

**TOWN COUNCIL
AGENDA
January 18, 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

II. PUBLIC HEARING

- A. Citizen's Petition Requesting Constitutional Amendment on the Definition of Marriage.
- B. Ordinance 2009-04 – Relative to an Amendment to the Zoning Ordinance Regarding Workforce Housing
- C. Resolution #2010-01 – Relative to Renaming East and West Eglin Boulevard
- D. Resolution #2010-02 – Relative to Renaming East and West Woodbine Drive
- E. Resolution #2010-03 – Relative to Renaming East and West Yellowstone Drive
- F. FY11 Budget – Bond Hearing - \$1.0M Highway Reconstruction Bond

III. PUBLIC COMMENT

A.

IV. OLD BUSINESS

- A. LAEA Factfinder Report
- B. LEEA Factfinder Report
- C. FY11 Budget – Warrant Review

V. NEW BUSINESS

- A. Order #2010-01 – Relative to the Expenditure of Recreation Impact Fees
- B. Order #2010-02 – Relative to the Expenditure of Maintenance Trust Funds

VI. APPROVAL OF MINUTES

- A. Minutes of Council's Public Meeting of 1/04/10

VII. OTHER BUSINESS

- A. Liaison Reports
- B. Town Manager Reports
- C. Board/Committee Appointments/Reappointments
 - 1.

VIII. ADJOURNMENT

IX. MEETING SCHEDULE:

- A. Town Council Meeting – February 1, 2010, Moose Hill Council Chambers, Town Hall, 7:00 PM
- B. Town Council Meeting – Budget Public Hearing, February 4, 2010, Moose Hill Council Chambers, Town Hall, 7:00 PM
- C. Town Council Meeting – February 15, 2010, Moose Hill Council Chambers, Town Hall, 7:00 PM
- D. Town Council Meeting – March 1, 2010, Moose Hill Council Chambers, Town Council, 7:00 PM

Introduced: 10/19/09
Public Hearing: 11/02/09
2nd Public Hearing: 11/16/09
3rd Public Hearing: 12/07/09
4th Public Hearing: 01/18/10
Adopted: xx/xx/xx

ORDINANCE 2009-04
RELATING TO AN AMENDMENT TO THE
ZONING ORDINANCE REGARDING
WORKFORCE HOUSING

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

WHEREAS this process includes a review of State Statutes to insure town compliance with all applicable rules, regulations and laws; and

WHEREAS the State Legislature recently enacted laws requiring municipalities to include land use regulations which permit workforce housing; and

WHEREAS the Planning Board has recommended that the Town Council act favorably upon these recommendation in order to comply with State Statutes;

NOW THEREFORE BE IT ORDAINED by the Town Council of the Town of Londonderry that the Town Zoning Ordinance be amended to address implications of the State's new Workforce Housing Statutes and to clarify numbering errors and other textual references.

Michael Brown, Chairman
Londonderry Town Council

A TRUE COPY ATTEST:

Marguerite Seymour - Town Clerk
x/xx/xx

Town Seal

Summary of changes – Workforce Housing Recommendations for Planning Board (1/13/10)

Impact Fees:

- Modify the length of time housing must be maintained as workforce housing from 20 to 40 years to be eligible to apply for impact fee waiver.

Residential Development Phasing:

- Add language relative to conversion of approved elderly housing projects to specify that they must be “unbuilt” in order to qualify (consistent with changes in Inclusionary Section)

GMO:

- NO CHANGES

Inclusionary Housing:

- Revise language throughout section to specify language for “workforce housing” only, eliminating all other income categories.
- Add references to new section relative to conversion of approved, unbuilt elderly housing
- Eliminate definitions for various income categories, clarify definitions for workforce rental and workforce owner occupied housing, adding language from statutes.
- Revise Multi-Family Conditional Use Permit criteria, eliminating language relative to conversions of elderly housing, clarifying 20 acre minimum project size
- Eliminated (in order to simplify ordinance) provisions for internal lots in the multi-family inclusionary requirements
- Revised open space requirements to require that 25% of the open space (40% minimum overall open space unchanged) be usable open space, consistent with current R-III District
- Removed references to Housing Task Force Report from dimensional relief CUP preamble
- Added new Section for “Conversion of Previously Approved Unbuilt Elderly Housing Development to Workforce Housing”
 - New set of CUP criteria specific to elderly conversions
 - Allowance for minor design and density changes as long as meets maximum density of Elderly Housing Section (6 units per acre)
- Corrected section references in general requirements section
- Revised minimum 20 year commitment of workforce housing to 40 year commitment at request of Town Attorney
- Removed language relative to the Planning Board having discretion on rent increases at request of Town Attorney
- Added new Section “Statutory Procedures for Applications and Appeals” at request of Town Attorney

Retention of Housing Affordability:

- Revise all references to affordable housing or other terminology to “workforce housing” throughout section

RESOLUTION #2010-01

A Resolution Relative to
Renaming East and West Eglin Boulevard

First Reading: 1/04/10
Second Reading/Public Hearing: 1/18/10
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** East Eglin Boulevard and West Eglin Boulevard have been identified as non-compliant; and
- 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, East and West Eglin Boulevard, be renamed with the single name “Eglin Boulevard”, to become effective within 60 days of adoption of this resolution. Properties will be renumbered according to the Town Addressing policy.

Michael Brown, Chairman
Town Council

(TOWN SEAL)

Marguerite A. Seymour
Town Clerk/Tax Collector

A TRUE COPY ATTEST:
xx/xx/xx

RESOLUTION #2010-02

A Resolution Relative to
Renaming East and West Woodbine Drive

First Reading: 1/04/10
Second Reading/Public Hearing: 1/18/10
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** East Woodbine Drive and West Woodbine Drive have been identified as non-compliant; and
- 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, East and West Woodbine Drive, be renamed with the single name “Woodbine Drive”, to become effective within 60 days of adoption of this resolution. Properties will be renumbered according to the Town Addressing policy.

Michael Brown, Chairman
Town Council

(TOWN SEAL)

Marguerite A. Seymour
Town Clerk/Tax Collector

A TRUE COPY ATTEST:
xx/xx/xx

RESOLUTION #2010-03

A Resolution Relative to
Renaming East and West Yellowstone Drive

First Reading: 1/04/10
Second Reading/Public Hearing: 1/18/10
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** East Yellowstone Drive and West Yellowstone Drive have been identified as non-compliant; and
- 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, East and West Yellowstone Drive, be renamed with the single name “Yellowstone Drive”, to become effective within 60 days of adoption of this resolution. Properties will be renumbered according to the Town Addressing policy.

Michael 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 ninth (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, together with any amendments to the Town Charter, 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 13, 2010 at nine o'clock in the morning to discuss, amend and act upon articles, the proposed Fiscal Year 2011 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.

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?

ARTICLE NO. 3 *[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: 3-0-0) Budget Committee - (Yes: 7-0-0)

ARTICLE NO. 4 [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: 3-0-0) Budget Committee - (Yes: 7-0-0)

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 3-0-0) Budget Committee - (Yes 7-0-0)

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: 3-0-0)

Budget Committee - (\$25,913,414 - Yes: 7-0-0)

ARTICLE NO. 7 [APPROPRIATE FUNDS TO CAPITAL RESERVE FUNDS TO REPLACE AMBULANCES, HIGHWAY HEAVY EQUIPMENT, FIRE TRUCKS AND HIGHWAY TRUCKS]

To see if the Town will vote to raise and appropriate the sums set forth below to be placed in capital reserve funds already established, and to authorize the use of the June 30 Fund Balance in the amount of \$150,000 towards this appropriation:

Ambulances	\$ 60,000
Highway Trucks	\$ 80,000
Highway Heavy Equipment	\$ 40,000
Fire Trucks	\$ 145,000
	\$ 325,000

(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 FY 11 based upon projected assessed values.)

This article is supported by:

Town Council - (Yes: 3-0-0) Budget Committee - (Yes:7-0-0)

ARTICLE NO. 8 [NORTH/WEST FIRE STATION CONSTRUCTION AND ASSOCIATED COSTS]

To see if the Town will vote to raise and appropriate **SIX HUNDRED FIFTY THOUSAND DOLLARS (\$650,000)** 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: 3-0-0) Budget Committee - (Yes: 7-0-0)

ARTICLE NO. 9 [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 One Thousand dollars (\$1,000) 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: 3-0-0) Budget Committee - (Yes: 7-0-0)

ARTICLE NO. 10 [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 employees, consisting of 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: 3-0-0) Budget Committee - (Yes: 0-0-0)

¹ Projections are based upon projected assessed values.

ARTICLE NO. 11 [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 From Prev. FY</u>	<u>Tax Increase From Prev. FY¹</u>	<u>Total Estimated Cumulative Cost</u> <u>Incr.</u>	<u>Average Rate</u>
FY 11	\$121,717.00	\$ 0.04	\$ 121,717.00	10.80%
FY 12	\$121,486.90	\$ 0.04	\$ 243,203.90	7.65%

and further, to raise and appropriate the sum of \$ 121,717.00 (\$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 \$121,717.00 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: 0-0-0) Budget Committee – (Yes: 0-0-0)

¹ Projections are based upon projected assessed values

ARTICLE NO. 12 [RATIFY FACTFINDER REPORT FOR COLLECTIVE BARGAINING AGREEMENT BETWEEN LONDONDERRY EXECUTIVE 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 From Prev. FY</u>	<u>Tax Increase From Prev. FY¹</u>	<u>Total Estimated Cumulative Cost</u> <u>Incr.</u>	<u>Average 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. (LEEA 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: 0-0-0) Budget Committee – (Yes: 0-0-0)

¹ Projections are based upon projected assessed values

ARTICLE NO. 13 [AUTHORIZATION FOR SPECIAL MEETING ON COST ITEMS]

To see if the Town will vote, if Article 10 is defeated, to authorize the Town Council to call one special meeting, at its option, to address Article 10 cost items only.

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

This article is supported by:

Town Council - (Yes: 0-0-0) Budget Committee - (Yes0-0-0)

ARTICLE NO. 14 [TRANSACTION OF OTHER BUSINESS]

To transact any other business that may legally come before this meeting. No business enacted under this article shall have any binding effect upon the Town.

Given under our hands and seal, this xth of February, in the year of our Lord, Two Thousand and Ten.

***TOWN COUNCIL
LONDONDERRY, NEW HAMPSHIRE***

Michael Brown - Chairman

Kathy Wagner - V. Chairman

Brian Farmer - Councilor

Paul DiMarco - Councilor

Sean O'Keefe - Councilor

I hereby certify that notice was given to the inhabitants of the Town of Londonderry to meet for the 2010 Town Meeting at the time and place indicated in this Warrant, by posting an attested copy of this document on February xx, 2010 at the Londonderry High School Gymnasium and Cafeteria, the place of meeting, and at the Town Hall, School District Office and Leach Public Library.

David R. Caron
Town Manager

ORDER 2010-01

An Order Relative to
***EXPENDITURE OF RECREATION IMPACT FEES
TO INSTALL LIGHTS AT THE SOFTBALL FIELD***

First Reading: 01/18/10

Adopted: 01/18/10

WHEREAS The 2004 Master Plan and Recreation Facilities Planning Committee have identified the need for additional field space; and

WHEREAS it is more economical to install lights at the LHS Softball Field than to construct additional field space; and

WHEREAS this project will benefit many programs throughout the softball season, including the women's league, LAFA, High School program and the men's league, which will gain additional playing opportunities on other town and school fields;

NOW THEREFORE BE IT ORDERED by the Londonderry Town Council that the Town Treasurer is hereby directed and authorized to expend a sum not to exceed \$55,000.00 from the Recreation Impact Fee Account for purposes set forth herein, and the Town Manager is hereby authorized to execute all necessary documents to complete the project.

Michael Brown - Chairman
Town Council

(TOWN SEAL)

Marguerite A. Seymour
Town Clerk/Tax Collector

A TRUE COPY ATTEST:
01/18/10

ORDER 2010-02

An Order Relative to
***EXPENDITURE OF
MAINTENANCE TRUST FUNDS FOR VARIOUS PROJECTS***

Reading: 01/18/2010

Adopted: 01/18/2010

WHEREAS voters since 2003 have approved funding for the maintenance and repair of public buildings and grounds in the town; and

WHEREAS expenditures have been made for various projects, specifically:

- 1) Repair and Painting of 2nd Floor Hallway and Entry area at a cost of \$2,650.00;
- 2) Repair interior door at the Police Department at a cost of \$160.00.

NOW THEREFORE BE IT ORDERED by the Town Council of the Town of Londonderry that the Town Treasurer is hereby ordered to expend \$2,810.00 for the aforementioned repairs and improvements.

Michael Brown, Chairman
Town Council

Marguerite Seymour
Town Clerk

***A TRUE COPY ATTEST:
01/18/2010***

TOWN COUNCIL MEETING
January 04, 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: Brian Farmer (7:13PM); Sean O’Keefe (7:54 PM); Paul DiMarco; Town Manager Dave Caron; Susan Hickey, Assistant Town Manager – Finance& Administration; Executive Assistant, Margo Lapietro.

Budget Members: Mark Oswald, Tom Dolan, Don Jorgenson; Jay Hooley, Rick Dillon, Absent: Deb Nowicki and Todd Joncas.

CALL TO ORDER – PUBLIC SESSION

Chairman Brown opened the meeting at 7:07 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

Motion by Councilor Wagner to enter into a public meeting, second Councilor DiMarco. Council’s vote 3-0-0.

FY11 Town Budget – Total Operating Budget of \$25,913,414. Town Manager Caron explained this was the first public hearing for the FY11 budget. There are 4 Warrant Articles that do impact the tax rate and he proceeded to review each one. Council will take input this evening on any of the articles under consideration. February 2 is the deadline for petitioned warrant articles for the budget request. In order for it to be valid it must be submitted by 2/2 to Town Hall with at least 25 registered voters. The final public hearing for the budget to include the entire Warrant, any collective bargaining issues, fact finder reports and petitioned warrant articles will be held on 2/4/10. Chairman Brown explained to the public that the Town Manager was directed to develop a budget with no greater than a 2 % increase in the Town’s portion of the tax rate. With everything included this evening including the Collective Bargaining Agreement with AFSCME 3657, the Town is anticipating a 1.29% increase in the town tax rate. Town Manager Caron stated the 6 cent rate increase is attributed to those reductions the Council approved last year at Town Meeting with their long term planning with Capital Reserve, Expendable Maintenance Trust and funding overlay through surplus. This is the first of a multi-year process to return those budget areas to customary funding levels. The Operating Budget actually has a 3 cent decrease impact on the tax rate for FY11. Chairman Brown said we are showing 2.24% increase in the Operating Budget but it is a 3 cent decrease. Town Manager Caron explained it is a 3 cent decrease because of

anticipated increases in Motor Vehicle Permit Fees and highway gas tax revenues from the state which positively impacts the amount to be raised by taxes. Chairman Brown again verified the only factors that would increase the budget would be the 2 fact finder reports and any citizens petitions warrant articles that come prior to 2/2. Town Manager noted that citizens can always increase or decrease the Town budget at Town Meeting. Open for discussion. Pauline Caron, 369 Mammoth Rd questioned if health insurance benefits were included in the Councilor's stipend. Town Manager Caron responded that the appropriation reinstates the Councilors' annual stipend of \$2,000 for Councilors and \$2,500 for the Chairman. Chairman Brown stated that Councilors do not receive Town health insurance and taxpayers do not pay for it. Budget Member Tom Dolan, 19 Isabella Drive asked if Councilors discussed bonding for road construction if the bond fails. He stated the community should have an option to vote on some road construction on Saturday, maybe an additional warrant article between \$100-\$200K which would be between 3-6 cents impact on the tax rate. If the bond for the road passes then vote the warrant article down. Councilor Wagner asked Public Works Director Janusz Czyzowski what would \$200K do. He replied minimal improvements, noting the cost of road construction at approximately \$1.5M - \$1.6M. He said if the article fails the budget includes only about \$40K for road construction. In the past they have had approximately \$500K on the warrant article for road construction if the article fails. He said in the past it was dropped down to \$250K and last year it was not proposed. Councilor Farmer questioned if we had an amount to put in the additional warrant article. Councilor Wagner asked what impact an article would be on \$500K on the tax rate. Town Manager Caron responded it would be 16 cents. Councilor Wagner stated she could not support that. Town Manager Caron said the bond is \$1M; the impact would be \$120K with interest the first year which would be about 4 cents. Town Manager Caron said if Council wanted they could make a decision tonight or at the 1/18 meeting. He said he can research information as to what has been proposed historically for an alternate warrant article. Chairman Brown said he would like to discuss it again on the 1/18. Consensus was to come back on the 18th. Councilor Farmer said he agreed but does not want us to shirk our responsibilities for road work. Councilor DiMarco said he wants to stick with the 2% directive that was given to the Town Manager. Chairman Brown said that he thought the companion article had a clause in it that if the bond passed the article is immediately withdrawn. Town Manager Caron stated that no action can bind the voters' action at the Saturday deliberative session, therefore the voters at the meeting would have to vote to remove/approve. Town Manager Caron said the next step in the process is to hold a bond public hearing on the 18th, and if any adjustments to the warrant are made they will be completed at that meeting for posting at the final public meeting.

Ordinance #2009-06 – Relative to the Creation of the Planned Unit Development Process Councilor Wagner recused herself because of the nature of her private business. Chairman Brown stated this was a continuation of the 12/21/09 public meeting. Council requested changes to the Ordinance and he proceeded to explain them. The Gateway Business District was approved by the Town Council. There were two concerns with the Planned Unit Development (PUD) proposal: Additional clarification was added to the "Purpose" statement. The wording would allow the Planning Board to make reference to the 2004 Small Area Master Plan and other long range planning documents in the land

use area. They would basically be the templates from which they make their decision. The second item is the wording in the Permitted Use Table, item 2.8.6.2 which was removed. That section authorized the Planning Board to consider uses not currently included in the Chart of Uses. Councilor DiMarco said he would like to see section 2.8.2.2 refer specifically to the 2004 Town of Londonderry Master Plan. Town Manager Caron said they can add the wording to read “2004 Town of Londonderry Master Plan” in those sections. Councilor DiMarco asked if the 2009 Town of Londonderry Small Area Master Plan could be listed, A. Garron said he will add that. Councilor Farmer questioned adding language to list future dates in this Ordinance; would it have to come back for a public hearing. A. Garron responded you could add wording “as amended”. Town Manager Caron stated it is how the Council wants to handle it. We could include language such as the 2004 Town of Londonderry Master Plan and/or successor plans and that would cover it and not require further approval. If it is not stated then the ordinance needs to be amended when those documents are updated. Councilor Farmer stated that this Ordinance significantly changes zoning in town. Art Rugg, Chair of the Planning Board said the Board believed the Town was encumbered by our zoning ordinances and regulations; and this proposal provides more flexibility. Councilor Farmer questioned if a developer has less than 100 acres could they put together adjoining lots to meet that minimum. A. Garron responded we do not have a lot of 100 acre parcels; the Town does however have more 50 acre parcels that abut each other and could be combined. Councilor Farmer questioned if someone comes before the Planning Board with less than 100 acres can the Planning Board have the ability to waive that parcel size portion. Both A. Rugg and A. Garron responded no. Councilor Farmer asked if this Ordinance can be used to override the POD, A. Rugg responded the POD is not designed for large parcels. Councilor Farmer asked if the underlying zoning is POD restricted. A. Garron responded it could as long as it is in the spirit of the Ordinance. He stated there is only one POD parcel in Town that can fall under 2.8.5.2.1. The POD encourages a campus style development; the PUD encourages a mixed-use development. Councilor DiMarco said the difference lies in the fact that the land was already developed under the POD and land around it that with that developed land could make a continuance 100 acre parcel. They could develop it including the pre-existing development as long as it met the spirit of the PUD. Pauline Caron, 369 Mammoth Rd. asked the name of the parcels of land that currently qualify under the PUD. Councilor DiMarco responded there is currently one parcel but with the combination of parcels there would be an infinite number of parcels. P. Caron asked if a person with a 50 acre parcel in a commercial zone acquires abutting lots that are in residential can it go under the PUD. Does the agricultural/residential change to commercial? A. Rugg responded the underlying zoning stays the same. If it is a PUD it is a mixture of commercial and residential. A. Garron said with the amendment just made to the regulations if anybody proposes a zoning change other than what is permitted by the underlying district they will have to go back to the Planning Board and it is ultimately up to the Town Council for a zoning change. A. Garron said there are about 9 parcels in Town that are over 100 acres and quite a few that are 50 acres that abut each other. Chairman Brown said one important point is that one of the other requirements of the POD is that the land has to be serviced by public water and public sewer. A. Garron stated at this point in time only less than 10 lots will qualify. Jay Hooley, 24 West Yellowstone Rd questioned if you had 100 acres in an AR-1 zone something other than

houses could go in there under this Ordinance. A. Garron responded no the underlying zoning prevails. Councilor Farmer said the property owner can have the property re-zoned before doing a 100 acre PUD project. Councilor DiMarco said he is confused because section 2.8.5.1 reads that we can propose a PUD in any zoning district and the things that are allowed in a PUD are listed in the permitted use chart. What will the underlying zoning have to do with it if you are proposing a PUD in residential or commercial or industrial? A. Garron again referred to the need of water and sewer availability and the underlying zoning. Discussion ensued about the underlying zoning district and the Permitted Use Table. A. Garron said the confusion is about the Use Table it does not correspond with the changes that were just made and the text of the Ordinance. We removed the ability to allow uses that are not in the underlying district. If a developer wanted to use an underlying district they would have to come back to the Planning Board and subsequently the Council. The way the table reads is that basically all the uses if it is a P4 or P5 are listed. Those uses allowed in the "Gateway District" and those uses are allowed as part of a PUD Master Plan. John Michels, 11 Nutfield Dr. offered that you can do whatever is permitted in an AR-1 or commercial-1. When you go in for a PUD it has a chart of 44 uses that are permitted with the approval of the Planning Board which is different than an underlying permitted use. The only things the land owner as a matter of right can do are what are in the underlying zone. Councilor Farmer said the underlying zone is there but the Planning Board can look at that table of uses and let them do something on an AR-1 piece that would not normally be allowed. A. Garron said if you look at the Use Table they are labeled P5, or P4. The P4's are only allowed in uses for the Gateway District. Those labeled P5's are permitted uses in PUD District not associated with the Gateway uses. He continued to review all the items listed in the Permitted Use Chart. **Councilor O'Keefe moved the question as amended. Council's vote 4-0-0.** Councilor Wagner re-joined the Council.

Ordinance #2009-07 – Relative to Amendments to the Zoning Ordinance associated with the Gateway Business District and the Planned Unit Development Process. Chairman Brown stated that this Ordinance was related to Ordinance 2009-06 Section 2.2 and the new Section 2.2.2 which is the Use Table. Hearing no public input, **Councilor DiMarco made a motion to adopt the Ordinance, second Councilor Wagner, Council's vote 5-0-0.**

Councilor DiMarco made motion to come out of public, second Councilor Wagner, Council's vote 5-0-0.

PUBLIC COMMENT

State Representative Al Baldasaro, 41 Hall Road thanked the Town Manager for his help with understanding the petition process which he was presenting tonight. He stated that he thought he was supposed to be listed in the agenda but was not. He appeared tonight under RSA Chapter 39:3 to move a petition he has signed by 28 local residents who want to vote on defining marriage between a man and a woman in the state of NH. The petition is not whether or not Council supports gay marriage it is only to move the petition forward to go on the Londonderry Town ballot as a non binding resolution so

they have the opportunity to vote whether they support marriage between a man and a woman or they don't support it. He said he wanted to present the petition tonight in accordance with the RSA and the Town Charter. He said the Town has an opportunity to vote tonight to move forward with the petition or to say he could go back and get 5% of voters' signatures. He said he was hoping the Council will save him a lot of time and energy because of the holidays and according to the RSA he would have until Monday within the 60 day period to get the signatures. Chairman Brown verified with the Town Manager that citizens can present petitioned warrant articles to the Town as part of the budget public hearing and the deadline for submitting those petitions is 2/2/10. If the issue is not a budgetary matter which this isn't then the Town Charter designates the Council as the legislative body to act on the matter. Upon receipt of the petition the proper process is to transfer the petition to the Supervisors of the Checklist to validate that those 28 signatures are registered Londonderry voters. Town Manager Caron confirmed that was correct. Chairman Brown said based on that Council would not decide on the matter tonight but at the 1/18/10 meeting after the Supervisors have verified the signatures. Town Manager clarified to Mr. Baldasaro that the Council does not have an option to pose this to the voters with 28 signatures. He said his request to move the submitted petition to the voters is beyond the Council's authority. The Town Charter which was approved by the voters is very clear: if there is a referendum petition to be presented to the voters the petitioners have to submit an initiative petition to the Council with at least 1% of the registered voters, which is about 170 voters. If the Council takes action that you are not comfortable with and you want to proceed or move the petition to town meeting you have to submit a referendum petition with 5% of the voters or about 850 signatures. With this current petition, after confirmation with the Supervisors that there are at least 25 registered voters, it will come back to the Council for action. At that point the Council can either approve, table or deny it. That petition process is then completed. If you want the question to be presented to the voters, you need to submit the initiative petition knowing that if the initiative petition is submitted and the Council essentially approves the request it stops there as well because there is no need to go to referendum unless you disagree with the Council's action. It is a little bit different under our form of government then under the traditional town meeting form of government. A. Baldasaro asked if the 5% has different rules because the RSA states on the 5% with 10K voters or more it should match up with our Charter. Town Manager Caron responded no, it is an entirely different process. The RSA presumes that there is not a Town Council form of government and you are operating under a traditional town meeting form of government which means town meeting votes on the budget, resolutions, votes on ordinances, and votes to purchase and sell land. In our form of government everything except the budget is governed by the Council. Councilor DiMarco said if he wanted to put it on the ballot technically he would have to convince a Councilor to present it as a resolution tonight. Councilor Farmer confirmed that what A. Baldasaro is trying to accomplish tonight is to get one of the Councilors to say that they want to put it on the ballot for a Tuesday vote and have a consensus go along with that. Town Manager Caron said he does not believe that is a possibility, it would be a violation of our Charter. Councilor Farmer then asked the Town Manager that the Council could not put a non-binding vote on the Tuesday ballot; Town Manager Caron said that is the advice he has been given but he will re-affirm it tomorrow. Council Wagner brought up the issue with

AES. Councilor Wagner asked the Town Manager for verification. He responded that to put it on the ballot as a referendum petition it needs first an initiative petition with 1% of the voters and if the petitioners agree with the action they come back with a referendum petition which is 5% of the voters and that automatically goes on the ballot. Councilor Wagner asked if A. Baldasaro comes in with 854 signatures does that mean that Council can't stop it and it goes on the ballot. Town Manager Caron stated if a referendum petition is submitted in accordance with Section 7.2 of the Town Charter with 5% of the voters signing the petition, that petition proceeds to the voters at town meeting. If A. Baldasaro submits a petition under Section 7.1 of the Charter it is his understanding that it cannot be put on the ballot and Council will have to take action on the petition received tonight. A. Baldasaro stated that in the RSA and the Town Charter does it say you can't do it because it has already been done in this town. Town Manager Caron stated that NH is not a home rule state, the only authority the Council has is what is set in state law. A home rule state says you can do anything you want except what is prohibited under state law. A. Baldasaro said this petition is happening in every town through out the state. Councilor Wagner questioned the timeframe; Town Manager Caron said it is not a typical deadline like a budgetary petition. If Council does not approve this and A. Baldasaro submits an imitative petition of 1% and that is not approved then comes back with a 5% then there are time lines in the Charter that you have to schedule a special election. A. Baldasaro said according to the RSA he has a 60 day window, if he got all the signatures and brought it into the Town Manager on Monday there would be a 60 day window. Town Manager Caron replied for purposes of process, if it is a budgetary item refer to state law if it is not budgetary ignore state law and follow the provisions in the charter. Councilor Farmer said if it is a budgetary item it could be submitted as petition and the Council could vote either up or down according to RSA 39.3 it would be decided at town meeting. Town Manager Caron responded that is correct. Councilor Wagner asked for a recap that if A. Baldasaro walks in with 850 signatures what happens. Town Manager Caron said that is step 1 with at least 1%. If Council does not agree with the action being requested the 2nd step according to Section 7.2 is to submit a referendum petition with signatures from at least 5% of the voters, which is then placed on the ballot for voter consideration. Councilor DiMarco said if we miss the window for the traditional town meeting it will have to be a special town meeting. A. Baldasaro said he wants the people to vote on the ballot at town meeting. Marty Bove, 3 Tinkham Lane, talked about Al's initiative. He said people have the right to vote on the definition of marriage. He said Council should support the petition. The people's opinion is being denied by the legislature. Councilor Farmer said he has read 7.1 in the Charter where it says "The registered voters of the Town shall have the power to propose ordinances to the Council" this is not an ordinance. Town Manager said he raised that issue with the town attorney and Counsel believes the intent is that ordinances should be interchangeable with resolutions and petitions. Chairman Brown said he asked the exact same question before tonight's meeting. Councilor Farmer requested a written opinion. Councilor Wagner said we did it in the past and put it on the ballot as a non-binding referendum. Councilor Farmer said that the School put a petition request on the school warrant. Councilor Wagner said she is concerned that a precedent has been set with the SB2 issue. Councilor Farmer said it has been done on both the school and town side, why are we now being told no we can't do it. Town Manager Caron cautioned the Councilors not to

mix this issue with the Charter provision. The Charter provision is very specific; if the Council is powerless to do this to put this on a Tuesday vote then that needs to be corrected at the state level. A. Baldasaro said there are 7 towns with Charters like ours that take away the right of the people on freedom of speech. The Council has more authority than the people due to the Charter. Councilor Farmer asked if Council can amend the Charter. Councilor Wagner questioned if it is the state or Charter that is preventing Council from allowing the non-binding resolution. Town Manager Caron said he does know of any state law which prohibits that type of charter amendment. Councilor Wagner stated that it is our Charter the way it is written is the problem. Council Farmer asked if Council can have a Council sponsored amendment, Town Manager said he would review the process with Town Counsel. Chairman Brown said they received advice from legal counsel and should accept it. Councilor Farmer asked what body in town is vested with the authority to interpret the Charter? Councilor Wagner said if they come in with 171 signatures and Council says no then come back with 5% at which point do we accept it no matter what. Town Manager Caron responded it goes to a vote of the people. Councilor DiMarco said that apparently a precedent has been set with how the non-binding referendum vote went for AES. He said he was curious to see what process was followed, but this is past history he is interested in following what the Charter says today. We have to follow the Charter. Town Manager Caron said the voters have decided that Council is the legislative body with exception of the budget. The Charter has an escape clause that says you can bring non-budget items to the voters it is through section 7.1 & 7.2. The framers of the Charter specified 1% for the 1st step and 5% for the 2nd; Council can change those percentages through the Charter member process at any town meeting. M. Bove clarified if we get 171 votes and Council says put it on the ballot do they still have to get the 858. Town Manager Caron said the way the Charter is written is if they receive a petition with 1% which is about 170 people, and the Council says yes we support the petition, it ends there. That is the sense of the community. M. Bove said if the Council does not support the petition then if we come back with 850 it goes to the voters. He asked Council to give the voters the opportunity to express their opinion; it is not binding and does not cost anything. A. Baldasaro thanked the Councilors for their time. Councilor Farmer asked the Town Manager to ask Counsel about 7.4. Art Rugg, 11 Pine Hollow Dr. said 7.4 was used as a non-binding referendum for AES.

OLD BUSINESS

FY11 Budget – \$1.0M Highway Reconstruction Bond - Town Manager Caron said this item needs a separate public hearing; consensus was to schedule a hearing for 1/18/10.

NEW BUSINESS

Resolution #2010-01 – Relative to Renaming East and West Elgin Boulevard. –

Resolution 2010-02 – Relative to Renaming East and West Woodbine Drive -

Resolution #2010-03 – Relative to Renaming East and West Yellowstone Drive –

Councilor Wagner made a motion to move all of the above to a public hearing on 1/18, Second by Councilor DiMarco, Council's vote 5-0-0.

Resolution #2010-04 – Relative to Awarding a Contract to Reconstruct the Rte. 28/Page Road Intersection – Councilor O’Keefe made a motion to adopt, second by Councilor Wagner. Councilor DiMarco clarified that \$1.75M was approved at town meeting last year. Was the money bonded at that time? Town Manager Caron explained it was not proposed to bond the project since 2/3 was funded by the State. The Town portion of 1/3 came from a combination of undesignated fund balance and Rte 28W impact fees. Councilor O’Keefe questioned if Continental Paving was the lowest bidder. Town Manager said they got 9 bids and the lowest was Continental, it was a competitive bid process. The bid came in at a great price and reduced the town share from \$643K to about \$150K. The ARRA grant coupled with the reduced cost of the project resulted in a substantial savings. All bid results were in the packet for the Councilors. Chairman Brown asked what happens to the \$492K we are getting back. Town Manager Caron said it does not get expended; it is a combination of surplus money not being spent it will stay in the towns resources. The Rte 28W impact fees will stay in that account for other improvement projects along Rte 28 and the general area. Councilor Farmer said it does not have a specific tax benefit up or down. **Council’s vote 5-0-0.**

APPROVAL OF MINUTES

Minutes of Councils Public Meetings of 12/21/09. Councilor Wagner made a motion to adopt, second Councilor DiMarco, Council's vote 5-0-0.

OTHER BUSINESS

Liaison Reports – Councilor DiMarco said there is a Planning Board meeting this Wednesday and there is a meeting before for Town Council regarding Workforce Housing. It will be a non-meeting meeting with counsel from 7-8 then the Planning Board starts at 8PM.

Town Manager Reports – Nothing further to report

Board/Committee Appointments/Reappointments - None

ADJOURNMENT

Councilor Wagner made a motion to adjourn at 9:11 PM, second, Councilor O’Keefe, Council’s vote 5-0-0.

Notes and Tapes by:

Margo Lapietro

Date: 01/04/20

Minutes Typed by:

Margo Lapietro

Date: 01/06/20

Approved;

Town Council

Date: