

**TOWN COUNCIL
AGENDA
March 15, 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

II. PUBLIC COMMENT

A.

IV. OLD BUSINESS

A. Economic Development Update – Andre Garron

V. NEW BUSINESS

A. Order #2010-07– Relative to Expenditure of Maintenance Trust Funds for Various Projects

B. Resolution #2010-07 – Relative to the Grant of Executory Interest, Conservation Easement and Grant Agreement with NHDES

C. Resolution #2010-08 – Relative to Consent to Assigning Interests in Land Easements (Granite Ridge Energy)

D. Resolution #2010-09 – Relative to the Release of Drainage Easement Rights to the State of New Hampshire (Map 13, Lot 71-29)

E. Resolution #2010-10 – Relative to a Marriage Resolution to State Elected Officials

VI. APPROVAL OF MINUTES

A. Minutes of Council’s Public Meeting of 3/1/10

VII. OTHER BUSINESS

A. Liaison Reports

B. Town Manager Reports

C. Board/Committee Appointments/Reappointments

1. Council Liaison Assignments

2. Resignation – Tom Dolan, Budget Committee

VIII. ADJOURNMENT

IX. MEETING SCHEDULE:

- A. Town Council Meeting – April 5, 2010, Moose Hill Council Chambers, Town Council, 7:00 PM
- B. Town Council Meeting – April 19, 2010, Moose Hill Council Chambers, Town Hall, 7:00 PM
- C. Town Council Meeting – May 3, 2010, Moose Hill Council Chambers, Town Council, 7:00 PM

SUPPORTING DOCUMENTATION COUNCIL MEETING OF MARCH 15, 2010

I. CALL TO ORDER

II. PUBLIC COMMENT

A.

III. OLD BUSINESS –

- A. Economic Development Update – Andre Garron – Andre will present his monthly economic development update to the Town Council.

IV. NEW BUSINESS –

- A. Order #2010-07 – Relative to Expenditure of Maintenance Trust Funds for Various Projects – Attached is an order to pay for repairs at Leach Library and Town Hall. ***(Fiscal Note: Funds are available in the Expendable Maintenance Trust Fund for these repairs.)***
- B. Resolution #2010-07 – Relative to the Grant of Executory Interest, Conservation Easement and Grant Agreement with NHDES – The Conservation Commission has obtained a grant to study and initiate natural resource restoration activities at the Nesenkeag Headwater (Map 6, Lot 113). Any local match will be provided in the form of in-kind assistance from the Conservation Commission. Mike Speltz will be in attendance to answer any questions which might arise.
- C. Resolution #2010-08 – Relative to Consent to Assigning Interests in Land Easements (Granite Ridge Energy) – Granite Ridge secured easements from the Town in 2000 to facilitate construction of the gas pipeline from the North Wentworth Avenue facility to the Tennessee Gas line on Sanborn Road. Granite Ridge would like to assign its rights in the easement to Energy North (now owned by National Grid. Town Counsel recommends granting the Town's Consent.

- D. Resolution #2010-09 – Relative to the Release of Drainage Easement Rights to the State of New Hampshire (Map 13, Lot 71-29) – Attach is a resolution releasing a drainage easement on property taken by the State of New Hampshire in conjunction with the widening of Interstate 93. Public Works has reviewed and concurs with this action.
- E. Resolution #2010-10 – Relative to a Marriage Resolution to State Elected Officials – Attached is a resolution to be approved by the Town Council, which completes action required by Article 3 of the 2010 Town Meeting Warrant.

V. APPROVAL OF MINUTES – Minutes of the Council’s meetings of 3/1/10.

VI. OTHER BUSINESS

- D. Liaison Reports –
- E. Town Manager Reports –
- F. Board/Committee Appointments/Reappointments -
 - a. Town Council Committee Assignments - Attached is a spreadsheet listing the various committee liaison assignments.
 - b. Resignation – Tom Dolan, Budget Committee

VII. ADJOURNMENT –

MEETING SCHEDULE:

- 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

**FOLLOW-UP FROM COUNCIL'S
March 1, 2010 MEETING**

ISSUE	ACTION	RESPONSIBILITIES
Junkyards	Dudek continued to 6/7; Counsel opinion sought on late deliveries. <i>(In process)</i>	Dave/Richard
Used Books	Review options regarding disposal/recycling of used books. <i>(In process)</i>	Dave

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

ISSUE	ACTION	RESPONSIBILITY
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

Londonderry Economic Development Plan

Summary of Action Items

A. Town Council arrange a meeting with key local stakeholders to help create the Economic Development Vision

Timeline: September 2008 to December 2008

PREVIOUS: Luncheon with area stakeholders held on 10/15/08; more to be scheduled during the Pettengill bond process; some of this work is being accomplished in the marketing plan

July 13, 2009: **This goal is no longer relevant.** The purpose of this action item was to create a shared vision amongst our community leaders of where Londonderry wanted to take its economic development strategy. Given that we are proceeding with our marketing strategy, development of the Pettengill Road area roadway plans and funding of the Page Road/Route 28 intersection, I think it is safe to say Londonderry's economic development strategy is moving forward. Our next opportunity to revisit this action item is when we update our master plan in 2011/2012.

Cost: Funded from FY09 Community Development Budget

B. MRI has begun an audit of Londonderry's review process. The goal of the audit is to identify the inconsistencies and points of conflicts within Londonderry review process, to better serve the development community but not undermine the integrity of the design regulations.

Timeline: July 2008 to November 2008

PREVIOUS: *Project completed 1/29/2009*

Cost: Approximately \$8,300.00, funded from the FY08 Town Manager and General Government Budgets

C. Complete the Small Area Master Plan for North Londonderry and actively

work towards implementing those recommendations consistent with Economic Development goals.

Time line May 2008 to January 2009

PREVIOUS: No new information. Planning Board will hold a second public hearing on Sept. 9 to hear additional comments and to review some of the new recommendations suggested at the July 1, 2009 hearing

September 21, 2009: Planning Board adopted the Small Area Master plan as an amendment to the 2004 Master on September 9, 2009. **Project Complete**

Cost: \$32,000 paid for by CTAP funds (\$15,000) and CD Budget (\$17,000) – Resources include in-house staff, the University of New Hampshire and Southern New Hampshire Planning Commission.

D. Adopt the Flexible Industrial District regulations within the Pettengill Road area.

Timeline: August 2008 to December 2008

PREVIOUS: Board felt staff was headed in right direction and wanted an ordinance that could be applied to other areas of town. Staff will try to have ready a draft for a public hearing scheduled on October 14.

October 19, 2009: The planning Board held another workshop meeting on the proposed Gateway District and Planned Unit Development ordinance. Staff received additional input from Board and residents. Planning Board requested that staff proceeding to public hearing on November 11.

The Gateway District and Planned Unit Development ordinances were adopted by town council on **January 4, 2010. Project complete**

Cost: Minimum legal expense; project to be completed in house

E. Update Londonderry Economic Development website integrating ED best practices. Possibly use the ED work to improve our overall site – Feedback from site selectors and industry requires Londonderry to develop a top-notch site.

Timeline: September 2008 to March 2009 (Grant deadline is December 2008)

PREVIOUS: As the marketing piece work its way towards concluding, Londonderry's website consultant, Silvertch, Inc., will begin integrating the message developed in the marketing phase into the new ED website. Gary O'Neil and staff have been actively working with our website consultant on developing a wire frame (Draft layout) of the proposed site.

October 19, 2009: Staff continues to work with its consultants towards integrating our message into the website. Staff has reviewed a draft design of the website and is working with our consultants towards developing the final product.

The website launch took place on March 9, 2010. Project complete

Cost: \$30,000 – Staff was successful in receiving DRED Economic Development grant in the amount of \$2,388t. CD Department Budget funded the balance.

F. Update Londonderry website with a site selector property search tool specifically targeting Londonderry's commercial and industrial development areas. Final product will be work into overall upgrade.

Timeline: May 2008 to October 2008

PREVIOUS: *Project implemented and completed.*

Cost: \$10,000-2003 GIS Appropriation used to fund this project

G. Actively market Londonderry's development areas. Participate in selected trade shows to make direct contacts. Have annual business luncheons to maintain contact with business community. Hire a marketing and promotion firm to help get the word out about Londonderry. Create a taskforce to help market and promote Londonderry

Timeline: September 2008 to June 2009

PREVIOUS: The Economic Development Taskforce met on Thursday, June 25, 2009 at which they received an update on the status of Londonderry's marketing strategy. The Planning Board invited Mr. Gary O'Neil to its meeting for the same update September 21 2009: Marketing Consultant, Gary O'Neil to present strategy.

October 19, 2009: **Task being implemented.** In 2008, Town Council created the Economic Development Taskforce and charged them with developing a town wide marketing strategy. The Town hired marketing and econ. dev. website design consultants to help promote and market Londonderry. Last October, Staff we held its first business luncheon meeting and, soon, will be holding another to update the airport area businesses on the new Economic Revitalization Zone (ERZ).

Project completed as of March 9, 2010

Cost: \$35,000 – The Town was successful in getting a \$10,000 grant from CTAP and a \$5,000 from EDA through the REDC.

H. Rt. 28/Page Road Intersection upgrade was found to be an important component in the active development of the Exit 5 and Pettengill Road areas.

Timeline: August 2008 to November 2009

PREVIOUS: On June 9, 2009, NHDOT provided feedback on the studies submitted to them. They've given the Town the green light to proceed to final contract plans.

Town was notified of receipt of \$1.05M in ARRA funding, therefore the State will pay 100% of the first \$1.0M in construction costs.

July 13, 2009: No new information. The Town still proceeding with the project in accordance with the approval received from NHDOT on June 9, 2009.

October 19, 2009: Plans are into NHDOT to proceed to construction

Cost: \$1.750 Million paid for by 2/3 State funds and 1/3 Town funds

The project was put out to bid early 2010- Continental Paving was selected. Bid price was substantially lower that initial cost (i.e. \$1.1 M down from \$1.7M) Project will begin at the end of month or beginning of April 2010.

I. Invest in Mass Transit to key development areas in Londonderry.

Timeline: July 2010 to June 2015

FUTURE GOAL

Cost: \$10,000 to \$50,000/year. This action item is in its development phase, thus resulting in a wide-ranging cost estimate.

FUTURE COSTS – AMOUNT AND SOURCE NEED TO BE IDENTIFIED.

J. Fund the upgrade of the Pettengill Road to connect unto the Airport Access Road. This project will open up over 800 acres of land in and around the airport area.

Timeline: March 2009 to November 2010

Staff has provided information to Town Manager in order to secure funding from NHDOT for Pettengill Road. An appropriation request was submitted to Senator Shaheen for the roadway portion of the project. Staff is working with REDC to submit a grant to EDA for funding for the sewer portion of the project. The grant is a matching grant; range is 50% to 75%. Grant submittal is Sept. 2010. The town should know if it was successful by November 2010.

Estimated Cost: \$12.3 Million funding (Bond, P/P/P, Private)

K. Actively work towards creating a stock of affordable housing by building on the recommendation contained in the Housing Taskforce plan

Timeline: September 2008 to September 2013

PREVIOUS: Planning Board will be holding a public hearing on the workforce housing ordinance on October 14.

October 19, 2009: Planning Board held a public hearing on the workforce housing ordinance. The Board voted to recommend the ordinance to Town Council for adoption. Town Council adopted the workforce housing inclusionary zoning ordinance on February 1, 2010. Project complete

Cost: Regulatory work will be done in house. Collaboration with NeighborhoodWork and other affordable housing developers is critical

L. Determine the level of public/private partnership in the Jack's Bridge Development, which would create additional jobs, development and opportunities in the Rte. 28/Exit 5 corridor.

Timeline: September 2008

PREVIOUS: Council concurred with staff recommendation to not pursue public investment in the project at this time. **NO FURTHER ACTION ABSENT COUNCIL POLICY CHANGE.**

Cost: Economic and Traffic Studies (approximately \$120,000) shared with developer; town share from Community Development Budget and Rte. 28 Impact Fee Fund.

M. Staff review recommendations from MRI study, and propose revisions to both the review process and ordinances which align with this goal.

Timeline: Post submittal of MRI study (Nov., '08 – Feb., '09)

PREVIOUS: A workshop was held on May 13 to discuss staff's recommendation to implement the goals identified in the MRI report. Public hearing to amend the subdivision and site plan regulation is scheduled for June 10.

June 15, 2009: Planning Board adopted changes to the subdivision and site plan regulations, in accordance with the recommendations in the MRI report, on June 10, 2009.

July 13, 2009: **Project Completed.** On June 10 2009, the Planning Board voted to adopt the amendments to the subdivision and site plan regulations recommended by staff based on the direction given in the MRI report.

Cost: Minor legal expenses; analysis and revisions developed in-house by staff.

N. Engage the services of the Town's Impact Fee Consultant to develop rules and implementation plan for the impact reimbursement program.

Timeline: Post submittal of MRI study (Nov., '08 – Feb., '09)

PREVIOUS: The results of the traffic study will be the bases of the new reimbursement ordinance

October 19, 2009: No new info

Cost: To be determined – ***FUTURE COSTS – AMOUNT AND***

SOURCE NEED TO BE IDENTIFIED.

O. Benchmark review process, and organizational and community strengths and weaknesses in the context of economic development.

Timeline: July, 2008 – September, 2008

PREVIOUS: *Project completed*; results incorporated into site selector, website enhancements, marketing and design review processes (Items E, F, G & L). Project completed. Amendments to the development review process also addresses several of the issues identified in the report.

Cost: \$5,000 – Engaged services of Northeastern University Center of Urban and Regional Policy to complete Self-Assessment.

P. Establish land use goals and development plan for Exit 4-A development area.

Timeline: FY 10/11

PREVIOUS: Funding was put in the budget for this work several years ago but was removed. No funding was put in next fiscal year's budget either due the timeline of this project. Staff will propose funding in FY 2010.

October 19, 2009: No new information

March 15, 2010- No new information

Cost: Land use review – minor legal expenses; in-house staff work; 4-a construction – existing \$5.0 M bond authorization (now at \$4.0M)

ORDER 2010-07

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

Reading: 03/15/2010
Adopted: 03/15/2010

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) Various repairs at Leach Library at a cost of \$395.00;
- 2) Repairs to the HVAC system at Town Hall at a cost of \$1,306.22.

NOW THEREFORE BE IT ORDERED by the Town Council of the Town of Londonderry that the Town Treasurer is hereby ordered to expend \$1,701.22 for the aforementioned repairs and improvements.

, Chairman
Town Council

Marguerite Seymour
Town Clerk

A TRUE COPY ATTEST:
03/15/2010

RESOLUTION 2010-07

A Resolution Relative to
*The Grant of Executory Interest, Conservation
Easement and Grant Agreement with NHDES*

First Reading: 03/15/10
Adopted: 03/15/10

WHEREAS the Conservation Commission has acquired certain parcels of land as part of the Town's Open Space Program; and

WHEREAS an opportunity exists to receive a grant from the Department of Environmental Services to study and initiate natural resource restoration activities at the Nesenkeag Headwater (Map 6, Lot 113); and

WHEREAS a condition of the grant is to execute an agreement with NHDES to set forth terms, conditions and benefits of the grant; and

WHEREAS the Conservation Commission recommends participation in this project;

NOW THEREFORE BE IT RESOLVED by the Londonderry Town Council that the Town Manager is hereby authorized to execute all documents necessary for participation in this Merrimack River Watershed Aquatic Resource Mitigation Fund program.

- Chairman
Town Council

(TOWN SEAL)

Marguerite Seymour - Town Clerk/Tax Collector

A TRUE COPY ATTEST:
03/15/10

NOTICE OF GRANT AGREEMENT, CONSERVATION RESTRICTIONS AND
GRANT OF EXECUTORY INTEREST

The Town of Londonderry, a New Hampshire municipal corporation having its office at 268 B Mammoth Road, Londonderry, New Hampshire, is the owner of a parcel of land located in the Town of Londonderry, Rockingham County, New Hampshire, being 29 acres, more or less, more particularly described in a Notice filed by the Town of Londonderry Deputy Tax Collector of tax lien execution and property conveyance and in Exhibit A attached hereto (the "Protected Property").

Notice is hereby given that the State of New Hampshire, acting through its Department of Environmental Services (hereinafter "DES"), has provided funds from its Merrimack River Watershed Aquatic Resource Mitigation Fund for the natural resource restoration of the Protected Property pursuant to a grant agreement between DES and the Town of Londonderry, Award No. _____ (the "Award"). By accepting the Award, the Town of Londonderry agrees to the Conservation Restrictions set forth below and **grants to DES an Executory Interest** in the enforcement of the Conservation Restrictions. The Town of Londonderry must obtain the approval of DES or its successor agencies before disposing of or encumbering its interests in the Protected Property.

Conservation Restrictions

The following Conservation Restrictions on the Protected Property shall run with the land and shall be enforceable as permanent conservation restrictions, as defined in NH RSA 477:45:

The following activities are prohibited:

1. the manipulation of water levels and filling or dredging of wetlands, except to restore the Property to its natural condition, to construct permitted roads and trails, and for conservation and wildlife habitat management purposes;
2. (i) the placement or construction of new structures, unless such structures are used solely for conservation, forestry, wildlife habitat management and/or outdoor education purposes and are consistent with the purposes stated below, and (ii) the use of any existing structures other than for wildlife habitat management, outdoor recreation and education purposes;
3. the placement or construction of docks or boat launches;
4. the building of trails, except for conservation, wildlife habitat management, outdoor recreation and education purposes; and
5. the building of roads, except for forestry, conservation, wildlife habitat management or outdoor education purposes.

These restrictions serve the following purposes:

1. Assuring that the Property will be retained in perpetuity in its scenic, forested, wetland and open space condition;
2. Protecting and conserving the native biological diversity of the Merrimack River watershed, including any rare plants and animals, exemplary natural communities, wetlands, waterfowl and migratory bird habitat, and other significant wildlife habitats on the Protected Property; and
3. Protecting and conserving the wetlands and/or forest lands of which the Property consists and the wildlife habitat thereon.

These Conservation Restrictions are subject to all easements, restrictions, rights, and encumbrances of record and to any facts, rights, interests, or claims that are not shown by the public records.

By acceptance of the Award the Town of Londonderry agrees to maintain the Protected Property in its open and undeveloped state and to protect all threatened, rare or endangered species or natural communities found on the Protected Property. The Conservation Restrictions set forth above shall burden the Property in perpetuity and shall be binding upon the Town of Londonderry and its successors and assigns.

Executory Interest

A. If the Town of Londonderry ceases to comply with the Conservation Restrictions conveyed hereby, or fails to comply within thirty (30) days after receipt of written notice from the Executory Interest Holder requesting such compliance, delivered in hand or by certified mail, return receipt requested, then the Executory Interest Holder shall have the right to enforce the Conservation Restrictions. All reasonable costs of such enforcement shall be paid by the Town of Londonderry. The interest held by the Executory Interest Holder is assignable or transferable to any agency of the State of New Hampshire whose mission is the conservation of natural resources. Any assignee or transferee shall have like power of assignment or transfer.

The Executory Interest Holder shall have reasonable access to the Property and all of its parts for such inspection as the Executory Interest Holder finds necessary to determine compliance with and enforce the terms of the Conservation Restrictions, to exercise the rights conveyed by this grant of Executory Interest, to carry out the duties assumed by the Executory Interest Holder, and to maintain boundaries if the Executory Interest Holder desires.

Executed this ____ day of _____, 2010.

THE TOWN OF LONDONDERRY

By: _____
David R. Caron
Its: Manager

STATE OF NEW HAMPSHIRE
COUNTY OF ROCKINGHAM

On this ____ day of _____, 2010, before me, the undersigned notary public, personally appeared David R. Caron, Town Manager of the Town of Londonderry, to me personally known or otherwise proved to me through satisfactory evidence of identification to be the person whose name is signed on the preceding document, and acknowledged to me that he signed such document voluntarily for its stated purpose.

Notary Public
My Commission Expires:

ACCEPTED BY EXECUTORY INTEREST HOLDER:

State of New Hampshire, acting through the New Hampshire Department of Environmental Services

By: _____

Name

Duly Authorized

Date: _____

STATE OF NEW HAMPSHIRE
COUNTY OF _____,

On this _____ day of _____, 2010, before me the undersigned officer, personally appeared _____, known to me (or satisfactorily proven) to be the authorized agent of the State of New Hampshire, acting through the New Hampshire Department of Environmental Services, and that being authorized so to do on behalf of such entity, executed the foregoing instrument for the purposes therein contained. In witness whereof I set my hand and seal.

Before me, _____

Justice of the Peace/Notary Public

My commission expires: _____

RESOLUTION 2010-08

A Resolution Relative to
***The Consent to Assigning Interests in Land
Easements (Granite Ridge Energy)***

First Reading: 03/15/10
Adopted: 03/15/10

WHEREAS AES (now Granite Ridge Energy), as part of its power facility project, constructed gas lines to connect to the Tennessee Gas facility; and

WHEREAS an agreement made between AES and National Grid (f/k/a Energy North) requires the assignment of its interest in the gas line easements to Energy North; and

WHEREAS National Grid shall be responsible for all terms, conditions, requirements and responsibilities established in the original easement; and

WHEREAS the Town's Counsel recommends Town Council consent to this request;

NOW THEREFORE BE IT RESOLVED by the Londonderry Town Council that the Town Manager is hereby authorized to execute all documents necessary consenting to the assignment of interests in the easements recorded at Rockingham County Registry of Deeds, Book 3460, Pages 445 and 464 by Granite Ridge Energy LLC to EnergyNorth Natural Gas, Inc.

- Chairman
Town Council

(TOWN SEAL)

Marguerite Seymour - Town Clerk/Tax Collector

A TRUE COPY ATTEST:
03/15/10

RETURN TO:
CONNIE B. LANE, ESQ.
ORR & RENO, P.A.
1 EAGLE SQUARE
CONCORD, NH 03301

CONSENT TO ASSIGNMENT OF EASEMENTS

The Town of Londonderry, New Hampshire, a municipal corporation organized and existing under the laws of the State of New Hampshire, having a mailing address of 268B Mammoth Road, Londonderry, New Hampshire 03053-3416, hereby consents to the assignment by Granite Ridge Energy, LLC of all of its rights, title and interests in and to those certain easements at Book 3460, Page 445 and Book 3460, Page 464 of the Rockingham County Registry of Deeds to EnergyNorth Natural Gas, Inc., a New Hampshire corporation with an address of c/o National Grid USA, 40 Sylvan Road, Waltham, Massachusetts 02451.

Dated this ____ day of February, 2010.

TOWN OF LONDONDERRY, NH

By: _____
Name: _____
Title: Town Manager

STATE OF NEW HAMPSHIRE
COUNTY OF _____

The foregoing Consent to Assignment of Easements was acknowledged before me this ____ day of February, 2010, by _____, Town Manager, on behalf of the Town of Londonderry, New Hampshire.

Justice of the Peace/Notary Public
My Commission Expires: _____

RESOLUTION 2010-09

A Resolution Relative to
***The Release of Drainage Easement Rights to the
State of New Hampshire (Map 13, Lot 71-29)***

First Reading: 03/15/10
Adopted: 03/15/10

WHEREAS the State of New Hampshire is required to acquire private property to accommodate the widening of Interstate 93; and

WHEREAS the Town of Londonderry has rights to a Drainage Easement on Map 13, Lot 71-29; and

WHEREAS the State of New Hampshire requests that the rights to the Drainage Easement be extinguished, with the State agreeing to maintain drainage flow as contemplated under the original easement; and

WHEREAS property taxes are owed the Town on the underlying property;

NOW THEREFORE BE IT RESOLVED by the Londonderry Town Council that the Town Manager is hereby authorized to execute all documents necessary relinquishing the rights to its drainage easement on a portion of Map 13, Lot 71-29, contingent upon the State of New Hampshire agreeing to maintain drainage flow, to become effective upon payment of all property taxes due the Town on the subject property.

- Chairman
Town Council

(TOWN SEAL)

Marguerite Seymour - Town Clerk/Tax Collector

A TRUE COPY ATTEST:
03/15/10

RESOLUTION 2010-10

A Resolution Relative to
A Marriage Resolution to State Elected Officials

First Reading: 03/15/10
Adopted: 03/15/10

WHEREAS voters at the 2010 Town Meeting voted upon a non-binding resolution regarding the definition of marriage (Article 3); and

WHEREAS voters approved Article 3 by a vote of 1,655 in favor and 1,471 opposed; and

WHEREAS the question directed that the Resolution is forwarded to our State Representative(s), our State Senator, the Speaker of the House, and the Senate President;

NOW THEREFORE BE IT RESOLVED by the Londonderry Town Council that the following resolution be forwarded to the aforementioned state elected officials:

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

- Chairman
Town Council

(TOWN SEAL)

Marguerite Seymour - Town Clerk/Tax Collector

A TRUE COPY ATTEST:
03/15/10

TOWN COUNCIL MEETING
March 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, Brian Farmer; Town Manager Dave Caron; ATM/Finance Mgr. Sue Hickey; Executive Assistant, Margo Lapietro.

CALL TO ORDER – PUBLIC SESSION

Chairman Brown opened the meeting at 7:06 PM with the Pledge of Allegiance. This was followed by a moment of silence for the men and women fighting for our country.

Scott Benson – Alternate, Planning Board – Chairman Brown explained the Planning Board had reviewed S. Benson’s application and recommended his appointment as an Alternate on the Planning Board. S. Benson explained his background. Councilor DiMarco thanked him for volunteering and asked him why he was interested in the Planning Board. He replied that Londonderry has a tremendous growth potential and he would like to get involved. Councilor DiMarco asked if anything would prevent him from attending the meetings, he responded no problem. Councilor Farmer asked if he had any conflicts of interest with being involved in the family business at Bensons Hardware. Scott responded no, not in the Town of Londonderry. Chairman Brown asked him if he had either attended a Planning Board meeting or watched one on TV; he responded he has been in Derry before the Planning Board for site plan approval.

Presentation of Volunteer Awards – The Councilors presented awards to all the volunteers who had either retired or stepped down from the boards/committees/commissions that they were involved in for the 2009 year. Pollyann Winslow introduced the members of this year’s Leadership Londonderry Class.

Councilor Farmer presented the “Volunteer of the Year” award to Gail Moretti for her work on the Solid Waste Advisory Committee.

Councilor Brown presented the “Citizen of the Year” award to Art Rugg for his many years of service to the Town.

PUBLIC HEARING

Councilor DiMarco made a motion to open the Public Hearing, second Councilor Farmer. Council's vote 5-0-0.

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

Councilor DiMarco read the Resolution and made a motion to accept, second Councilor O'Keefe. E-911 Coordinator J. Bilodeau said the change came about because of the change to Eglin Blvd. A home was located on Barksdale but had an address on Eglin and it would cause a problem. Barksdale and Alamogordo was one continuous street with two different names. They did have a public meeting with no one appearing. GIS Manager John Vogl said they have a shorter effective date with these streets so they can be changed uniformly as the mobile home park changes. Councilor DiMarco clarified that the whole loop shown on the drawing that was displayed would all be called Barksdale. No public input received. Council's vote 5-0-0.

Citizen's Petition on the Definition of Marriage, (2nd Petition). – Town Manager Caron stated that the second petition received on 2/2/10 requested the petition submitted by Al. Baldasaro be amended. According to Town Counsel this is not authorized under state law, the petitioners request is illegal and the Council should not approve it, however to maintain consistency the Town Council should still hold a public hearing, receive comments and act upon the petition. Lisa Drabik, 21 King Arthur Dr said she is one of the founding members of "Londonderry. Protects Equality." She stated that the petition by Al Baldasaro was vague and misleading. By framing it as a "right to vote issue" Rep. Baldasaro intentionally confused the issue so that some people who signed his petition did not realize the petition was about taking away a right that already exists and regretted their signatures. She explained she got 52 signatures on a petition to amend the language of his petition. She said that Rep. Baldasaro wanted to restrict the definition of marriage already on the books in NH. She said she and her group were under the understanding that petitions could be amended according to Town Charter. After being told that one citizen's petition could not amend another they submitted a letter to withdraw their petition. The group wanted to make it clear that the Council is not rejecting their petition because they disagree with their position. She said they wanted to educate people of the true nature of the petition. She said Rep. Baldasaro's petition was intentionally crafted to confuse residents and make them think the issue was simply about the right to vote. He has had only one intent and that was to overturn recently enacted laws permitting same sex marriage. He has introduced or sponsored legislation in the NH House seeking both repeal of the same sex marriage law as well as a constitutional amendment to define marriage as between one man and one woman. Both measures failed by large margins. She proceeded to read the petition. In the future they asked the Council to make sure any and all ballot initiatives are appropriate and state fairly and clearly what is at issue so

voters can read and understand them. She urged voters to vote no on Article 3. **Councilor DiMarco made a motion to accept the petition, second Councilor O’Keefe. Council’s vote 1-4-0.**

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

PUBLIC COMMENT

Presentation of Warrant Articles at the Budgetary Town Meeting - Town Moderator Cindi Rice-Conley and Town Clerk/Tax Collector Meg Seymour were in attendance. Chairman Brown reviewed the assignments of warrant articles to be presented at the budgetary Town Meeting on 3/13/10.

TC/TC Meg Seymour reminded everyone to vote on Tuesday and attend the Budgetary Town Meeting on Saturday. She also informed everyone that dog registration is now available on-line

Reid Clark, III reminded people to visit the various booths set-up at town meeting.

Chairman Brown stated that the Councilors were going to take public comment for junkyards in this section. He stated that Senior Building Inspector, Richard Canuel recommended no action on Order 2010-03 for Murray’s tonight. He wants to defer until the applicant has been able to address some issues before the July 1, 2010 deadline.

Gerry and Claudette Adams 54 Hall Rd. said that throughout the year they have submitted complaints about Murray’s Auto Recycling to Richard Canuel. He said he hoped the owner was notified of the complaints. He said that the late deliveries are part of the issues this year. Claudette Adams said if the late deliveries are ignored they will continue unlimited. She said she wants to know what the DES deficiencies are that were found at the junkyard so they can protect their own water. G. Adams said some of fencing has come loose. Richard Belinski, Hall Rd. said he was concerned that there was no public hearing scheduled for this license. It was his understanding that if there are no violations a public hearing is not required; if there are violations you are required to have a public hearing under state law. He said he handed the RSA pertaining to that ruling to a Councilor last year and spoke to three Councilors last year about the RSA. He proceeded to quote the law under Title XX, Chapter 236, Section 117 & 121. He also stated that a second business is being run on the property under Dudek Realty, Inc. He stated that we have to have a Public Hearing because there are deficiencies. He said he gave the paperwork to a Councilor last year and proceeded to hand them over to the Chairman.

OLD BUSINESS

None.

NEW BUSINESS

Order #2010-03 – Relative to the Licensing of a Junkyard pursuant to RSA 236 (Murray's Auto Recycling) Senior Building Inspector Richard Canuel explained the statute deadline was changed from 4/1/10 to 7/1/10 this year. All licenses granted last year will remain in effect until 6/30/10. He said the deficiencies identified by the NH Dept. of DES are issues that can easily be corrected. The berm in the back will be taken care of in the spring. The box trailer is no longer needed it should not be included in 2010 license. The fencing is maintained and the recent damage due to this weeks wind storm will be repaired. He said he received 24 incidents this year of late deliveries noted by Mr. Adams. The operating hours are 8:00 AM-5:00 PM. He said he did send a notice to Mr. Dudek reminding him that he needs to operate under the conditions of his license. He said the Council needs to consider if late deliveries are a part of a junkyard operation. Part of the fencing requirements is that the fencing has a gate and it should be closed when the junkyard is not operating. If the gates are open after hours they are in operation. Inspection of the operation was good; he is operating under the Best Management Practices (BMP). Without those deficiencies Mr. Dudek is in compliance except for the late deliveries. Councilor O'Keefe asked how late after 5:00 PM were the nuisance calls, R. Canuel responded they were varied some as late as 7:45PM he received one report that the junkyard was operating on a Sunday when they were only allowed to be open Monday - Saturday. R. Canuel said he requested that Mr. Adams take pictures with the time and date noted on the picture so he could see when the deliveries were happening. Councilor DiMarco asked Town Manager Caron if Council decided not to act on this Order tonight how would this item be handled. Town Manager Caron responded the recommendation is to table this Order until the 6/7/10 meeting and if it is determined at that meeting that this may constitute a public nuisance that allows Council to have a public hearing on the 21st which is before the 7/1/10 renewal deadline. Councilor DiMarco said he read Chapter 236, Section 121 and he interpreted it as saying that we cannot force a public hearing if the junkyard is 100% in compliance and there is no public nuisance. Town Manager Caron responded that is correct. If the Council considers it a nuisance they should have a public hearing. Councilor Farmer asked where the monitoring for the water is taking place. R. Canuel said it is on the site of the junkyard, and they are monitoring the Adams' property. They are monitoring both locations. Councilor Farmer suggested installing self-contained battery operated cameras that can be moved around town to be used for other issues. It would act as a deterrent. Councilor O'Keefe asked R. Canuel to give the Councilors an outline of what the violations were and the times of the after business hour violations. Chairman Brown asked if the deficiencies that DES discovered are available to the public. R. Canuel responded it is public record and part of the file. Chairman Brown requested that the information be given to the Adamses. He also questioned why Council has to make the decision about whether or not the deliveries after hours would be considered junkyard operations. R. Canuel responded the Council is the one that makes the decision on the license. Chairman Brown said he would prefer to have a legal opinion before making the decision. Councilor DiMarco said he would like to know if a legal precedence has already been set. Chairman Brown stated that this is something to be considered between now and 6/7. R. Canuel said

he will discuss the issue with legal counsel and obtain an opinion. Chairman Brown said this Order will be tabled until the 6/7/10 Council meeting and if it is necessary to have a public hearing it will be on 6/21/10. Council DiMarco made a motion to table Order 2010-03 to 6/7/10, second Councilor O'Keefe. Council's vote 5-0-0. At this point in the meeting Mr. Dudek said his dealer plates run out the end of the month. R. Canuel said under the statute they should remain in effect until 7/1/10. Mr. Dudek was concerned that the police would ticket him because the stickers on his license plate expire this month and he would be driving what would appear to be an un-registered vehicle. R. Canuel suggested that Mr. Dudek contact the state about the stickers on his plates.

Order #2010-04 – Relative to the Licensing of a Junkyard Pursuant to RSA 236 (S&S Metals) – R. Canuel said they are operating in compliance of their license. The recent DES inspection is requiring him to apply for a non-automotive metals permit. This does not affect his junkyard license. He said he recommends the license be granted. Councilor DiMarco read the Order and made a motion to accept, second Councilor O'Keefe. Council's vote 5-0-0.

Order #2010-05 – Relative to the Licensing of a Junkyard pursuant to RSA 236 (Hill's Salvage Facility) – Councilor O'Keefe read the Order and made a motion to accept, second Councilor DiMarco. R. Canuel said the inspection was good. Doris and Anthony Iodice, the owners, run a very low key operation compared to others in town, and he recommends the license be granted. Councilor Wagner stated that all of the junkyards are working with DES on BMP and moving toward green technology and are a benefit to town. Council's vote 5-0-0.

Order #2020-06 – Relative to the Licensing of a Junkyard Pursuant to RSA 236 (Londonderry Salvage Facility) Councilor Wagner read the Order and made a motion to accept, second Councilor DiMarco. R. Canuel said Mr. Hill has made the most improvements over the past year than any of the other junkyards, and the state is satisfied with what he has done. He said he recommends the license be granted. Council's vote 5-0-0.

Resolution #2010-06 – Relative to Awarding a Construction Contract for the North/West Fire Station Project Councilor Farmer read the Resolution and made a motion to adopt, second Councilor Wagner. Town Manager Caron said he met with the Londonderry Fire staff, architect and Seaver Construction to review the bid which is in compliance. Seaver Construction had the lowest bid and he recommended that the Council award the bid contingent upon final project funding approval at the 2010 Town Meeting. Council's vote 5-0-0.

Confirmation of Administrative Support Coordinator – Town Manager Caron stated that this position was restructured to a part-time position of 32 hours per Council's directive. He said he received 141 resumes. He and Sue Hickey interviewed 12

candidates and narrowed it down to 3. Steve Cotton has broad experience in Project Management he has subject matter experience with being a Trustee of the Trust Fund, website maintenance, facilities management and, grant writing. Councilor DiMarco made a motion to appoint Stephen Cotton to the Administrative Support Coordinator position, second Councilor O’Keefe. Council’s vote 3-2-0.

APPROVAL OF MINUTES

Minutes of Councils Public Meetings of 02/01/10, 2/04/10 and 2/08/10. Margo Lapietro informed the Councilors that she heard from Lynne Laval-Yeh who read the draft meeting minutes on-line and said that she was misquoted. On line 131 it said”there is nothing in the bible to condemn same sex relationships”. It should read”there is nothing Jesus says in the bible....” Councilor DiMarco made a motion to accept the public meeting minutes of 2/1/10 as amended, second Councilor O’Keefe. Council’s vote 4-0-1.

Councilor DiMarco made a motion to accept the meeting minutes from 2/4/10 and 2/8/10 as written, second Councilor O’Keefe. Council’s vote 5-0-0.

OTHER BUSINESS

Liaison Reports – Councilor O’Keefe said he did not have anything to report. Councilor Farmer said he got a few e-mails and had conversations from some people about the book collection box located in the parking lot at Town Hall. He said a lot of people thought it was associated with the library, it is a for-profit business. It should be following a vendor’s requirement for a license and should not be doing business on public property. People have thought the books were being donated to the Library for their re-sell program. Some one else is getting them and making a profit on them and he felt we should be getting rid of it. Chairman Brown said he understood it was placed there at the request of the Solid Waste Advisory Committee for re-cycling purposes. He asked the Town Manager to check it out. Town Manager Caron said he understood it was placed there to offer citizens a place to drop off the books besides using the landfill. He said he will review.

Councilor Wagner said she attended the Old Home Day meeting and they are looking for volunteers for the parade coordinators, both of them have resigned. This year is a political year so that will present challenges. She said currently Shaw’s and Granite Ridge have donated \$1K each, Continental Paving and Parkland Medical Center have each donated \$500. Councilor DiMarco said he couldn’t make the second meeting of the Planning Board this month because he had a business commitment. The first meeting for this month has been canceled. Chairman Brown said he has nothing to report.

Town Manager Reports – Town Manager Caron gave an update on the electrical service attributed to the recent wind storm. He said that as of 4:00 PM today PSNH reported that there are still 788 customers without power in Londonderry. He

received an e-mail at 8:00PM that most of Londonderry has been restored. There was a line down on Chase Rd and that will be corrected this evening; poles need to be set on Constitution and Capital by Verizon and there is a problem with the underground power on Gordon which will be resolved soon. He will have an update tomorrow, he anticipated at the end of the day tomorrow everything should be up. He instructed citizens to call PSNH if they have no service by tomorrow night. Councilor DiMarco said he was out with the ALERT team, the Fire Department and the Public Works Dept., they were out working all night. Councilor Wagner said the biggest issue was communication; she asked if there was a better way for the town to communicate with PSNH for information. Town Manager Caron responded the communication has been phenomenal compared to the 2008 ice storm. The first 24 hours is assessment on a state-wide level. On days two and three is when they tell us how many crews are coming in and where they are going. Once the issues were remedied in NY State then those crews were released to NH. Councilor Wagner said the Brookview flooding issues are still a problem the people need help. Town Manager Caron explained that flood insurance is available to the residents and the costs are established through National Flood Insurance. You have to have the insurance to be eligible for the federal/state programs. You have to file enough claims over a certain number of years where they do a cost/benefit analysis. One of the homes in that area is eligible to have the structure razed not replaced or purchased. The other 3 units have either not purchased flood insurance or have not submitted claims which would justify the cost/benefit. The one home with the option to be razed has not made a decision on what they want to do. Councilor Wagner asked if the homeowner has received a monetary compensation. Town Manager Caron responded 90% is funded from federal money, 10% is funded by local. The Town in-kind contribution can be applied to that 10%. The other 3 due to the lack of insurance and/or claims have no federal money available so if something is going to happen it will be all local dollars.

Board/Committee Appointments/Reappointments - Appointment of Scott Benson as an alternate to the Planning Board, term to expire 12/12. Councilor O'Keefe made a motion to appoint Scott Benson to the Alternate position on the Planning Board, second Councilor DiMarco. Council's vote 5-0-0.

Councilor DiMarco thanked both Councilor Farmer and Wagner for serving on the Council. He said it was a pleasure serving with the both of them. Councilor O'Keefe encouraged everyone to attend Town Meetings on 3/9/10 and on 3/13/10

Town Manager asked if Council will have a meeting after the Town Meeting on Saturday 3/13/10 to elect officers or did they want to wait until the next scheduled meeting on 3/15/10 to elect officers. It was decided to elect officers immediately following the Town Meeting on 3/13/10.

ADJOURNMENT

Councilor DiMarco made a motion to adjourn at 9:14 PM, second, Councilor O'Keefe. Council's vote -5-0-0.

Notes and Tapes by: Margo Lapietro Date: 03/01/10

Minutes Typed by: Margo Lapietro Date: 03/03/10

Approved; Town Council Date:

