears that the public good so requires such license be granted;

IT IS THEREFORE ORDERED by the Londonderry Town Council that Doris and Anthony Iodice doing business as Londonderry Salvage, be granted a license to operate an auto recycling facility and that renewal of said license be hereby granted.

Michael Brown - Chairman
Town Council

(TOWN SEAL)

Meg Seymour - Town Clerk/Tax Collector

A TRUE COPY ATTEST:

xx/xx/xx

ORDER 2010-06

An Order Relative to

THE LICENSING OF A JUNKYARD PURSUANT TO RSA 236

First Reading: 03/01/10

Adopted: 03/01/10

WHEREAS Kenneth Hill, who resides at 7 Litchfield Rd., Londonderry, NH, and is the owner of Hill's Salvage Facility, 7 Litchfield Rd., Londonderry, NH desires a license to continue operations of said business; and

WHEREAS Kenneth Hill has complied with the requirements of RSA 236 and is in the process of compliance with other conditions of operations as set forth by the Town Council; and

WHEREAS the Londonderry Town Council, acting as the Legislative body of the Town has such licensing authority and with approval of the Londonderry Building/Health Inspector who has oversight authority, it appears that the public good so requires such license be granted;

IT IS THEREFORE ORDERED by the Londonderry Town Council that Kenneth Hill, doing business as Hill's Salvage Facility, be granted a license to operate an auto recycling facility with the conditions as set forth in the attached agreement.

Michael Brown - Chairman
Town Council

(TOWN SEAL)

Meg Seymour - Town Clerk/Tax Collector

A TRUE COPY ATTEST:
xx/xx/xx

RESOLUTION #2010-06

A Resolution Relative to
Awarding a Contract to Construct the North/West Fire Station

First Reading: 03/01/10

Adopted: 03/01/10

WHEREAS The Town has planned for the construction of a North/West Fire Station as part of its Capital Improvements Program; and,

WHEREAS the Station was designed in conjunction with the design and construction of the South Fire Station in 2006; and,

WHEREAS the project received a \$1.655M ARRA grant which will significantly reduce the local costs of the project; and

WHEREAS the Town has bid the construction portion of the project in accordance with Town procurement procedures;

NOW THEREFORE BE IT RESOLVED by the Londonderry Town Council that the Town Manager is hereby authorized to execute a contract with Seaver Construction, Woburn, MA to construct North/West Fire Station, in the amount of \$x,xxx,xxx.xx, contingent upon final project funding approval at the 2010 Town Meeting.

Michael Brown - Chairman
Town Council

Marguerite Seymour - Town Clerk/Tax Collector

(TOWN SEAL)

A TRUE COPY ATTEST:
xx/xx/xx

TOWN COUNCIL MEETING
February 1, 2010

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

PRESENT: Town Council: Chairman Mike Brown: Vice Chairperson, Kathy Wagner; Councilors: Sean O’Keefe; Paul DiMarco; Town Manager Dave Caron; Executive Assistant, Margo Lapietro. Absent: Brian Farmer

CALL TO ORDER – PUBLIC SESSION

Chairman Brown opened the meeting at 7:01 PM with the Pledge of Allegiance. This was followed by a moment of silence for the men and women fighting for our country.

PUBLIC HEARING

Chairman Brown pointed out the emergency fire exits. He also mentioned that the Councilors’ attended a promotions ceremony next door at the Londonderry Police Department.

Chief Hart – Police Department Promotions – Chief Hart of the Londonderry Police Department was in attendance in addition to Captains Gerard Dussault and Steve Tatham. The recent promotions were: Paul Fulone from Lieutenant to Captain
Tim Jones from Sergeant to Lieutenant
Adam Dyer from Detective to Sergeant
Patrick Cheetham from Detective to Sergeant
Scott Balukonis from Patrolman to Detective
Joseph Bellino from Patrolman to Detective
Kristen Gore from Patrolman to Detective

Officers recently named to the Southern New Hampshire Special Operations Unit are:
Garrett Malloy
Eric Arel
Jason Teufel

Londonderry Police Department has recently hired Nicholas Pinardi as a patrol officer

A motion was made by Councilor DiMarco to open the public hearing, second Councilor Wagner. Council’s vote 4-0-0.

Citizen’s Petition Requesting Constitutional Amendment on the Definition of Marriage.

Chairman Brown reviewed the rules of the meeting. The Council respects the rights

of all its citizens and residents to voice their opinion on matters of public policy. We expect that all participants in this process voice their opinions in a respectful manner and to respect those who may have differing views. We are going to acknowledge a spokesperson for the petition and we allow public comments from that person at the start of the hearing. We will offer Londonderry residents an opportunity to give us public comment and then from non-residents if time allows. When you come to the microphones please state your name and address before offering your comments. No personal attacks of any kind will be allowed against any individuals, or against the Council. All public comments should be limited to the petition itself. Comments regarding statements made by individuals in other venues will not be addressed during this public hearing. Please keep your comments brief and to the point to the best of your ability so everyone has an opportunity to speak tonight. If another speaker has offered comments similar to yours we would request that those not be repeated. Town Manager Caron recapped the petition. He said under NH state law if you submit a petition with 25 signatures of registered voters that petition is brought forth to Town Meeting. In most towns that includes both budget and non-budgetary items. In 1996 Londonderry voters approved a charter which transferred a lot of the responsibilities that were previously held by Town Meeting to the Town Council. Town Meeting did reserve the right to still approve the annual budget. For non-budgetary items if you submit a petition with 25 signatures that goes to Town Council which acts upon those petitions as if they were the voters at Town Meeting. The framers of the Charter did allow for some issues to go directly to the voters; those issues essentially need to prompt a large number of voters to act and that is the process we are operating under this evening. Under Article 7 of the Town Charter if the Council receives a petition containing the signatures of at least 1% of the registered voters, then a public hearing will be held, which is being accomplished this evening, then the Council acts on that petition. The issue being requested to be acted on this evening is to “see if the Town will vote to approve the following Resolution to be forwarded to our State Representative(s), our State Senator, the Speaker of the House and the Senate President; Resolve that the citizens of NH should be allowed to vote on a amendment of the NH Constitution that defines marriage”. If the Council approves the petition this evening they will still be wearing their legislative body hat and will send a letter to those state officials asking them to take action on that issue at the state level. If the petitioners who want to vote on this issue at town meeting are dissatisfied by the Council’s action, they can submit a referendum petition which per the Town Charter must contain the signatures of at least 5% of the registered voters of the community. The Referendum Petition has to be submitted within 30 days of this date of the action being taken, presumably this evening. If that happens then that referendum petition has the same power as a 25 signature petition in a traditional Town Meeting. In other words if the Council receives a referendum petition and it is validated that at least 5% of the registered voters have signed it, the petition will automatically go before the voters at a Special Election. Due to the scheduling process in the Charter if a referendum petition is received prior to February 9th it will appear on the March 9th regular Town Meeting. If received after that date then the Council is required by Town Charter to schedule a

special election sometime this spring for that sole purpose.

Marty Bove, 3 Tinkham Lane said he was here on behalf of Rep. Al Baldassarro. He stated that the petition is being looked at across the state, some communities have already put it on the ballot, some have not. The citizens have the right to put it on the ballot; citizens have the right to vote. He stated that he is asking the Council to give the petitioners that opportunity to put it on the ballot so that the voters can voice an opinion. He explained that the state legislature has decided not to address these issues and the only way to address it is to let them know that the majority of people in the state feel that it is an issue that should be addressed and voted on. That would result in a constitutional amendment. A constitutional amendment needs 60% of the voters to pass. He encouraged the Council to listen to individuals who was in attendance tonight with different opinions. M. Bove said he was here tonight to strictly argue to put this petition on the ballot. He told the Council that if they decide not to put this issue on the ballot they are working on getting the additional names for the next petition. He asked Council to consider saving the people a lot of effort by approving this petition. Michael Dente, 13 Pleasant Drive said he is representing an organization that was put together by Scott Feinberg. It is an organization called NH Students for the Protection of Gay Marriage. He said that his organization does not believe that this is something that the majority of people should be voting on. Marriage is a civil right. It should not be under the privy of the majority rule. He stated that if the majority of the populous in the past had been allowed to decide the civil rights of a few then many of the things that make us Americans proud wouldn't have taken place. He proceeded to give examples of civil rights, women's suffrage. He said to let the elected officials make the decision, not the majority rule. He stated that the students of NH do not want to grow up in a state that allows the majority to decide the rights of a few. He asked the Council to take that into consideration and look to the broader implications. It is not just about the right for homosexuals to marry it is about the right for minorities to be protected from the majority. Lynn Cina, 8 Lantern Lane said this issue is about civil rights and we are all equal under the law. It is not right to take away the rights granted by the state. Voting on it will create second class citizens. Chairman Brown clarified that this Council has two choices tonight, pass the petition which then will not go on our warrant, but the Town Council consensus will be forwarded to the state; or the Council can deny the petition and the petitioners that may feel aggrieved by that decision can then take advantage of 7.2 in our Charter. They will have to come up with enough validated registered voter signatures, and that question will go to the voters. Council is voting on the petition we have in front of us tonight, we are either going to pass it and it won't go to Town Meeting or we are going to deny it and the Council could on it's own put it on the Town Warrant but that discussion has not yet taken place. Councilor Wagner further stated that we are not voting to repeal gay marriage. Our decision is to allow the petition to be on the ballot or send a letter to the state saying that we agree with the petitioners. It is a non-binding referendum so we are not going to have any say in what the state will do. At this point in time the Town Manager re-read the

petition. Chairman Brown re-stated that if Council passes the petition this evening it will go to the state and not to the Town Meeting; if we deny it and the petitioners who feel aggrieved could get enough signatures by 2/9 it would go on the ballot at Town Meeting as a non-binding question, or Council could make a motion to put it on the warrant. Town Manager Caron said if an additional petition is submitted to get it on this year's traditional Town Meeting it would have to be received by 2/9/10 however, petitioners have 30 days from the day the decision is made to submit a petition. If that occurs it would go to the voters at a special election determined by the Council. Sharri Radzelovage, 34 Litchfield Rd, said that the Councilors represent the voters and people have expressed their opinion that they want to vote on the issue. Lynne Laval-Yeh, 3 Lane Four, said some people are hoping to undue what was done at the state house. She said she is an ordained clergy and said there is nothing in the bible to condemn same sex relationships. It is important for the process but the attempt is a do-over. Anne Ducharme, 100 Chase Rd. said marriage equality is a civil right, separate church and state. Christopher Spencer, 18 Hall Rd., said the message that would be sent to business looking to relocate here is that we are an intolerant community, don't send the motion to Concord. Kathy DePiero, 86 Hovey Rd., asked Council to reject Al Baldasaro petition, she said we need to put our energies to better use. Rejecting this is the right thing to do morally and socially for the greater good of Londonderry. Jim Radzelovage, 34 Litchfield said there are two components to a traditional marriage, spiritual and civil. Nobody has a right to an opinion of a legitimate marriage. It is a set of privileges that society agrees to put on a marriage. It is up to the people to decide what rights and privileges they want to grant as a result of being married. The state has no right deciding whether or not you are married. If it is recognized legally it is an entirely separate issue and he would like to send the petition to Concord. John Loker, 34 Parmenter Rd. said he is an ordained minister and quoted scripture that stipulates that marriage between a man and women is ordained by God. He said that we vote our officials into office to represent us. He said 34 legislatures didn't vote, maybe they were not up to the task. He said he would like to see the petition go forward and let the people vote. Nancy Norton Hendricks, 14 King John Dr. urged Council to reject the petition. Democracy worked and the people of NH have spoken. We should be concerned about vacant homes, businesses, loss of jobs, income, etc. We should be focused on economic growth and development; it is time for us to move on. The issue has been already settled. She does not support using taxpayer dollars over an issue that has already been settled. She urged the Council to reject the petition, let democracy stand on its own merit; the people in NH have spoken for the equality of all. Lisa Drabik, 21 King Arthur Dr. said the petition is vague. She spoke about the separation of church and state. The Constitution guarantees the freedom to exercise individual religions convictions but prohibits us from forcing our beliefs on others. She urged Council to deny the petition She proceeded to quote Supreme Court decisions, anti-discrimination law and current cases in different states. She said the Council should be focused on the economy and jobs and urged the Council to deny the petition. Lisa Fersch, 8 Checkerberry Lane urged Council to reject the petition. A. Baldasaro should listen to his constituents and drop the issue. She also referenced laws for equal rights. L. Fersch asked the

Council to reject the petition and show Londonderry that we will not stand for a vote to discriminate. Donna Andronico, 24 Colonial Dr., said there is no greater fundamental right than the right to vote. Send the petition forward for all people to vote. The rights of the majority overrule the minority. Send the message to the representatives in Concord who represent us. Approve the petition avoid the special meeting. Delores Stoklosa 6 Kelly Rd., asked the Council to reject the petition. If Council does send this petition forward then they are setting a precedent to send all other petitions to the state. Let the petitioners prove that this is what people want. Greg DePasse, 21 Welch Rd. asked Council to not allow the petition to go forward. He said the goal of the petition is to create a second class of people, that is not the NH way. Chris Melcher, 4 Bancroft Rd. stated that the people in NH do not have the right to referendum; it is not in our constitution. He proceeded to explain the constitutional process. He stated that this is really about politics. It is about changing the balance of power in November. The students who were outside tonight told the public what they thought, they are our future, they will be in power in 10-15 years. He urged the Council to reject the petition. Gordon Headley, 43 Forrest St. urged the Council to vote for the petition and send it to Concord. It is a political ploy. Allow the people to vote on it. Marie Carrasguillo, 21 White Plains Ave. said she is speaking on behalf of the students who were picketing and the founder of the NH Students for the Protection of Gay Marriage, Scott Feinberg. She reminded Council that the students who were here tonight will be the ones Council decisions will be affected by in the future. She stated that if there are that many kids who say they don't support the petition, it should not go through. They need the Town Council and the state to listen to them and understand that they don't believe this is right. It shouldn't be passed. Rep. Al Baldasaro is not representing the people in town correctly. Gay marriage is a civil right and should be given to everyone. She stated that her organization does not believe that A. Baldasaro is representing many people in this town the way they want to be represented. They requested that this petition not go through. Alicia Dooley, 9 Colonial Drive, asked Council to reject the petition. She spoke about the separation of church and state and referenced house bills related to marriage. Economically marriage is big business. We don't approve voting on someone else's rights, we respect everyone equally. Reject the petition, don't put it on the ballot it is not appropriate. Deb Nowicki, 89 Fieldstone Dr. a Budget Committee member, said she called Al Baldasaro and he said it is the people's right to vote. She asked M. Bove how this petition came about. He responded that A. Baldasaro said the vote was so close and at first it was no, then someone decided to change their vote to yes and then there were 34 people who did not vote. The intent of the petition is to change something that was already voted on. We have enough challenges in the town regarding budgets and economic development wise. She advised Council to reject the petition, the people have spoken. Kenneth Rahilly, 1 Ridgemont Dr. said the Council should allow the petition to go forward; the people have a right to speak on this and not be censored. He said he objected to gay marriage. The petition re-defines his marriage and he takes it personally and would like to put a stop to it. At this point in the meeting Chairman Brown announced that they would hear the folks in line and end the discussion because of other matters needing discussion at

tonight's meeting. Bob Speigelman, Windsor Blvd. said we vote on representatives to represent us in Concord. If we put this on the ballot it would set an awfully bad precedent for this town. He urged the Councilors to reject the petition. Patricia Fenster, 2 Isabella Dr. said she wants to express her voice to vote. Liz Nevile, 5 Isabella Dr. said she wants the opportunity to vote on this matter. Kathy Getchell, 15 King Henry Dr. wants Council to support the petition and send a letter to Concord. She also stated she wants to be able to vote on the petition and does not want a Special Election because the town cannot afford it. Wayne Getchell, 15 King Henry Dr. urged Council to avoid the Special Election and send a letter to the state house. Gwen Pascarelli, 35 South Rd. wants the right to vote on this petition and wants everyone to have the ability to vote on it as well. Greg Carson, 19 Tokanel Rd. said that everyone should have the right to vote. The majority voted in Concord to enact the legislation. He asked Council to reject the petition let the people in Londonderry submit a referendum petition and bring it to a warrant so people can vote. The letter is just asking the legislature to do or not do something next year. Chairman Brown thanked everyone for being respectful and civil during the discussion this evening. Town Manager Caron summarized the Town Charter Section 7.1D which deals with the petition discussed this evening. Following the public hearing the Council may pass or deny the petition and referred the petitioners to Section 7.2. That is the referendum petition which requires that another petition be submitted with signatures of at least 5% registered voters (855). Chairman Brown stated that Councilor Farmer had a medical emergency but sent an e-mail which the Chairman read. He does not support the effort, but sought to ensure that the process was known and clear to all and Council followed the process. This matter is up to the petitioners to complete by gathering the remaining signatures required to force this onto the ballot. He does not support the Council intervening to do it for them. He supports the Legislature's decision. Councilor O'Keefe said he is a fiscal conservative it is not his job as a Councilor to be the conscience of the people. He said he believes in free speech. He will not support the petition. Councilor DiMarco said he heard a lot of opinions tonight and thanked the citizens and the students for coming. He said he heard a lot about democracy tonight. The Councilors are a republic. He said rights are not limitless; a great responsibility comes with those rights. We are voting on whether we send a letter to Concord about a non-binding referendum. We are a non-home rule state, the state tells us what we can and cannot do as a town. This is one of the things we cannot do, it is an opinion poll. He said he will not support this; the people can still get 5% and go forward with this non-binding referendum. Councilor Wagner said 1% of the voters in Londonderry have spoken. She said her vote tonight is to preserve the Charter which is more important. She said her job as a Councilor is to follow the Charter; this is a social issue, not a town issue. She would like to see the 5%, and will not support the petition. Chairman Brown stated we have our form of government called the Charter. There are a lot of other communities that don't have this form of government. It went through easier in other towns. Londonderry has a higher bar to have to achieve 5% of registered voters. If they get enough signatures it will be on the warrant or at a special meeting. He said he agrees with his fellow Councilors and is denying the petition. Councilor DiMarco questioned

Town Manager Caron about disposing the original petition. Town Manager Caron recommending moving the tabled item to the 2/8/10 meeting or handling it tonight. Councilor DiMarco made a motion to deny the petition and refer the petitioners to Section 7.2 of the Town Charter, second Councilor Wagner. Council's vote 4-0-0. The current petition is denied. **Town Manager Caron clarified if there is a referendum petition to be submitted it has to be submitted by 3/3/10. If there is a referendum petition submitted to be considered for the March 9 Town Meeting it needs to be received and certified by the Town Clerk by Saturday, 2/6/10. The legal deadline per our Charter is 3/3/10; the deadline to be considered by the voters on 3/9/10 is 2/6/10.**

Ordinance 2009-04A – Relative to an Amendment to the Zoning Ordinance Regarding Workforce Housing

– Chairman Brown explained this is the last public meeting to review the changes on the final draft from the 1/18/10 meeting. Community Development Dir. Andre Garron and Town Planner Tim Thompson were in attendance. Pauline Caron, 369 Mammoth Rd. said at the last meeting she brought up the issue of density and asked if that has changed. Town Manager Caron said our legal counsel advised that if the density were to be reduced for this ordinance from 24 to 16 units, it should be reduced for all developments. Counsel's recommendation is to consider and act upon the ordinance as presented and should the Council concur, direct staff and the Planning Board to expeditiously review the issue and bring back a recommendation to reduce the density from 24 to 16 for all multi-family developments in Londonderry. If the Council is reducing the density it has to go through the public hearing process to make all those changes. Council has recommended looking at it again. P. Caron said the people who live in the area would like it to be reduced and she would like the town to reduce it. Martin Srugis, 17 Wimbledon Dr. said he is against the density as well. He spoke about the increase in traffic in a residential area. He said he would prefer 10-12 homes with a commercial zone as a buffer area. Deb Paul, 118 Hardy Rd. questioned is it correct that the state can't do anything to us if we decide not to do an ordinance for workforce housing. Tim Thompson said the state would not come after us it is up to the developer, they would have to make a case against the ordinance. D. Paul stated that right now we meet the 51% requirement of the state for workforce housing. She asked why we need to put workforce housing into the ordinance mix with multi-family, duplex, condo and single family ordinances why do we need to put one more in the mix for workforce housing. Why is it mandatory if we are reaching the 51% and we give plenty of opportunity to the developers to develop in this town and there is nothing the state can do to us? Andre Garron said when this issue was brought up with our legal counsel it is a misnomer to think we meet the state statutes. We have to meet single as well as multi-family requirements. We don't meet the multi-family housing for the state statute; we are about 1,000 units short. The way the ordinance is now written we have an ordinance that just barely meets the minimum two-prong requirements of the state statute. T. Thompson quoted statute RSA 674:59 for Workforce Housing and a memo he sent to the Town Council in November. Discussion ensued about how many properties in town would be available for multi-family development. D. Paul said we should re-think the ordinance; it does not take up all the commercial property in town because only a few lots have sewer and water. T. Thompson stated that the town is currently powerless to prevent

conversion of an apartment project from rental to condo. The state law basically says that unless you have restrictions built into your ordinances, the town is powerless; you cannot deny something purely based on form of ownership. The provision of rental housing is an important component of the workforce housing statute. That is something we are not currently covered in under our existing ordinances. Pauline Caron, 369 Mammoth Rd. said the statute says “reasonable” the Town of Londonderry has “reasonable” housing to meet the apartments as well as the units. Don’t approve it now and change the density. Greg Carson, Dir. of Housing and Urban Development (HUD) at the NH field office said that people are trying to infer that workforce housing is Section 8 housing. Section 8 housing is not workforce housing and HUD does not build them anymore. He said there are towns that are paying legal fees for not having an ordinance in place for workforce housing. He said years ago he worked on a committee to purchase large parcels of land in town to prevent building large developments in town. It was a good idea in principal but not a good idea in practice. Without a well defined ordinance when the town goes to court and the ordinance is vague we will always lose. He said he would like to have some kind of workforce ordinance in place to protect us. Paul Morin from Weare, NH who is a builder/developer, had comments about section 2.3.8.1.6 which dealt with inclusionary housing. He spoke about the fact that 100% of the units will have a price cap on them and there were no inducements offered. He asked the Council to look at those issues. T. Thompson said the conversion of elderly to workforce has become narrowed in scope so that it no longer has the density requirements that the multi-family section had. The compromise position that town counsel, the Planning Board and Town Council have come up with is that the density would remain at 6 units per acre and all units would have to be workforce. P. Morin said there has to be some give and take. He said you are making it more expensive and less likely that it is going to happen because you have price caps on them. T. Thompson said the town attorney said because we are allowing the inclusionary housing for single family and multi-family the provision for the conversion of elderly housing projects was a position of the Planning Board that they wanted to move forward to the Council. The Council had a different opinion on how that should take place. The compromised position was to leave the density alone in terms of total number of units that would be permitted, it had to be 100% elderly. Marty Bove, 3 Tinkham Lane, said the ordinance has evolved over a long time. Londonderry has positioned itself to deal with planning for these kinds of issues with their progressive thinking. This is something we need, it is a positive move. John Michels, 11 Nutfield Dr. explained that people with money can sue in a low economy without an ordinance they will win. Going without an ordinance does not make sense. John Carr, 6 Faye Lane said the issue is with the larger developments. The statute is poorly written and it is not clear. He said potential abutters can challenge the statute as well. We are running out of space to put workforce housing in. He asked if AR1 will be factored in, T. Thompson responded yes. Deb Nowicki, 89 Fieldstone Dr, asked about the updated study from the Southern NH Planning Commission. A. Garron said it is being done shortly and the new study will probably show we will not meet our need. D. Nowicki asked why not wait until the new study comes out in a few months what is the risk if we wait. Chairman Brown responded that the legal counsel advice is to move forward with the ordinance currently provided. Councilor DiMarco said any zoning ordinance can be changed. Chris Paul, 118 Hardy Rd said the density issue has been brought up a number

of times for the past 6 months. All along they were just looking to bring the units down to 12 and they have been ignored. The density in a residential area is a major issue for him.

Councilor DiMarco clarified that the original apartments in a building were 36 then it was brought down to 24. Councilor O’Keefe said we can get sued all the time, he would like it dropped down to 16 units from 24. Chairman Brown said the original ordinance is significantly different from what we have now. All the changes were from direct feedback we got from taxpayers. Our legal counsel advised moving forward with the current ordinance. He said he wants to move forward with it as presented and discuss the density issue. **Councils vote to adopt, 4-0-0.** Discussion ensued about reducing the density for both workforce and conventional family housing. Councilor DiMarco said he agrees that we should give the Ordinance back to the Planning Board to work it out. T. Thompson questioned if the first proposed ordinance that was tabled be dismissed, Chairman Brown said it will be done under “Old Business”. The consensus was to begin the process to reduce the density from 24 to 16 both for workforce and non-workforce housing. Andre and Tim had concerns about issues that are currently in front of the Planning Board. Chairman Brown expressed the Council consensus for the Planning Board to expeditiously begin the process of reducing the density from 24 to 16 units per building for all projects; it is up to the Planning Board how they do that. Councilor DiMarco thanked A. Garron, T. Thompson and the Planning Board for all their hard work.

Reed Clark from Stonehenge Rd. said he heard three comments that were brought up at tonight’s meeting and said it was important that people tell the council what they think. One was “thanks for letting me speak” the second was “do more important things that affect peoples’ lives”, and “important that the people tell the Council what they think”. All three comments are important.

Deb Paul said it is sad day when Councilors fear developers and lawyers more than their own constituents.

Councilor Wagner made a motion to come out of public hearing, second Councilor O’Brien. Council’s vote 4-0-0.

PUBLIC COMMENT

OLD BUSINESS

Councilor DiMarco made a motion to take Ordinance 2009-04 off the table, second Councilor Wagner. Council’s vote 4-0-0.

Councilor DiMarco made a motion to pass Ordinance 2009-04, second Councilor O’Keefe. Council’s vote 0-4-0. Ordinance 2009-04 failed.

Councilor DiMarco made a motion to take the original signed petition with 25 signatures that was tabled on 1/25/10 off the table, second Councilor Wagner. Council's vote 4-0-0.

Councilor DiMarco made a motion to accept the original petition of 25 signatures requesting that the State Legislature allow a popular vote on the definition of marriage, second Councilor Wagner. Council's vote 0-4-0; motion failed.

NEW BUSINESS

Resolution #2010-05 – Relative to Renaming Alamogordo Avenue and Barksdale Avenue

Councilor DiMarco read the first reading tonight, the second reading public hearing is scheduled for 3/1/10. Councilor DiMarco made a motion to accept, second Councilor Wagner. Council's vote 4-0-0.

APPROVAL OF MINUTES

Minutes of Councils Public Meetings of 01/18/10. Councilor O'Keefe had a change on line 353 read ".....a forum" it should be amended to read "quorum". Councilor DiMarco made a motion to accept the meeting minutes of 01/18/10 as amended, second Councilor Wagner. Council's vote 4-0-0.

OTHER BUSINESS

Liaison Reports – Councilor Wagner attended Old Home Day and it is moving along. Elder Affairs meeting was cancelled due to the weather.

Councilor DiMarco said the Manchester Airport Authority had a meeting last week during business hours and he was unable to attend.

Chairman Brown attended the Heritage Commission meeting and they asked him to ask Town Manager to look into replacing the "Apple Way" signs. Town Manager Caron said he will get the status from the Public Works Director

Town Manager Reports – Town Manager Caron said the bid opening for the N/W Fire Station will be tomorrow at 2:00PM. He said he was notified on Thursday by FEMA that according to a grant condition we have to complete an environmental assessment report on the property. EnviroSense will streamline the time needed to complete. The last public hearing on the FY11 Budget will be this Thursday at 7PM. The Warrant will be reviewed including a citizen's petition that asks for the majority of the Land Use Change Taxes be re-directed to the General Fund. Any other budgetary Town Meeting petitions have to be submitted by 5:00 PM on February 2. Chairman Brown questioned voting on one item on the warrant.

Town Manager Caron responded that Council has taken their votes, they can re-vote. Chairman Brown said that one item needs to be re-voted so that we have all five Councilors votes. Town Manager Caron said there are three Warrant Articles that only 4 votes are recorded. You can re-vote on those and on any other articles. On articles that have already been voted, there is no requirement to vote on those. The Citizens petition will be Article 14 so it will have to be voted on at the Budgetary Town Meeting. The Budget Committee will be here on Thursday night to vote.

Board/Committee Appointments/Reappointments -
None

ADJOURNMENT

Councilor DiMarco made a motion to adjourn at 10:15PM, second, Councilor O'Keefe. Council's vote 4-0-0.

Notes and Tapes by: Margo Lapietro Date: 02/01/10

Minutes Typed by: Margo Lapietro Date: 02/05/10

Approved; Town Council Date:

TOWN COUNCIL/BUDGET HEARING
February 4, 2010

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

PRESENT: Town Council: Chairman Mike Brown: Vice Chairperson, Kathy Wagner; Councilors: Sean O'Keefe; Paul DiMarco; Brian Farmer; Town Manager Dave Caron; Executive Assistant, Margo Lapietro.

Budget Committee Members in Attendance: Chairman Mark Oswald; Vice Chairman Tom Dolan; Richard Dillon; Jay Hooley, and Deborah Nowicki. Don Jorgenson and Todd Joncas were absent.

CALL TO ORDER – PUBLIC SESSION

Chairman Brown 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.

PUBLIC HEARING

Chairman Brown explained that tonight's meeting is the final public hearing to review the FY11 town budget, and warrant articles. Most of the articles have been voted on by the Council and the Budget Committee; some require adjustments and the Councilors and Budget Committee can revote on un-changed articles should they choose. Town Manager Caron explained that at the Council meeting on 2/8/10 the Councilors will sign the warrant which will then be posted on 2/9/10.

All Articles were read by Chairman Brown:

Article #3 – Bond Issue for Highway Reconstruction - \$1,048,000 - **One Councilor did not vote on this Article so it was re-opened for a re- vote. Hearing no public comment,** Councilor DiMarco made a motion to support Article #3, second Councilor Farmer. **Councilor Brown said the tax rate is "0" in FY11, \$140K in property taxes is equal to an anticipated \$0.04 tax rate impact in FY12 and \$136K in property taxes equal to \$0.04 in FY13.** Council's vote 5-0-0. The Budget Committee previously voted to support 7-0-0.

Article #4 – Fund Special Revenue Accounts - \$3,504,311 - **This article was previously voted on by both groups. This item is funded through user fees and requires no**

property tax support. No public input was offered.

Article 5 - Expendable Maintenance Trust Fund - \$200,000 - **This article was previously voted on by both groups. If passed, this article will require the Town to raise \$50,000 in property taxes, resulting in a tax rate impact of \$0.01 in FY11 based upon projected assessed values. No public input was offered.**

Article #6 – Fiscal Year 2011 Town Operating Budget - **This article was previously voted on by both groups. If passed, this article will require the Town to raise \$14,848,486 in property taxes, resulting in a tax rate impact of \$4.44 in FY11 based upon projected assessed values. No public input was offered.**

Article #7 – Appropriate Funds to Capital Reserve Funds to Replace Ambulances, Highway Heavy Equipment, Fire Trucks and Highway Trucks – \$325,000 – **This article was previously voted on by both groups. Councilor Wagner said that she thought the order of the Articles was going to be revised. Town Manager Caron said at the end of the meeting the Council can make a final determination on the order of the warrant articles. If passed, this article will require the Town to raise \$175,000.00 in property taxes, resulting in a tax rate impact of \$0.05 in FY11 based upon projected assessed values. No public input was offered.**

Article #8 – North/West Fire Station Construction and Associated Costs - \$650,000 - **Chairman Brown stated this article would be re-opened for a re-vote. Town Manager Caron explained that the Town received a federal grant for this project. Ten bids were opened on Tuesday, resulting in very competitive pricing. The anticipated project cost was \$2.4M; after bidding now anticipated being \$1.865M. Staff is recommending carrying \$1.55M for the actual construction of the facility, until the process of reviewing the three lowest bids is complete. A final recommendation will be offered at Town Meeting floor. He recommended at this point in the process that the amount to be used from the Undesignated Fund Balance be reduced from \$650,000 to \$163,456. He also recommended that Council vote to support to raise \$163,456. Councilor DiMarco made a motion to support Article #8, for \$163,456 from the Undesignated Fund Balance, second Councilor O’Keefe. Council’s vote 5-0-0. Budget Member Tom Dolan made a motion to support Article #8 at \$163,456 second Rich Dillon. Budget Committee’s vote 5-0-0. **No public input was offered.****

Article #9 – Establish Capital Reserve Fund for Pillsbury Cemetery - \$1,000 – **Chairman Brown stated that the project budget is estimated at \$210,000. Town Manager Caron said the Trustees have alerted the Town Council that the cemetery will need**

an expansion due to the fact that they will run out of space by 2014. The cost estimate is currently \$210,000. Previously the Council had spoken about the possibility of the bids for the Fire Station coming in lower than the anticipated costs. If the bids come in favorably for the Fire Station project, staff would recommend a re-vote to establish a Capital Reserve Fund of \$210,000. Even if this is approved at Town Meeting based upon the Fire Station bid the Town will be able to retain \$277,000 in the Undesignated Fund Balance more than what was previously anticipated under the original Fire Station Project Budget. Chairman Brown explained that both groups had previously voted on this article for \$1,000 as a placeholder. Pauline Caron, 369 Mammoth Rd. mentioned she had posed the question of double burying in the lots at the 1/4/10 meeting. Town Manager Caron said the Town Sexton researched the question by conferring with other cemetery sextants, funeral directors and the people who perform the actual interments. The Sexton recommends against double burials, due to the frost issue in NH, the burials would have to be excavated down to 10 ft; all believe there would be a significant danger by impacting nearby graves, cave-ins, and safety issues. P. Caron asked if it was just ashes could it be done. Town Manager Caron responded that multiple urns are currently interred in one plot. Councilor DiMarco made a motion to support Article #9 with the modification to increase the budget to \$210,000 from the June 30 Undesignated Fund Balance, second Councilor Farmer. Council's vote 5-0-0. Budget Committee Member Jay Hooley made a motion to support Article #9 at \$210,000, second Tom Dolan. Budget Committee's vote 5-0-0.

Article #10 – Ratify Collective Bargaining Agreement Between AFSCME Local 3657 and the Town of Londonderry - **\$104,980 for FY11 which will result in a \$0.03 tax rate increase. The balance of the appropriation, \$55,759 shall be funded by the Manchester-Boston Regional Airport law enforcement agreement. Chairman Brown stated the Council has reached an agreement with this bargaining unit. Only 4 Councilors voted on this and they will re-vote tonight. The Budget Committee has not voted yet. Peg Connell, 3 Hidden Meadow asked what the future tax impacts would be. Town Manager Caron explained it is listed in the Warrant; for FY11, 12 and 13 it increases every year by 3 cents.** Councilor DiMarco made a motion that the Town Council support Article #10 the Collective Bargaining Agreement between AFSCME Local 3657 and the Town of Londonderry, second Councilor O'Keefe. Council's vote 5-0-0. Budget Committee Member Tom Dolan made a motion to support Article #10, second Deb Nowicki. Budget Committee's vote 5-0-0.

Article #11 – Ratify the Factfinder Report for Collective Bargaining Agreement Between Londonderry Administrative Employees Association and the Town of Londonderry - **\$121,717 which will result in a \$0.04 tax rate increase for FY11. Town Manager Caron said there is a slight reduction on the original amount requested. The amount to be raised as a result of the Fact Finder Report will be \$117,852 in FY11 and \$118,468 in FY12. No public input was offered.** Councilor DiMarco made a motion to support Article #11 and reflect the change in the amount and the property taxes

in FY11 to be \$117,852 and \$118,468 in FY12, second Councilor O'Keefe. Council's vote 0-5-0. Budget Committee member Tom Dolan made a motion to support the Article, second Rick Dillon. Budget Committee's vote 0-5-0.

Article #12 – Ratify Factfinder Report for Collective Bargaining Agreement Between Londonderry Executive Association and the Town of Londonderry - \$25,180 **which will result in a tax rate increase of \$0.01 in FY11 based upon projected assessed values. Open for discussion.** Councilor DiMarco made a motion to support Article 12 second Councilor O'Keefe. Council's vote 0-5-0. Budget Committee member Jay Hooley made a motion to support Article #12, second Tom Dolan. Budget Committee's vote 0-5-0.

Article #13 – Authorization for Special Meeting on Cost Items – **Chairman Brown explained if Article #10 is defeated the voters will be requested to authorize a special meeting. If the Article is passed it will have no tax impact. It was previously voted on by Council 5-0-0 but the Budget Committee has not voted on it. No public input was offered.** Budget Committee member Deb Nowicki made a motion to support Article #13 second, Rich Dillon. Budget Committee's vote 5-0-0.

Article 14 – Appropriation of Land Use Change Taxes to the Conservation Fund and the General Fund – **Town Manager Caron stated this is a Citizens' Petition received within the last week. The Supervisors of the Checklist have determined it contains the requisite number of signatures. It has been reviewed by Town Counsel and determined to be in correct form. He further stated that staff has developed an 11 year analysis of the revenues from this source; it has averaged about \$216K - \$217K per year, the low was \$16K in 2005, the high was \$516K in 2006. Conservation Commission member Deb Lievens, 105 Gilcreast reviewed the history of Londonderry Open Space and the Londonderry Land Use Change Tax (LUCT). She said the tax is important to the Open Space Conservation fund. The LUCT was originally used to support matches to grants for large and small purchases. It was the Open Space Program funding and it became a supplement during the bond years. She estimated that the cost is \$8 a year on a per capita basis. Removing 80% of the LUCT from the Conservation Fund will effectively end the Open Space Program as a functioning program. Londonderry has been proactive in Open Space and is a roll model for other towns. She further stated that the land analysis method developed by the 2006 Taskforce and town staff has been adopted by the Southern NH Planning Commission as a model for other communities. She asked the Council to support a no-vote on the petition. Dan Hicks, 127 High Range Rd. said he fully supports the LUCT for the Conservation Comm. Conservation Commission alternate member Mike Speltz 18 Sugarplum Lane presented a slide presentation. One main reason for opposing this petition is that these taxes are an extremely unpredictable source of income; it will diminish what remains in the fund balance at the end of the year. He further stated that you can't budget something that you are**

not sure is coming in. He said that the Open Space Program is not finished yet. M. Speltz proceeded to present a slide show showing residential growth which he projected to increase on a regular basis. He reviewed the CIP plan and the projected build-outs. He also reviewed the Open Space Plan, why it is important and where the open space land is located. He said the program has 3,000 acres left to protect; the Town has already protected 3,800. He reviewed the conservation land by protection type. The goal was to protect water, productive soils and the quality of life, making these resources self-sustaining. He showed a chart of currently protected land and said in order to keep open space in town we need LUC to conserve the resources in town. He cautioned the Council to act today to protect the land for future generations and if we don't our future will be very different. Pauline Caron, 369 Mammoth Rd. pointed out a typo error on the pass-out received tonight on Article 13.

Jay Hooley, 22 W. Yellowstone Drive, a petitioner of Article 14 stepped down from the dais. He said the intent of the article was because of a comment made last year that in a year like this everything is on the table there are no sacred cows. One of the presentations made by the Town Manager that year was to look next year at the LUC; procedurally it has to be voted on at Town Meeting. He clarified that nothing in the article says everything in the Open Space program must be discontinued. He said he is not sure if the money should automatically go into that fund. There might be years where we decide we do not want to put all the money in that fund. He said a certain amount of money should stay in the fund some years if a purchase seems eminent then we could increase that line item or make a separate warrant article. He said this article just says that 100% of the money is not on "auto pilot" and we should look at it. Councilor Farmer questioned the 20% to 80% ration. J. Hooley said it was based on the amount of money needed for appraisals. Tom Dolan, 19 Isabella stepped down from the dais and said he disagreed with the petition. He does support the right for citizens to vote on it. At full build out if we add another 1,800 school kids at \$10K each we are talking about \$18M being added to the school budget which is the biggest part of the tax bill. This is a serious issue, and he urged Council to not support the petition. Budget Chairman Mark Oswald said the Town has have taken almost 5 years off from approving new Open Space bonds; it was originally only supposed to be for 1 yr. The process has been in the public eye for years and the Town is getting a terrific return. Deb Lievens stated if the Fund continues to receive \$200K per year they would expect to continue a small form of an Open Space Plan. She explained it would give Cons. Comm flexibility. Councilor Farmer asked her if last year the Town had a 30-40 acre parcel that the LUC helped pay for. She said it was a \$7K piece and they had the money to purchase it. Councilor Farmer said he was the Councilor who said to take a break for a year on Open Space Bonds. He supports at the right time going forward with additional bonding for additional purchases. He does not support the petition. He suggested taking a look at the process and see if it can be improved. Councilor DiMarco said the citizens have already put their signature on it. Nobody likes seeing taxes; LUCT is money that discourages people from taking land out of

current use which is essentially conservation land. When they do, that money will be used to protect other lands. He stated he will not support this article because of this. Chairman Brown said this was on the table the first year due to a \$1.3M shortfall from state revenue. If we had the ability to grab that \$200K last year they would have gladly grabbed it but they were told they couldn't. Open Space bonds did not get mentioned this year during the budget process. He said he has supported Open Space in the past, the last 4-5 yrs the Town had infrastructure projects that took precedence. He stated he does not support it for the reasons given. Council gave the Town Manager the order to meet a goal of a budget of less than 2% increase in the tax rate, he is against it. Town Meeting will make the final decision. Councilor O'Keefe said he looks at it as a 2 pocket situation between the school and the town. He said he will support the article because we are taking another tax hit on the other pocket. Budget Committee member Rick Dillon said 20% will stay with the Conservation fund 80% goes to the General Fund. He asked the question how does Cons. Comm get more money if they need it? Councilor Farmer said we either give it to them through the budget process or another vote at Town Meeting. Budget Committee member Tom Dolan said it is currently structured through the Town Meeting vote from several years ago. The money goes into the Conservation Fund then is "fenced off" from the rest of the budget. When fenced off the Cons. Comm. is the only one who can expend it. If the change does pass at Town Meeting the same amount of money can still be spent but now the Council can get at it and do it or not do it. He agrees with what Councilor Farmer said it is the political will. Councilor Wagner said it will get complicated because it is not guaranteed what the Council will do. Councilor Farmer said it will happen only one time a year. Town Manager Caron said it will recorded as unanticipated revenue the first year but if passed a line item on the revenue side with an estimated amount would appear in subsequent budgets. J. Hooley told the Town Manager if this passes and next year the Council picked the number of \$200K as a budget line item for Cons. Comm with the intent of putting it into their account you would accomplish the same thing. Town Manager Caron responded that is correct. J. Hooley said in theory in any given year that number could be greater than what you are going to get in LUCT. Councilor Wagner said if we keep our current form of government somebody could take that \$200K out of Conservation and put it back into the general fund. Councilor DiMarco said they could take it out but it is a bottom line budget they couldn't specify that it could come from a specific group. Budget Committee member Rick Dillon said historically it averages about \$216K that is collected he asked how much of it has been spent. Deb Lievens said all of the bonds, all of the LUC money has been commingled for 15 years, she couldn't say. The first five years they spent \$723K and all of it went to grants, small and medium size projects. There was no other money coming in until they started doing the bond articles. Budget Committee member Mark Oswald said there is a safeguard in place with this process. They have public hearings and come to the Council for project approval. Councilor O'Keefe asked Town Manager Caron if this article passes at Town Meeting will it be just for next year's budget or will it go forward unless it is changed again. Town Manager Caron responded unless it will remain as approved by Town Meeting unless changed in the future. He further clarified that if the

article does pass the 80% goes in the General Fund like any other revenue does at the end of the fiscal year. The general process regarding expensing ConsCom Funds is that grants are project specific, then bond proceeds to insure compliance with IRS arbitrage regulations, and finally current use or another donation revenues last. Deb Nowicki applauded Jay Hooley for his work but she agrees with Chairman Brown; we met the 2% budgetary requirement. She said she opposes it for the quality of life. Councilor DiMarco made a motion to support Article 14, second Councilor O’Keefe Council’s vote 1-4-0. Budget Committee member Tom Dolan made a motion to support, second Deb Nowicki. Budget Committee’s vote 1-4-0.

Discussion ensued about re-aligning the Articles on the Warrant by having items with the greatest tax impact acted upon earlier in the meeting. Consensus was to re-align the Articles.

Councilor DiMarco made a motion to close the public hearing, second Councilor Farmer. Council’s vote 5-0-0

ADJOURNMENT

Councilor Farmer made a motion to adjourn at 8:45PM, second, Councilor DiMarco. Council’s vote 5-0-0. Budget Committee member Tom Dolan made a motion to adjourn, second Deb Nowicki. Budget Committee’s vote 5-0-0.

Notes and Tapes by: Margo Lapietro Date: 02/04/10

Minutes Typed by: Margo Lapietro Date: 02/12/10

Approved; Town Council Date:

TOWN COUNCIL MEETING
February 8, 2010

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

PRESENT: Town Council: Chairman Mike Brown: Vice Chairperson, Kathy Wagner; Councilors: Sean O'Keefe; Paul DiMarco; Brian Farmer. Town Manager Dave Caron; Executive Assistant, Margo Lapietro.

CALL TO ORDER – PUBLIC SESSION

Chairman Brown 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

Referendum Petition - Town Manager Caron said a petition was dropped off at the Town Council Chairman's home at 8:35 PM Saturday evening. The Town Clerk and Supervisor of the Checklist begin verifying the petitions at about 10 PM and by the 2/6/10 deadline of midnight they verified 271 signatures. The Supervisors and Town Clerk continued the verification process up to about a half an hour ago. Out of the 923 submitted, 759 were valid, 164 were either non-voters or the same voters had signed multiple petitions. Their names could only be counted once. The 5% threshold as set forth in the Charter is now 848. The Town Charter is silent on whether the petitions need to be submitted all at once. Since it is silent then the petitioners have until 3/3/10 to submit the required number of valid signatures. If the current rejection rate of 17.7% is applied, the petitioners only need 60 more petition signatures; 45 more were submitted yesterday and have yet to be validated. Between now and 3/3/10 the petitioners will most probably be successful in meeting the Charter provisions by presenting enough valid signatures to present this issue to the voters of the community. Once received and validated, the Council's only role is to schedule a special election; an alternative is to place the issue before the voters on the 3/9/10 Town Meeting ballot under Section 7.4 of the Town Charter which is his recommendation. The Council cannot use Section 7.4 unless the imitative petition process has begun, which has occurred in this case. He recommends putting it on the ballot on 3/9/10 to avoid the expense of about \$3,200 for a Special Election. There is no further need for the Town Clerk to verify the remaining 45 signatures nor is there a need for the submission of additional signatures if the Council votes to place the petition on the ballot. The wording on the ballot will be exactly as it appears on the petition. Councilor Farmer said it has been clear that Council would not be infringing on anyone's rights. He commented that it was disappointing that 164 signatures were invalidated, there were unregistered voters and people who signed the petition 3 times; it is fraud. He said the unsigned letters, e-mails, threats, and innuendos that the Councilors received tainted the whole process. Town Manager Caron said that the Town Clerk told him in order to validate 923 petitions

took about 30 ½ person/hours. Chairman Brown clarified that if the Council votes to put this article on the warrant as recommended it becomes ours versus it becoming a referendum and subsequent signatures do not have to be validated. The referendum deadline is 3/3/10. Town Manager Caron clarified that the ultimate deadline is 3/3/10. Chairman Brown said he prefers having 5% of the registered voters and asked what stops the Council from waiting until the petitioners submit the required signatures. Town Manager Caron stated time to post the town meeting warrant and to print the ballots requires the Council to make a decision on this matter immediately. Town Clerk/Tax Collector Meg Seymour said that includes absentee ballots. M. Seymour explained the \$3,200 would pay for a hand count, no machines; the figure is based on time only. It does not include cost for the SAU to set up and break down. Councilor O’Keefe said what it comes down to is what to do, a general or special election. He said we should consider putting it on the town warrant to avoid the cost of special election. He said some of the e-mails he got surprised him, people need to be more respectful of everybody and that did not happen at all. Doing the right thing and following the process is what it is all about. Councilor DiMarco said he concurred with Councilors Farmer and O’Keefe about the bad things being said. He stated the only reason he would vote for this petition is to spare the extra costs and time. It is a non-binding referendum so Londonderry citizens could voice their opinion to Concord. He proceeded to describe the process needed to amend the state constitution. Councilor Wagner asked the public to not let this divide us as a community, remain civil. She said she will support it because the balance of signatures will be submitted by 3/3 and does not want to incur the expense of a special election. Chairman Brown said he was pleased with the meeting we had on 3/1/10, people were respectful and civil. The recent lack of civility was amazing. He said the comments he and other Councilors received stated the Council deliberately chose to deceive; they deliberately attempted to hinder the process and the law, we were biased, we were told that 800 petitions were thrown away and they were told that they lied and cheated. He said he will support the consensus of the Council. Councilor O’Keefe made a motion to put the question before the voters under Section 7.4 of the Charter at the March 9, 2010 Town Meeting; Article: To see if the Town will vote to approve the following resolution to be forwarded to our State Representatives (s), our State Senator, the Speaker of the House, and the Senate President. Resolved: The citizens of New Hampshire should be allowed to vote on an amendment to the New Hampshire Constitution that defines “marriage”, second Councilor Farmer. **Chairman Farmer stated that he is only voting on it to end the strife that has been created over this article. Open for discussion.** Council’s vote 5-0-0.

PUBLIC COMMENT

Al Baldasaro, 41 Hall Rd said he wanted to apologize for all the strife that was caused to the Councilors. He said that there was confusion with the process; signing the petition for 1% and 5% the process made it hard with such a short time frame. He commended the Councilors on working with the process. He agreed that it was not right having to put up with the rudeness. Lisa, Drabik, 21 King Arthur Dr.

wanted the Councilors to amend the language of the petition. She said it was clear that the deadline was Saturday and asked the Councilors to protect the process going forward. Reed Clark, Stonehenge Rd. said there were 159 double votes, he said he had experienced the same problem with double votes because he had 14 different people going to different places in town with petitions signed by multiple people.

Town Clerk/Tax Collector Meg Seymour announced the next session of the Supervisors of the Checklist is 2/27/10 from 11:00 AM to 11:30 AM to register to vote. She explained that if your name is not currently on the checklist, then the names on the petitions are not approved prior to 2/27. You are not legally a registered voter until the Supervisors update the checklist after having a session. She proceeded to explain the registration process.

On-Line Dog Registration – Meg Seymour, Town Clerk-Tax Collector - M. Seymour is in attendance tonight to seek approval for fees associated with on-line dog licensing. She explained the fees. **Councilor DiMarco made a motion to approve fees for On-Line Dog Licensing for Renewals only, second Councilor Wagner. Council's vote 5-0-0.**

OLD BUSINESS

Strategic Plan on Public Safety and Public Works Service Delivery – Capt James Rogers & Capt. Darren O'Brien from the Londonderry Fire Department (LFD); Chief Bill Hart and Capt Gerry Dussault from Londonderry Police Department (LPD) and Public Works Director Janusz Czyzowski (DPW) were in attendance. Town Manager Caron stated the Council wanted an overview of how staffing levels may look like for these three departments over the next ten years. The report was originally submitted in December and brought back for closer review after the budget process concluded.

DPW Director Janusz Czyzowski said he anticipates 20 more miles of roads which will be about a 20% increase in the budget. He anticipates the need for more equipment and manpower to keep his department at the current level of service. He stated that currently we are not providing the correct level of service and he would need 15-20 people in the highway division to staff two crews. In the administration side the Department manages a budget of \$7.8M; we have seen a decrease in providing service to the residents. He stated that he needs to fill the vacant secretarial position. Solid Waste will not increase because the contract is already in place and they do not supply commercial/industrial services. The sewer department has EPA demands that need more than a part-time person. He said the additional staff will be covered by the increased payments to Manchester sewer rates. The commercial and industrial areas will increase for sewer usage. He said he is looking at increasing staff to 10%. Councilor DiMarco said that Janusz had said in his report that employees can snow plow 16 miles per employee; he asked if there was anyway to improve that; Janusz replied no, we would need additional employees for increased routes. Councilor DiMarco questioned the use of temporary plow drivers

during peak times. Janusz said they looked at that already, and found it was cost beneficial to hire a person. Chairman Brown summarized that the preference in the short term is to go up one employee from 11 to 12; long term to go to 14 – 15 people to create two crews. Janusz said to stay at the same level of service it would just be 1 person. Councilor Wagner clarified that the most important hiring would be to hire a secretary – Janusz responded yes to help immediately with the sewer division and the EPA requirements.

Capt. O'Brien said their 10 year plans require additional personnel and more apparatus. Currently we have three stations manned with 10 personnel; 3 at Station 1 (North), 2 at South and the rest at headquarters. He proceeded to review all calls and mutual aid calls and said they estimated the town lost about \$35K in revenues from mutual aid. Capt. Rogers stated that they completed an analysis of where the calls were coming from for one year. He said they have had 102 responses to date and they will expect more due to the expansion of I93 that has 15 miles of highway. Also, with the development of 55 and over housing the calls will increase as well as industrial calls. Capt. Rogers stated they received 1,500 simultaneous calls with 10 members on shift. They are requesting an increase in staff by 4 people per shift over the next ten years. He stated depending on what the occupancy is depends on their staffing needs. Councilor Wagner asked Planning Director Andre Garron if Planning works with the LPD & LFD to let them know who is building in town and if it would effect emergency staffing. He responded that they work together on the build-out in town. Councilor DiMarco asked if they had statistics on what the requirements are for a town of this size; Capt. Rogers said they do have guidelines that provide them with statistics. Capt. Rogers stated that they have a labor intensive job that requires trained personnel. Councilor DiMarco talked about equipment and Capt. O'Brien said that in the future they will need replacements for an ambulance, a tanker, an engine, and a support vehicle. Councilor DiMarco also asked about staffing the airport fire department with Londonderry personnel. Capt. Rogers said they are training so they can put in a successful bid if the opportunity arises. Councilor O'Keefe asked about Manchester paying for Londonderry going to some of the fires. Capt. O'Brien said they have automatic aid with Derry. Councilor Farmer thanked them for putting the report together for future needs. He suggested it might be good to look at future development to determine how many calls might be generated from the new building. Chairman Brown clarified that LFD is looking for 16 additional employees; he said it looks like you need 12 in place for the first five years. Capt. O'Brien said it is a phasing process. Chairman Brown said based on the current state of a town our size do we have adequate coverage. He questioned if we could add 1-2 people per year or should we see how the development cycle is because we have not added those numbers in the past. Capt. O'Brien said the SAFER grants are out there and the town can save money by applying for them. Councilor Wagner said the future Council should pursue the SAFER grant in July. Town Manager Caron said they need Council approval for the grant application. Chairman Brown asked if the department could increase the call fire fighters. Capt. O'Brien said they do draw from the call fire fighter staff as well as interns.

LPD Chief Bill Hart said for guidance only they use National Accreditation levels as guidance for staffing levels. Londonderry is lower than the regional averages both in terms of sworn officers and civilian personnel. Civilian personnel levels are very low and they are constantly dealing with shifting responsibilities. The paperless process is working well. If the continued growth in the community continues he does foresee growth in civilian and uniformed personnel. He said if we do not think 18-24 months ahead you are behind the curve in policing. He talked about the anticipated increase in traffic, and density and the fact that they might consider the allocation of personnel across the 54 sq. miles of the community. He spoke about the attrition in his department. Councilor Wagner suggested getting together with the LPD, LFD and Planning Dept. A. Garron said they could get together quarterly to see what impact building would have on public safety. Councilor O’Keefe complimented the LPD on their work in the community. Chief Hart said the allocation in personnel has not gone up very much. Staffing is an issue, 23 officers respond to 27K plus calls a year. Councilor Farmer said now we are about to see explosive growth we have to start addressing these needs. Councilor Brown said if we move forward with an increased personnel line it will impact taxes. We have to have a balance and have the revenues to offset the costs. A. Garron said the Town has been “walking the fine line” for many years. The revenues that were brought in have attended to our needs. You will see an expanded level of the tax basis so you can absorb some of the growth related measures that the community does in a fiscally responsible fashion. Councilor Wagner said most of our infrastructure has been done. She asked the Town Manager if any debt has been retired this past year, he responded some debt has been retired but it has been comparatively small. Councilor DiMarco said rather than investing in more infrastructure it could be invested in public safety or increasing staff.

FY11 Budget – Sign Town Meeting Warrant – Copies were signed and will be posted tomorrow.

Charter Commission Project Town Manager Caron said the plan is to send a letter to all the applicants so they understand their authority and flexibility if they should be elected to the Charter Commission and if the question is passed by the voters. Under RSA 49-B:3 VI it is very specific that if the town approves consideration of the official ballot voting that is the only issue which the Charter Commission can look at. There are a number of steps involved in this process. The Town Clerk calls a meeting within 1 week, and at the first meeting the Charter Commission will elect officers; the Commission may adopt rules and regulations. He said he will recommend that the town attorney be present at the first meeting so he can outline the scope of the Commission’s charge. Currently the attorney is reviewing the Charter to determine which specific provisions will be within the Commissions’ purview for recommended changes. When that information is received from the town attorney he will go forward with the letter. By the end of March we have to credit the commission with the sum of \$100.00 for their expenses. The commission may also receive donations and any persons making donations in excess of \$5.00 shall be recorded and filed with the Town Clerk. Some of

the critical issues are that within 14 days of the first meeting the commissioners are required to hold a public hearing; the commission will issue a preliminary report no later than August 26, 2010; their final report will be publicized prior to October 26, 2010. Minority reports are allowed but they cannot exceed 1,000 words. There is a very specific process under state law as to how the commission will set about doing their business. It is critically important to know that there is a very narrow scope of responsibility before this particular commission should the question pass on 3/9/10 and that is if the Town should consider a proposal to move to the official ballot voting which will replace our budgetary Town Meeting. Chairman Brown verified that the town attorney is reviewing our Charter and he is laying out specifics areas that are going to be in the purviews of the Commission if this question is passed. When those specifics are outlined anything other than that will be addressed by the Commission. Town Manager Caron referred all to RSA 49-B:3, VI. The question and the election are on the same ballot, no other issues can be addressed beyond the official ballot question. Chairman Brown confirmed that the attorney will attend the first meeting with the Commission. Councilor DiMarco asked what happens after the change to the Charter is voted on and the Commission is appointed, Town Manager Caron responded it automatically goes on the ballot in 2011 and the citizens will vote on the proposal. Reed Clark questioned the wording of the ballot. He said it doesn't make sense to have the commissioners along with changing the Charter on the same ballot, it is two questions.

NEW BUSINESS

Citizen's Petition on the Definition of Marriage. (2nd. Petition) – Town Manager Caron said the Town received a second petition on the marriage issue that requested the first petition be amended. He said that he sent a letter to the petitioners stating that under state law that action was not allowable. He said he received a letter today stating that they want to withdraw their petition. He said he sent them an e-mail informing them that unless the number of signatures drops below 25 the petition needs to go forward. The petitioners have a few options: do nothing, and if the Council does accept the recommendation to schedule a public hearing on this issue. The second option is to have the original signers of the petition withdraw support of the petition until the number of petitioners drop below 25. The third option is to do nothing and appear at the 3/1/10 Council meeting and make their position known. Under state law even though actions sought under the petition cannot be taken, it must be presented to the voters and explained why it is illegal. He suggested scheduling this non-budgetary petition for a public hearing on 3/1. **Councilor DiMarco made a motion to move the second petition to a public hearing on 3/1/10, second Councilor Wagner.** Open for discussion. **Council's vote 5-0-0.**

APPROVAL OF MINUTES

None.

OTHER BUSINESS

Liaison Reports – Councilor DiMarco meet with the Planning Board on 2/3. The Town Council had given direction that they wanted the Planning Board to consider the reduction of 24 units to 16 units for all multi-family. He read the draft meeting minutes. At the Planning Board meeting Tim Thompson asked the Board how, when and where did they want to follow up on it. Art Rugg said historically the number of 24 units went back to 2000 when the Town revised the multi-family R3 District. He feels that changing the number of units will cause legal problems. Councilor DiMarco said that the legal counsel was consulted on this issue and he said he was comfortable with the changes as long as it was reduced consistently across the board. T. Thompson said after reading the e-mail from counsel he feels that is where he limited his examination of the issue. You could lower it to 16 but it had to be done consistently across the board. T. Thompson further stated that he does not feel that counsel went beyond that in any way regarding the implications. He said the Workforce Ordinance was adopted by the Town Council for multi-family Inclusionary to allow up to 10 units per acre but that limits the number of units in a building to 24 which was reduced from the original 36. Staff is concerned that by reducing the units the costs would be passed onto the buyer resulting in higher costs. Planning Board consensus was to direct staff to ask the Town Manager to ask Town Council what rational prompts them to ask for 16 units and also to consult with legal council. John Farrell said the Board should ask the Town Manager for clarification in regards to the e-mail from counsel. Town Manager Caron said they have posed additional questions to counsel, Tim and Andre will get additional information and bring it back to the Planning Board. Councilor Farmer said Council's rationale was managing the growth and responding to citizens who expressed their opinions. He said we asked and received legal opinion from the town attorney. Councilor Wagner said she agrees with what we are doing and suggested that we have another sit-down so everyone is on the same page. Town Manager Caron said there are 3 different provisions in the ordinances so coordinating amendments will not be problematic. Essentially the Council would be approving a policy statement. Councilor Farmer said there are some already pre-approved plans and they should be grandfathered. Town Manager Caron said he will follow-up on this issue.

Town Manager Reports – Town Manager Caron said the web site IP Address was subject to an intrusion; the Town's network remains secure, staff is looking into different options. The Councilors proceeded to give suggestions.

Chairman Brown said he got requests to put the Council packet on-line. Town Manager Caron said what he currently does is post anything with respect to Resolutions, Ordinances or Orders on-line. Now we are getting more requests for more detailed information which is all public information. We can do accomplish this by making that information available to the Councilors a day before we make it public. Some information in the packet is confidential and exempt from the Right-To-Know Law and it will be e-mailed in a separate e-mail to the Councilors. Councilor Wagner said she loved the paperless packets and that was the consensus

from the rest of Council.

**Board/Committee Appointments/Reappointments -
None**

ADJOURNMENT

Councilor Farmer made a motion to adjourn at 9:50 PM, second, Councilor O’Keefe. Council’s vote -5-0-0.

Notes and Tapes by: Margo Lapietro Date: 02/08/10

Minutes Typed by: Margo Lapietro Date: 02/18/10

Approved; Town Council Date: