

**TOWN COUNCIL
AGENDA
June 20, 2011**

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. Trailways Group, introducing Resolution #2011-11, Relative to the Redevelopment of the Abandoned Rail Line
- B. Andre Garron

III. PUBLIC HEARING

- A. Receipt of Unanticipated Revenues from Various Sources and Expenditure of those Revenues for a Variety of Municipal Purposes.
- B. Ordinance #2011-04 – Relative to Amendments to the Municipal Code, Adoption of Title VI, Chapter VI-A, Purchasing Policy, Minority/Women Business Enterprises
- C. Resolution #2011-05 – Relative to the Allocation of Cable Franchise Fees
- D. Resolution #2011-08 – Relative to the Discontinuance of a Portion of Kelley Road

IV. OLD BUSINESS

- A. FY12 Goals and Objectives
- B. Resolution #2011-10 – Relative to the Adoption of Town Council Rules of Order
- C. Discussion Regarding the Use of Conservation Commission funds for debt service payments.

V. NEW BUSINESS

- A. Ordinance #2011-06 – Relative to an Amendment to the Zoning Ordinance Relating to Rezoning Map 15, Lot 97, Clark and Jacks Bridge Road.
- B. Order #2011-14 – Relative to Expenditure of Reclamation Trust Funds for Drop-Off Center Improvements

VI. APPROVAL OF MINUTES

- A. Minutes of Council's Public Meeting of June 6, 2011

VII. OTHER BUSINESS:

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

VIII. ADJOURNMENT

IX. MEETING SCHEDULE:

- A. Town Council Meeting – July 11, 2011, Moose Hill Council Chambers, 7:00 PM
- B. Town Council Meeting – August 15, 2011, Moose Hill Council Chambers, 7:00 PM
- C. Town Council Meeting – September 12, 2011, Moose Hill Council Chambers, 7:00 PM
- D. Town Council Meeting – September 19, 2011, Moose Hill Council Chambers, 7:00 PM

SUPPORTING DOCUMENTATION COUNCIL MEETING OF JUNE 6, 2011

- I. CALL TO ORDER

- II. PUBLIC COMMENT
 - A. Trailways Group – The Group will present Resolution #2011-11 – Relative to the Redevelopment of the Abandoned Rail Line, which authorizes the next steps in the process to develop a Rail Trail in North Londonderry.

 - B. Andre Garron - Andre will present the monthly economic development update.

- III. PUBLIC HEARING
 - A. Receipt of Unanticipated Revenues from Various Sources and Expenditure of those Revenues for a Variety of Municipal Purposes – Attached is a list of grants and gifts received in FY11 from various sources; the Council is requested to take public input and formally accept.

 - B. Ordinance #2011-04 – Relative to Amendments to the Municipal Code, Adoption of Title VI, Chapter VI-A, Purchasing Policy, Minority and Women Business Enterprises - Attached is a proposed ordinance which would require the Town to affirmative seek out minority and women business enterprises to bid on federally-funded projects in Londonderry, and to strive to award some work on locally-funded projects in excess of \$500,000.00. This policy is presented in response to a federal review of the North/West Fire Station grant during which the Town was notified of this grant requirement.

 - C. Resolution #2011-05 – Relative to the Allocation of Cable Franchise Fees - Attached is a Resolution which reflects the reallocation of \$104,000 in cable franchise fee revenues. The Resolution recommends depositing 3.5% of the fee into the Cable Special Revenue Fund, with 1.5% deposited into the General Fund in conformance with the approved FY12 Budget. During its initial discussion on this Resolution held on March 21, the Council considered transferring a larger amount to the General Fund; at that point the Council concurred to schedule a public hearing on this matter.

- D. Resolution #2011-08 – Relative to the Discontinuance of a Portion of Kelley Road – The Town Council has received a request from PSNH to discontinue a portion of Kelley Road which has been subject to gates and bars since a vote at the 1970 Town Meeting. The property is located beneath the power lines on Mammoth Road, across from the town pound. PSNH was requested at the June 6 meeting to meet with abutters to the Kelley Road in an effort to address any concerns.

IV. OLD BUSINESS

- A. FY12 Goals and Objectives – Attached is a revised summary of the draft goals submitted by Councilors. The goals have been organized into one of four main objectives. It is also recommended that several objectives (e.g. monthly economic development update) from FY11 be continued into FY 12, as they compliment the Council’s proposed goals and/or represent on-going projects. The Council is scheduled to formally adopt the goals at this meeting.
- B. Resolution #2011-10 – Relative to the Adoption of Town Council Rules of Order – Chapter V, Section V of the Town Charter requires the Council to adopt Rules of Order; the attached draft rules were assembled from examples in other communities along with current operational requirements and procedures within the Town Charter. A public hearing is not required for adoption.
- C. Discussion Regarding the Use of Conservation Commission Funds for Debt Service Payments – Councilor Freda has requested that the Council discuss whether to request the Conservation Commission to earmark funds from the Conservation Fund towards retiring a portion of the Town’s FY13 debt service attributable to Open Space purchases.

V. NEW BUSINESS

- A. Ordinance #2011-06 – Relative to an Amendment to the Zoning Ordinance Relating to Rezoning Map 15, Lot 97, Clark and Jacks Bridge Roads – Attached is the Planning Board’s recommendation to rezone the aforementioned parcel from AR-I to I-I. A public hearing is required for adoption and can be scheduled for July 11, 2011.
- B. Order #2011-14 – Relative to the Expenditure of Reclamation Trust Funds for Drop Off Center Improvements - Attached is a Resolution authorizing payment of expenses incurred improving the Drop-Off Center.

VI. APPROVAL OF MINUTES – Minutes of the Council’s Public Meeting of 6/06/11.

VII. OTHER BUSINESS

A. Liaison Reports –

B. Town Manager Report –

C. Board/Committee Appointments/Reappointments -

VIII. ADJOURNMENT –

IX. MEETING SCHEDULE:

E. Town Council Meeting – July 11, 2011, Moose Hill Council Chambers, 7:00 PM

F. Town Council Meeting – August 15, 2011, Moose Hill Council Chambers, 7:00 PM

G. Town Council Meeting – September 12, 2011, Moose Hill Council Chambers, 7:00 PM

H. Town Council Meeting – September 19, 2011, Moose Hill Council Chambers, 7:00 PM

**FOLLOW-UP FROM COUNCIL'S
May 16, 2011 MEETING**

ISSUE	ACTION	RESPONSIBILITY
Dog Park	Develop language for dog park feasibility Committee <i>(In process)</i>	Dave
Conservation Easement	Continue until after Council reviews Open Task Force Report <i>(On 8/15/11 Agenda)</i>	Dave
Kelley Road Discont.	Monitor discussions; continue public hearing <i>(On 6/20/11 Agenda)</i>	Dave
Rules of Procedure	Deferred to 6/20/11	
FY12 Goals	Deferred to 6/20/11	
SWAC	Establish charge for Beautify L-Derry subcommittee <i>(In process)</i>	Dave
Cons Com Debt	Schedule discussion to request Cons Com to fund Sean partial Debt Service payments. <i>(On 6/20/11 Agenda)</i>	

**FOLLOW-UP FROM COUNCIL'S
May 2, 2011 MEETING**

ISSUE	ACTION	RESPONSIBILITY
Dispatch Consolidation	Research additional questions <i>(Scheduled for 7/18 TC mtg.)</i>	Kevin/Dave

**FOLLOW-UP FROM COUNCIL'S
March 21, 2011 MEETING**

ISSUE	ACTION	RESPONSIBILITY
Deliberative Session	Council need to select date between February 4 & 11 (inclusive – not 2/10/12) <i>(In process)</i>	Council

RESOLUTION #2011-11

Relative to the
REDEVELOPMENT OF THE ABANDONED RAIL LINE

First Reading: 06/20/10
Adopted: 06/20/10

WHEREAS Londonderry Trailways has been actively involved in the development of passive recreation opportunities in Londonderry; and

WHEREAS Londonderry Trailways received authorization from the Council pursuant to Resolution #2010-15 to investigate and report on potential uses of the abandoned railway in North Londonderry; and

WHEREAS Londonderry Trailways has positioned the Town to pursue the redevelopment of the railway as a Recreation Rail Trail;

NOW THEREFORE BE IT RESOLVED that the Londonderry Town Council authorizes Londonderry Trailways to investigate fundraising/grant opportunities for the redevelopment of the abandoned railway and coordinate development of a Rail Trail agreement with the State of New Hampshire.

Sean O'Keefe, Chairman
Town Council

(TOWN SEAL)

Marguerite Seymour - Town Clerk/Tax Collector

A TRUE COPY ATTEST:
06/20/11

Grants and Unanticipated Revenues Received in FY11

General Government	
State of NH (Mosquito Control)	\$ 3,825
Beautify Londonderry	
Donated funds for Beautify Londonderry 2011	\$ 4,680
Fire Department	
NH Highway Safety Council (Rescue Tool)	\$ 4,500
State of NH (Radio Maintenance)	\$ 5,094
State of NH (Emergency Preparedness)	\$ 3,254
Hazmat reimbursement to date has been	\$ 10,029
State of NH Homeland Security (Security upgrade – Central)	\$ 12,116
Police Department	
JAG Grant	\$ 11,303
Highway Safety (6 radar)	\$ 6,210
Highway Safety (Compliance checks)	\$ 4,000
Highway Safety (Seatbelt enforcement)	\$ 3,051
Highway Safety (DWI checkpoints)	\$ 14,236
VIPR Grant	\$ 24,749
Highway Safety	\$ 2,250
Equipment:	
Fortin Construction donated storage container	\$ 4,000
Charles George Trucking donated barricades	\$ 1,201
Total Revenues -	\$114,498

Introduced: 6/06/11
Second Read/Public Hearing: 6/20/11
Adopted: 6/20/11

ORDINANCE #2011-04
AN AMENDMENT TO THE MUNICIPAL CODE,
ADOPTING TITLE VI, CHAPTER VI-A, PURCHASING POLICY,
MINORITY/WOMEN BUSINESS ENTERPRISES

WHEREAS the Town administers a Purchasing Policy to insure that public funds are expended prudently and in accordance with applicable law; and,

WHEREAS the Town recently received a federal grant to fund the construction of North/West Fire Station; and,

WHEREAS federal regulations require the adoption of a policy regarding Minority Business Enterprises and Women Business Enterprises;

NOW THEREFORE BE IT ORDAINED by the Town Council of the Town of Londonderry that the Municipal Code of the Town of Londonderry, Title VI – Town Policy, Chapter VI-A, Minority/Women Business Enterprises is hereby adopted as attached.

Sean O’Keefe - Chairman
Town Council

Meg Seymour

Town Clerk

A TRUE COPY ATTEST:
xx/xx/xx

(TOWN SEAL)

**CHAPTER VI-A MINORITY/WOMEN BUSINESS ENTERPRISES
POLICY**

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CHAPTER VI-A MINORITY/WOMEN BUSINESS ENTERPRISES POLICY

SECTION I PURPOSE

The purpose of the Minority Business Enterprise/Women Business Enterprise Policy is to provide maximum contracting opportunities to certified minority business enterprises/women business enterprises by using race-neutral, gender-neutral measures to facilitate minority/women business participation in the procurement process.

SECTION II GOALS

Town of Londonderry's goal is to achieve a total of 10% participation from certified minority business enterprises/women business enterprises for all Procurement Contracts which are federally funded, in whole or in part. This is an overall goal for all Federally funded Procurement Contracts. This is not a goal for each and every Federally funded Procurement Contract. Town of Londonderry will comply with the specific percentage required by the Federal entity providing the funding for each Procurement Contract.

The Town of Londonderry's goal is to make good faith attempts to encourage bids or offers from certified minority business enterprises/women business enterprises for all Town funded Procurement Contracts which exceed Five Hundred Thousand Dollars (\$500,000.00).

SECTION III. DEFINITIONS

- A. **“Central Directory”** means the Directory published by the State Department of Transportation listing entities that have been determined to be certified minority/women business enterprises. The Directory specifies the type of supplies, products, services, maintenance, construction, construction-related services, architectural services, or engineering services primarily provided by the Minority Business Enterprise/Women Business Enterprise. The Directory includes the address, telephone number and contact person for the minority/women business enterprise.
- B. **“Certification”** means the determination made by the State Department of Transportation that a legal entity is a minority/women business enterprise.
- C. **“Certified Minority Business Enterprise” or “Certified MBE/WBE”** means a Minority Business Enterprise/Women Business Enterprise that holds a certification.

**CHAPTER VI-A MINORITY/WOMENT BUSINESS ENTERPRISES
POLICY (Cont'd.)**

SECTION III. DEFINITIONS (Cont'd.)

- D. **“Contractor”** means any person or entity that has a contract with the Town to provide supplies, products, services, maintenance, construction, construction-related services, architectural services, or engineering services.
- E. **“Contracts Officer”** means the person designated by User to act as the Minority Business Enterprise/Women Business Enterprise liaison officer in the administration of the Minority Business Enterprise/Women Business Enterprise Policy.
- F. **“Town”** means the Town Manager and/or the Town Council of Town of Londonderry.
- G. **“Minority business enterprise”** or **“MBE”** means any legal entity, other than a joint venture, organized to engage in commercial transactions, that is at least fifty-one (51) percent owned and controlled by one or more minority persons, or a nonprofit entity organized to promote the interests of the physically or mentally disabled.
- H. **“Minority person”** means a member of a socially or economically disadvantaged minority group, which for purposes of this policy includes African Americans, Hispanics, American Indians, Asians, women, and the physically or mentally disabled.
- I. **“Procurement Contract”** means a contract to provide supplies, products, services, maintenance, construction, construction-related services, architectural services, or engineering services for a project.
- J. **“Purchasing”** means the Department responsible for procuring supplies, products, services, maintenance, construction, construction-related services, architectural services and engineering services.
- K. **“Solicitation notice”** means public notice of a solicitation for bids, offers, or expressions of interest, which contains the nature of the procurement, relevant dates, the availability of solicitation documents, if any, and other pertinent information. The notice may consist of, but is not limited to, a legal advertisement, a newspaper notice, a notice on the Internet, or bid or proposal documents including the invitation for bids or request for proposals.
- L. **“User”** means the Department that desires to circulate a solicitation notice for supplies, products, services, maintenance, construction, construction-related services, architectural services, or engineering services. For capital projects,

User means the administering authority, such as the Department of Public Works.

CHAPTER VI-A MINORITY/WOMENT BUSINESS ENTERPRISES POLICY (Cont'd.)

SECTION III. DEFINITIONS (Cont'd.)

- M. **“Woman business enterprise”** or **“WBE”** means any legal entity, other than a joint venture, organized to engage in commercial transactions, that is at least fifty-one (51) percent owned and controlled by one or more females.

SECTION IV. METHODS OF PROCUREMENT FOR CONTRACTS WHICH ARE FEDERALLY FUNDED, IN WHOLE OR IN PART

The following methods of procurement will be used to notify MBE/WBEs of contract opportunities:

A. General

1. The User shall assess the potential for certified MBE/WBE participation in each contract and the amount of participation expected before initiating the procurement. Purchasing shall use the procurement method decided most appropriate for the particular contract.
2. The following factors shall be used to anticipate the degree of certified MBE/WBE participation, to decide the certified MBE/WBE subcontract participation goal, and the MBE/WBE procurement method to use:
 - (a) The extent to which the direct method or subcontracting method or combination of both methods is determined most likely to result in maximum certified MBE/WBE participation in the project.
 - (b) The number of certified MBE/WBEs listed in the Central Directory or otherwise identified for a particular supply, product, service, maintenance, construction, construction-related service, architectural service, or engineering service;
 - (c) The geographical proximity, when relevant, of certified MBE/WBEs to the location of the work to be performed;
 - (d) The feasibility of subcontracting opportunities given the nature and extent of the proposed contract; and
 - (e) Specific statutory participation goals applicable to the procurement.

**CHAPTER VI-A MINORITY/WOMENT BUSINESS ENTERPRISES POLICY
(Cont'd.)**

SECTION IV. METHODS OF PROCUREMENT FOR CONTRACTS WHICH ARE FEDERALLY FUNDED, IN WHOLE OR IN PART (Cont'd.)

B. Direct Method

1. If it is known that certified MBE/WBEs could provide the entire contract, the certified MBE/WBEs may be solicited directly.
2. Purchasing shall send a copy of all solicitation notices to certified MBE/WBEs located in geographical proximity to the project, listed in the Central Directory maintained by the State Department of Transportation as providing, or otherwise known to be providing, supplies, products, services, maintenance, construction, construction-related services, architectural services, or engineering services being procured.
3. Purchasing, in cooperation with User, shall solicit a sufficient number of certified MBE/WBEs as to reasonably assure one or more certified MBE/WBE responses to the solicitation notices.
4. The following language should be included in the advertisement: "Minority/women business enterprises are encouraged to respond to this solicitation."

C. Subcontracting Method

- 1 Notwithstanding whether the direct method is used, all construction contracts shall contain a certified MBE/WBE subcontract participation goal, determined by User, which the Contractor shall attempt to subcontract to certified MBE/WBEs.
- 2 The following language must be included in the solicitation: "An MBE/WBE subcontract participation goal of ____ percent of the total current amount has been established for this procurement. By submitting a response to this solicitation, the bidder or submitter agrees that a good faith effort will be made to meet the participation goal."
- 3 The bidder or submitter shall submit with its bid or proposal a completed Certified MBE/WBE utilization affidavit in a format similar to that in attached Exhibit D.
- 4 The names of prime contractors requesting solicitation documents for construction contracts shall be made available on request to any certified MBE/WBEs whose specialty suggests an interest in subcontracting.
- 5 Each prime contractor given solicitation documents, and who does not have an updated Central Directory shall be given, upon request, one copy of the Directory or the pertinent portions for the purpose of soliciting subcontract quotes, bids, or offers from certified MBE/WBEs.

**CHAPTER VI-A MINORITY/WOMEN BUSINESS ENTERPRISES
POLICY (Cont'd.)**

**SECTION V. RESPONSIBILITIES OF CONTRACTS OFFICER
DESIGNATED BY USER**

The Contracts Officer shall:

- A. Coordinate initial outreach efforts in search of a General Contractor to the minority/women business community through media sources, including but not limited to newspapers, television, the Internet, or any other media accessible to the public, or by coordinating periodic meetings between Purchasing and MBE/WBEs to advise MBE/WBEs of procurement opportunities;
- B. Review contracting procedures to ensure compliance;
- C. Assist in the resolution of contracting issues; and,
- D. Submit MBE/WBE compliance reports and copies of required forms to Purchasing.

SECTION VI. REQUIRED FORMS

- A. The following documentation shall be considered part of the contract and shall be furnished by the successful bidder or submitter to User during the term of the contract, but no later than one month prior to the end of the term of the contract:
 - 1. Schedule of Participation This document shall name each certified MBE/WBE who will participate in the project and shall describe the contract items to be performed or furnished by each MBE/WBE, the proposed timetable for performance, and agreed prices to be paid to each MBE/WBE for the work or supply
 - 2. MBE/WBE Subcontractor Project Participation Statement This document shall be signed by the bidder or submitter and each MBE/WBE listed in the Schedule of Participation. It shall include a statement of intent to enter a contract between the Contractor and each subcontractor or, if the Contractor has awarded to subcontractors, it shall include copies of Subcontractor Agreements and the amount and types of bond required by the MBE/WBE subcontractors, if any List The list shall include: evidence of Contractor's compliance with outreach efforts, certified MBE/WBE subcontractors with whom the Contractor solicited, and price quotes received from both minority/women and non-minority/women subcontract bidders.
 - 3. List The list shall include: evidence of Contractor's compliance with outreach efforts, certified MBE/WBE subcontractors with whom the Contractor solicited, and price quotes received from both minority/women

and non- minority/women subcontract bidders.

**CHAPTER VI-A MINORITY/WOMEN BUSINESS ENTERPRISES
POLICY (Cont'd.)**

SECTION VI. REQUIRED FORMS (Cont'd.)

- 4 Affidavit The affidavit shall be signed by the Contractor and shall state that in the solicitation of subcontract quotes or offers, MBE/WBE subcontractors were provided not less than the same information and amount of time to respond as were non-MBE/WBE subcontractors, and that the solicitation process was conducted in such manner as to otherwise not place MBE/WBE subcontractors at a competitive disadvantage to non-MBE/WBE subcontractors.
- 5 Other Documents A waiver may be submitted in accordance with Section VII, if applicable.

- B. If the contract has been awarded and the above-referenced documentation is not furnished, or if, based on review of the above-referenced documents, User determines that the bidder or submitter has not complied with the certified MBE/WBE subcontract participation goal and has not obtained a waiver, or determines that the bidder or submitter failed to comply with the outreach efforts, User may reject the bid or cancel the award of the contract.

SECTION VII. WAIVER

If, for any reason, the apparent successful bidder or submitter is unable to achieve the contract goal for the certified MBE/WBE participation, the bidder or submitter may request, in writing, a waiver to include the following:

- A. A detailed statement of the efforts made to select portions of the work proposed to be performed by certified MBE/WBEs in order to increase the likelihood of achieving the stated goal;
- B. A detailed statement of the efforts made to contact and negotiate with certified MBE/WBEs including:
 - 1 The names, addresses, dates, and telephone numbers of certified MBE/WBEs contacted, and
 - 2 A description of the information provided to certified MBE/WBEs regarding the plans, specifications, and anticipated time schedule for portions of the work to be performed;

**CHAPTER VI-A MINORITY/WOMEN BUSINESS ENTERPRISES
POLICY (Cont'd.)**

SECTION VII. WAIVER (Cont'd.)

- C. As to each certified MBE/WBE that placed a subcontract quotation or offer that the apparent successful bidder or submitter considers not to be acceptable, a detailed statement of the reasons for this conclusion;
- D. A list of minority/women subcontractors found to be unavailable, which shall be accompanied by an MBE/WBE unavailability certification signed by the minority/women business enterprise, or a statement from the apparent successful bidder or submitter that the minority/women business refused to give the written certification; and
- E. The record of the apparent successful bidder's or submitter's compliance with the outreach efforts required.
- F. The request for waiver shall be submitted to User to make a determination regarding waiver. The request and the determination made by the User shall subsequently be submitted to Purchasing for its files.

SECTION VIII. AMENDMENT FOR UNFORESEEN CIRCUMSTANCES

Any change after contract execution may occur only upon written approval by User and contract amendment. The contract amendment should subsequently be forwarded to Purchasing for its files.

SECTION IX. COMPLIANCE

- A. To ensure compliance with the certified MBE/WBE participation goals, User shall verify that certified, MBE/WBEs in the Schedule of Participation are actually performing work and receiving compensation as set forth in the Schedule of Participation.
- B. To demonstrate compliance to User, the Contractor shall permit User to inspect any relevant matter, including records and the jobsite and to interview subcontractors and workers.
- C. If User determines Contractor's noncompliance; User shall notify Contractor in writing of the findings and direct the Contractor to take corrective actions.
The

**CHAPTER VI-A MINORITY/WOMEN BUSINESS ENTERPRISES
POLICY (Cont'd.)**

SECTION IX. COMPLIANCE (Cont'd.)

Contractor is required to initiate corrective actions within ten (10) days and the corrective actions shall be completed within the time specified by User. If Contractor's noncompliance is material and Contractor refuses to or fails to take corrective action, the contract may be terminated.

SECTION X. REPORTING

Purchasing shall complete an annual report, based on information provided by Users, following the close of the fiscal year, and the report shall include the following:

- A. Total number and value of its procurements from certified MBE/WBEs as prime contractors and separately as subcontractors by specific category of minority/women business enterprise;
- B. Percentage by specific category of minority/women business enterprise, of MBE/WBE procurements based on the total number and value of its total procurements for the fiscal year;
- C. The number of waivers granted;
- D. An evaluation by Purchasing of the MBE/WBE program.

RESOLUTION #2011-05

A Resolution Relative to
The Allocation of Cable Franchise Fees

First Reading: 03/21/11
Continued First Reading: 06/06/11
Second Reading/Public Hearing: 06/20/11
Adopted: xx/xx/xx

- WHEREAS*** the Town has entered in an agreement with Comcast to provide cable television services in Londonderry; and
- WHEREAS*** part of the agreement requires the collection of a franchise fee, of which a portion is surplus to the needs of the Cable Division; and
- WHEREAS*** the Town Council formulated its adopted FY12 General Operating Budget which included revenues from the cable franchise fee to offset the community's property tax burden,

NOW THEREFORE BE IT RESOLVED by the Londonderry Town Council that of the 5% cable franchise fee, 1.5% shall be deposited into the General Fund and 3.5% deposited into the Cable Special Revenue Fund, effective July 1, 2011.

Sean O'Keefe, Chairman
Town Council

(TOWN SEAL)

Marguerite Seymour
Town Clerk/Tax Collector

A TRUE COPY ATTEST:
Adopted xx/xx/xx

RESOLUTION #2011-08

A Resolution Relative to the
***DISCONTINUANCE OF HIGHWAY
(Portion of Kelley Road)***

First Reading: 05/16/11
Second Reading/Public Hearing: 06/06/11
Continued Public Hearing: 06/20/11

WHEREAS the Town Council, in accordance with RSA 231:43 has received a petition to discontinue and relinquish all public interest in a portion of Class VI highway known as Kelley Road between Tax Map 9, Lot 24 and Tax Map 9, Lot 12A; and

WHEREAS the matter of discontinuing a highway under RSA 231:43 is within the authority of the Town Council; and

WHEREAS the aforementioned highway was discontinued subject to gates and bars by voters at the 1970 Town Meeting,

NOW THEREFORE BE IT RESOLVED by the Londonderry Town Council that the discontinuance of a portion of Kelley Road as shown on the map entitled “Kelley Road Discontinuance Plan, Mammoth Road Substation” prepared by T.F. Moran, Inc., Bedford, NH, dated May 10, 2011, is hereby approved subject to the condition that the Public Service Company of New Hampshire shall indemnify and hold harmless the Town of Londonderry from any claims arising from the Town Council’s decision to discontinue said portion of Kelley Road.

Sean O’Keefe, Chairman
Town Council

(TOWN SEAL)

Marguerite Seymour
Town Clerk/Tax Collector

A TRUE COPY ATTEST:
Adopted xx/xx/xx

Town Council
FY 12 GOALS AND OBJECTIVES

OBJECTIVE #1 – Provide a cost effective government to achieve greatest value at lowest cost.

- Goal #1 - Prepare a FY13 Town Budget in accordance with Town Charter revisions approved at the 2011 Town Meeting.
- Goal #2 - Conduct a review of town office services to determine their appropriateness and cost effectiveness with the assistance of quantitative tools such as benchmarking.
- Goal #3 - Continue the review of all town regulations and policies in accordance with the decennial Charter requirement to re-codify ordinances operations to eliminate unnecessary and outdated policies and laws;
- Goal #3 - Study the feasibility of combining the Library and Cable Divisions to be funded with cable franchise fees and property tax support.
- Goal #4 - Assure that the Town’s public safety budget/staffing levels meet public expectations/needs, including appropriate emergency response analyses.
- Goal #5 - Continue to re-evaluate the feasibility of shared services between the Town and the School District.
- Goal #6 - Review and develop a policy recommendation for voters regarding the use and allocation of Land Use Change Tax revenues.
- Goal #7 - Explore all opportunities to enhance non-property tax revenues.

OBJECTIVE #2 - To accelerate economic development efforts to drive tax revenue, thereby reducing tax burdens while preserving Londonderry’s quality of life.

- Goal #1 - Continue monthly economic development updates with a focus on input received from businesses relocating to Londonderry and “users” of the planning and development processes.
- Goal #2 - Expand the monthly updates to include a status report on the Woodmont Commons project.
- Goal #3 - Develop goal measurements for economic development business retention, expansion and recruitment efforts.
- Goal #4 - Re-establish the Economic Development Committee for the purpose of supporting economic growth and prosperity in Londonderry.

OBJECTIVE #3 - Enhance communications with the community.

- Goal #1 - Work with the Planning Board to insure that a system is in place to maximize communications and participation in the multi-year planning and development of Woodmont Commons.
- Goal #2 - Frequently update the web pages of all Committees, Commissions and Board to insure that the public has current information on services, activities, offerings and responsibilities.
- Goal #3 - Review implementation of RSS Feeds on the town website.

OBJECTIVE #4 - Develop policy guidance for the Conservation Commission regarding acquisition of conservation land in order to meet the Council's expectations when acquisition proposals are presented to the Council in accordance with RSA 36-A:4.

RESOLUTION #2011-10

A Resolution Relative to

Adopting Rules of Order for the Town Council

First Reading: 06/06/11
Continued First Read: 06/20/11
Adopted: 06/20/11

WHEREAS the Town Council adopted revisions to Title I of the Municipal Code at its May 16, 2001 meeting; and

WHEREAS Section V of Chapter V requires the Town Council to adopt Rules of Order not inconsistent with the Town Charter;

NOW THEREFORE BE IT RESOLVED that the Londonderry Town Council adopts the attached Rules of Order.

Sean O'Keefe, Chairman
Town Council

(TOWN SEAL)

Marguerite A. Seymour
Town Clerk/Tax Collector
06/06/11

**RULES OF ORDER
TOWN COUNCIL
LONDONDERRY, NEW HAMPSHIRE**

A. PURPOSE:

Pursuant to Section 3.6 D of the Town Charter, these Rules of Order describe the duties and methods of operation of the Londonderry Town Council.

B. ORGANIZATION:

1. Responsibilities of Members:

All members shall make every effort to attend each scheduled meeting.

The Council shall act in all matters as a body. Except as expressly provided elsewhere in this Charter, neither the Council nor any of its members shall direct or request the appointment of any person to office or employment; or direct the removal, suspension, discipline, adjustment in pay, benefits, or working conditions of any employee by the Manager or of any of the Town department heads.

No Councilor shall give orders to or interfere with the performance of the duties of any of the administrative officers or employees, either publicly or privately. Nothing contained in this section shall prohibit the Council from meeting with the Manager to discuss the operation or conduct of any department head or employee and to recommend an investigation and report by the Manager of any complaint. Any violation of the provisions of this section by a Councilor shall constitute grounds for forfeiture of office under the provisions of Town Charter Section 3.3. (*Charter, Section 4.8*)

2. Officers:

(a) Election - A Chairman and Vice-Chairman shall be elected for a term of one (1) year at the first regular meeting within 10 calendar days following the annual election of officers. Election shall be by a majority vote of those present. (*Charter, Section 3.2*)

Vacancies occurring in the office of Councilor at any time shall be filled, by appointment, until the next regular election, by the Council at its next regular meeting by majority vote of the Councilors, provided, however, that, if the vacancy occurs fewer than ninety (90) days prior to the next regular election, the vacancy shall not be filled by appointment, but shall be filled at the next regular election. (*Charter Section 3.4*)

- (b) Duties - The Chairman shall preside at all meetings of the Council and perform all duties required by law.

In the absence of the Chairman, the Vice-Chairman shall preside and assume all duties and responsibilities of the Chair.

3. Committees:

The Chairman may delegate members of the Council to serve on committees and to perform other duties.

C. OPERATION:

1. Meetings:

- (a) Organizational Meetings - An organizational meeting to elect officers shall be held in accordance with B.2(a). The Council may adopt the previous Council's Rules of Procedure, subject to amendment as provided in these Rules of Procedure. The Council shall establish a schedule for meetings.
- (b) Regular Meetings - A formal meeting of the Council generally conducted in accordance with the order of the "Agenda" contained herein.
- (c) Workshop Meetings - A less formalized meeting of the Council generally conducted for the purpose of providing Council members with a more detailed understanding of a limited number of issues or to permit discussion of issues in greater depth.
- (d) Non-Public Meetings - A meeting of the Council held in accordance with RSA 91-A:3.
- (e) Special Meetings - May be called by the Chairman upon the written request of at least three (3) members of the Council or the Town Manager through the Chair. The method of delivery of notice for special meetings shall be by established Council rule. (*Charter, Section 3.6.C*)
- (f) Emergency Meetings - May be called by the Chair when immediate un-delayed action is deemed to be imperative by the Chair, who shall employ whatever means are reasonably available to inform the public and all council members that an emergency meeting is to be held. (*Charter, Section 3.6.C*)

(g) Committee Meetings - Meetings shall be called by the Chairman of the committee under the rules governing special meetings.

2. Schedule of Meetings:

Shall be published monthly on the Town's website. Each meeting shall be posted in accordance with RSA 91-A.

3. Reports of Committees:

Written/Oral reports from committees received by the Council shall be filed with and distributed with the minutes of the Council.

4. Review of Audit Reports:

The Council shall review the audit report as soon as the report is made available and take any action related thereto.

5. Town Manager

Annually, the Town Council is responsible for evaluating the job performance of the Town Manager. It is the Chairman's responsibility to coordinate the evaluation, including obtaining input from the other members of the Council, aggregating that information, and presenting to the Council a comprehensive draft of the evaluation document. The Town Council shall complete the final evaluation document during the budgetary process. (*Charter, Section 4.2*)

The final evaluation document shall remain on file with the Human Resources Manager in the Finance and Administration Department.

D. RULES OF ORDER:

1. Quorum - A quorum of the Council for the transaction of any business shall be three (3) of the members currently in office. However a smaller number may adjourn the meeting to another time or date. (*Charter, Section 3.6.B*)

2. Agenda - Shall be published with meeting notice, and included in the minutes. A suggested agenda is provided below. It may be changed by the chair or by vote of the Council.

AGENDA

- Call to Order
- Public Comment
- Public Hearing
- Old Business
- New Business

- Meeting Minutes
 - Other Business
 - Liaison Reports
 - Town Manager's Report
 - Board/Committee Appointments/Reappointments.
 - Adjourn
- (a) Councilors wishing to place an item on the agenda must notify the Town Manager or his Executive Assistant before Wednesday at 5:00 p.m. prior to a Monday meeting. Citizens wishing to place an item on the Councilors' agenda and plan to make a presentation must provide a copy of all presentation material and documentation to be included in each Councilor's "packet" by Thursday at 9:00 a.m.
- (b) Adjournment - A motion for adjournment will usually not be in order until after the completion of the order of business, unless a motion has been made at the start of the meeting to adjourn at a specified time.

3. Role of the Chairman:

The Chairman's duties are as follows:

- To open the session at the time at which the Council is to meet by calling the members to order; to announce the business before the Council in the order in which it is to be acted upon;
- to recognize members entitled to the floor;
- to state and put to vote all the questions which are regularly called or necessarily arise in the course of the proceedings and to announce the result of the vote;
- to protect the Council from annoyance;
- to assist in expediting all business in every way compatible with the rights of the members, as by allowing brief remarks when undebatable motions are pending or by calling a brief recess to permit restoration of order or clarification of an obscure point if the Chair thinks it advisable;
- to restrain the members when engaged in debate within the rules or order;
- to enforce on all occasions the observance of order and decorum

among the members, deciding all questions of order (subject to an appeal by any two (2) members) unless the Chair prefers to submit the question for the decision of the Council;

- to inform the Council on a point of order or practice pertinent to pending business;
- to authenticate by their signature, when necessary, all resolutions, orders and ordinances as directed by vote of the Council.

The Chairman shall issue calls for candidates and specify dates for return of applications for positions appointed by the Council.

The Chairman shall vote as a member of the Council.

Discussions which are not addressing the business before the Council, or which are conducted in a disorderly or disrespectful manner, shall be ruled out of order. The Chairman shall take whatever action is necessary to achieve and maintain order, including ordering the removal of any person who continues disorderly conduct.

4. Role of the Vice-Chairman:

Please see section 2(b) above.

5. Conduct of Meetings:

Meetings shall be conducted in accordance with generally accepted practices of order and decorum. In the event of dispute regarding procedural matters a vote of the Council shall be the final deciding authority.

- Motions** - All matters of business shall be brought before the Council by motion from a Councilor, duly seconded by another Councilor. All matters duly seconded will be subject to debate, discussion, amendment (by motion) and approval by a majority of the present Councilors. (*Charter, Section 3.6. A, D*).
- Motion to Table** - A Councilor may move to table any pending matter of business. The motion to table shall be seconded and requires approval by a majority of the present Councilors. The motion is not debatable. Approval of the motion is equivalent to defeating the question tabled. Successive motions to table a matter of business previously voted on and defeated shall not be permitted. (*Charter, Section 3.6. A, D*).

- (c) **Motion to Reconsider** – A Councilor who voted on the prevailing side in the original vote on a motion may make a motion to reconsider that vote. A motion to reconsider may only be made during the same meeting that the vote whose reconsideration is sought passed. A motion to reconsider, made by a Councilor who was on the prevailing side, shall be seconded (by any Councilor) and is debatable. The motion to reconsider requires approval of a majority of the present Councilors. (*Charter, Section 3.6. A, D*).

6. Council Objection:

On the first occasion that the question on adoption of a measure is put to the Council, if a single Councilor objects to the taking of the vote, the vote shall be postponed until the next meeting of the Council whether regular or special. If two (2) or more other Councilors shall join in the objection, such postponement shall be until the next regular meeting. This procedure shall not be used more than once for any agenda item. Any item once postponed shall not be further postponed under this section. The Council objection privilege is not available with respect to the emergency ordinance. (*Charter, Section 3.6. E*)

7. Ordinances:

A. An ordinance may be introduced by any member at any regular or special meeting of the Council. Upon introduction of any ordinance, the Clerk shall distribute a copy to each Councilor and to the Manager, shall file a reasonable number of copies in the office of the Clerk and shall post a copy in such other public places as the Council may designate.

B. Every proposed ordinance of the Council shall be introduced in writing and in the form required for final adoption. No ordinance shall contain more than one subject, which shall be clearly expressed in its title. Each ordinance shall be identified by a number and a short title. The enacting clause shall be "The Town of Londonderry ordains.....". Any ordinance which repeals or amends an existing ordinance shall set out in full the ordinance, sections or subsections to be repealed or amended, and shall indicate matter to be omitted by enclosing it in brackets or by strikeout type, and shall indicate new matter by underscoring or by italics. After passage of the ordinance's first reading, it shall be published at least once together with a notice of the time and place when and where it will be given a public hearing and be considered for final passage. The first such publication shall precede the date of said hearing by at least five (5) working days. Publication for purposes of this section shall mean the publication of a notice in

any paper distributed in the Town of Londonderry, stating the number and title of the ordinance and either the text of the ordinance in full or if the full text is not published, then a brief explanation of the purpose of the ordinance and information as to where and when any interested person may obtain a copy of the complete ordinance.

- C. Every ordinance, including zoning ordinances, adopted by referendum, shall take effect upon passage and publication as ordinances required by law, or at a later date as specified in the ordinance. No ordinance shall be introduced and adopted during the same meeting.
- D. All ordinances, including any amendments thereto, shall be recorded in full, uniformly and permanently, by the Clerk, and each ordinance so recorded shall be authenticated by affixing the signatures of the Council Chair and the Clerk and the Town Seal, and kept on file in the office of the Clerk. The Clerk shall be responsible for the systematic indexing, printing, publication and maintenance of the ordinances of the Town. Copies of all ordinances shall be available to the public, and the Clerk may charge a fee to defray the printing costs. (*Charter, Section 3.7*)

8. Emergency Ordinances:

Notwithstanding other provisions of the Town Charter to meet a public emergency affecting life, health, property or the public peace, the Council may adopt one or more emergency ordinances, but such ordinances may not levy taxes, grant, renew or extend a franchise, regulate the rate charged by a public utility for its services or authorize the borrowing of money, except as provided in Section 3.9 of the Charter. An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms. An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but two-thirds majority vote of the councilors present shall be required for adoption.

After its adoption the ordinance shall be published and printed as prescribed for other adopted ordinances. It shall become effective upon adoption. Every emergency ordinance, except one made pursuant to Sec. 3.10 of the Charter, shall automatically stand repealed as of the sixty first (61st) day following the date on which it was adopted, but this shall not prevent reenactment of the ordinance in the manner specified in this

section if the emergency still exists. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances. (*Charter, Section 3.8*)

9. Recording of Votes:

Votes shall be by a voice vote or by a roll call. Every matter coming before the Council for action shall be put to a vote and all members shall vote "aye", "nay", or abstain and give a reason for abstaining. The results of such voting shall be duly recorded. All votes shall be recorded by roll call except votes on procedural matters.

10. Requests for Information:

Should it become apparent to the Chairman or an individual Council member, in the interim between meetings, that additional information relative to a specific item may be needed for Council use at the next regularly scheduled meeting, a request for this information shall be submitted to the Town Manager before the agenda is set.

Any information provided to any individual Councilor shall be provided to the rest of the Council.

E. EMPLOYEES:

1. Duties:

The Executive Assistant shall be the official recorder of the minutes of the Town Council and an official copy of the records are to be filed in the Town Manager's Office and open to inspection by any person at reasonable times. In addition to keeping the minutes of the meetings, it is the duty of the Executive Assistant to keep a roll of members and to call the roll when required. The Executive Assistant shall record the essentials called "the minutes" of the proceedings as follows:

- (a) The type of meeting - regular, special, work session, or recessed.
- (b) Time of meeting and place of meeting
- (c) The presence/absence of Council members
- (d) Whether the minutes of the previous meeting were approved or amended.
- (e) All main motions and points of order and appeals, whether

sustained or lost, and all other motions that were not lost or withdrawn.

- (f) The hour of adjournment.

The Executive Assistant shall record the essentials of the proceedings, the name of the member who introduced a main motion or amendment and the name of the second, and should enter the number and names of votes on each side.

In addition to the strict record of what is transacted, the public minutes should contain the list of speakers on each side of every question with an abstract of all relevant points.

Reports of committees should be printed exactly as submitted. The minutes should show what action was taken by the Council in regard to them.

F. AMENDMENT PROCEDURE:

An amendment to these Rules of Procedure may be moved at one Council meeting but shall not be voted upon until the next regularly scheduled meeting, not less than seven (7) days later. A copy of any amendment shall then be certified and submitted to the Town Clerk for inclusion in the Town Records.

G. APPOINTMENT TO COUNCILS AND COMMISSIONS:

1. The Chair shall request from members their choices of committees, Councils and commissions they wish to serve on as Councilor Liaison. The Chairman shall distribute to the Council all choices and set a meeting date as to when the Chair shall make appointments.
2. The term of all appointments of Councilor Liaison, including the terms of any ex-officio members (voting members) of the Town Council serving on local land use Boards (i.e., Planning Council, Conservation Commission) shall be for one (1) year, or until the Council's organizational meeting, whichever is sooner.

Introduced: 6/20/11
Second Read/Pub Hrg: 7/11/11
Adopted: xx/xx/xx

ORDINANCE #2011-06
AN AMENDMENT TO THE ZONING ORDINANCE
RELATING TO REZONING MAP 15, LOT 97, CLARK AND
JACKS BRIDGE ROAD

WHEREAS the Planning Board has received a request to rezone the above-referenced parcels from AR-I to I-I; and

WHEREAS the Planning Board has recommended that the Town Council act favorably upon the request, subject to conditions; and

WHEREAS the requested rezoning would further expand the Town's non-residential tax base without any detrimental effects upon the quality of life in the community;

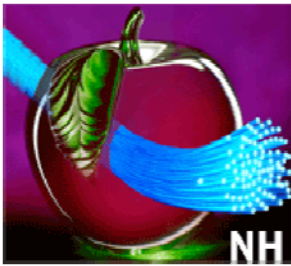
NOW THEREFORE BE IT ORDAINED by the Town Council of the Town of Londonderry that the Town Zoning Ordinance be amended to reflect the rezoning of Map 15, Lot 97 from AR-I to I-I, to become effective upon passage by the Town Council

Sean O'Keefe
Chairman - Londonderry Town Council

A TRUE COPY ATTEST:

Marguerite Seymour - Town Clerk
xx/xx/xx

Town Seal



TOWN OF LONDONDERRY
Community Development
Planning & Economic Development Division

Timothy J. Thompson, AICP, Town Planner
268B Mammoth Road
Londonderry, New Hampshire 03053
Phone: (603) 432-1100, x103 Fax: (603) 432-1128
e-mail: tthompson@londonderrynh.org

To: Town Council
CC: Building Division

From: Timothy J. Thompson, AICP

Date: Ji bY`%\$, 2011

Subject: Rezoning Recommendation from the Planning Board

On Ji bY` , , 2011, the Planning Board held a public hearing relative to the Zoning Ordinance and Map.

The Planning Board, by a unanimous vote, recommends the approval of the rezoning of Tax Map 15, Lot - + from 5F -I to I-I to the Town `7ci bW`"

A copy of the Udd`jW]cb`UbX`h\Y` staff recommendation for the rezoning is attached.

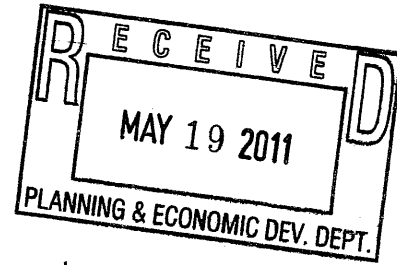
Please feel free to contact me if you have any questions, and please advise me on when the public hearing will be held by the Council so that I can be present to present the zoning change.



P.O. Box 74 • Derry, NH 03038
ph: (603) 296-0861 • fax: (603) 296-0671

May 19, 2011

Town of Londonderry
Planning Department
268B Mammoth Road
Londonderry, NH 03053



Attn: Timothy J. Thompson, AICP, Town Planner

Subject: Heritage Truck & Automotive, Inc. – Rezoning Request
Jack's Bridge Road, Londonderry, NH (Map 15, Lot 97)

Dear Tim:

Attached is a Rezoning Application for the above referenced property. The applicant respectfully requests that the matter be scheduled for the June 8, 2011 Planning Board meeting.

The applicant requests that the entire parcel be rezoned from AR-1 to I-1 to allow an extension of the industrial development that has occurred over the past several years. It is intended that this parcel eventually be subdivided into two lots with direct access to Jack's Bridge Road.

A separate letter has been submitted for a concurrent conceptual review of both a subdivision and a site plan for the project. The applicant would like to discuss the potential development of this site with the Planning Board at this time in order to proceed with engineering design following the resolution of zoning issues on the parcel.

The following information is provided in support of our application:

- Rezoning Application
- Application Fee: \$88.00 (\$40+\$6x8)
- Zoning Locus Exhibit
- Owners Affidavit
- Abutters List & Labels

Please contact us if you have any questions or concerns, or if you would like to discuss the project in further detail.

Sincerely,

Long Beach Development, LLC

Todd D. Connors, P.E.

Enclosures

cc: Heritage Truck & Automotive, Inc.

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TOWN OF LONDONDERRY

Community Development Department
Planning & Economic Development Division



268B Mammoth Road
Londonderry, New Hampshire 03053
Phone: (603) 432-1100, x134 Fax: (603) 432-1128

REZONING APPLICATION

Name of Applicant: Heritage Truck & Automotive, Inc.

Name of Lot Owner: Louis & Susan Coltey
(If different)

Address: 52 Clark Road, Londonderry, NH 03053

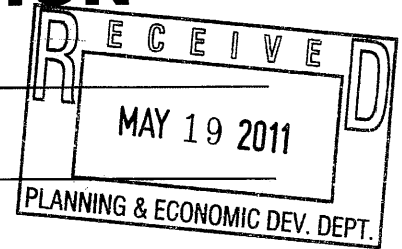
Telephone #: 432-2900 (applicant)

Date Submitted: 05/19/11

Tax Map # 15 Lot # 97
(Please list all if multiple lots are involved)

Current Zoning: AR-1

Proposed Zoning: I-1



Please explain the purpose and justification for your rezoning request (attach additional sheets if necessary):

The 8.5 acre parcel of land has over 660 feet of frontage on Jack's Bridge Road, which is the current access to a number of industrial parcels including Coca-Cola, Penske Trucking, and Harvey Industries. The rezoning request is proposed to allow for a subdivision and industrial development of the subject parcel in a manner consistent with the surrounding area.

The request is justified because the parcel has frontage and access onto a road serving only industrial traffic with a signalized intersection at NH Route 28 in close proximity to Exit 5 of Interstate 93. An industrial use of this property is consistent with both the existing uses in the neighborhood and the Town of Londonderry's master plans for this area. Abutting land on three sides of the property are currently zoned industrial.

Planning Department Comments (to be filled in by Town Staff):

See Staff Recommendation dated 6/8/11

Letter of Authorization

We, Louis and Susan Coltey, own a parcel of land at 52 Clark Road in Londonderry, NH known as Tax Map 15 Lot 097.

This document hereby authorizes the following individuals to execute land use permit applications, sign plans, and represent the landowner at public meetings as the applicants for a project on our property:

1. Harold Little of Heritage Truck & Automotive, Inc.
2. Todd Connors, P.E. of Long Beach Development Assoc., LLC

5-18-11

Louis and Susan Coltey
52 Clark Road
Londonderry, NH 03053

[Handwritten signature] 5-18-11

MEMORANDUM

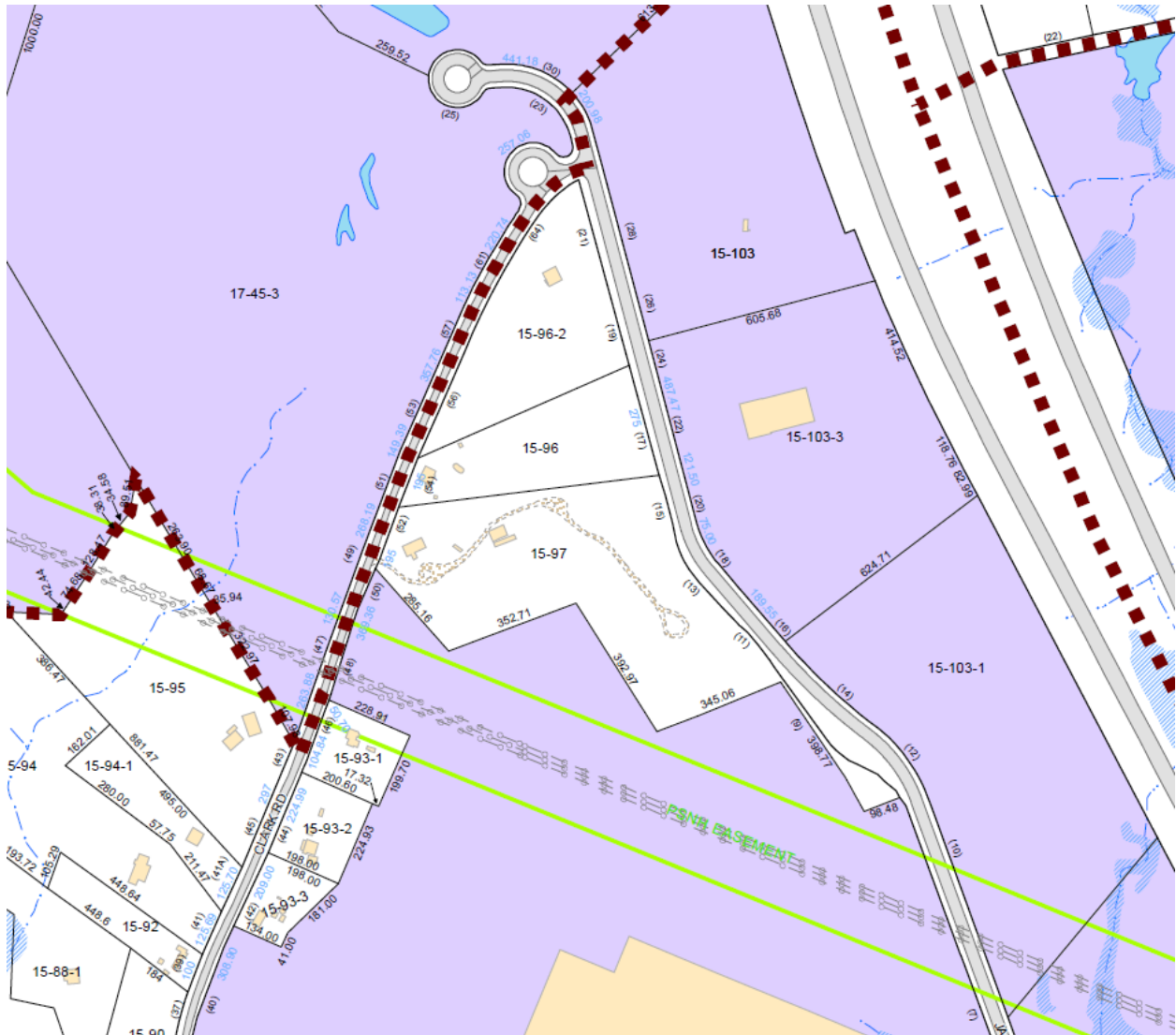
To: Planning Board
From: Timothy J. Thompson, AICP
Town Planner

Date: June 8, 2011
Re: Rezoning Request:
Map 15, Lot 97
From AR-I to I-I

The Planning & Economic Development Division has reviewed the above referenced rezoning request and we offer the following comments:

Review Comments:

The applicant requests the rezoning the above referenced lot from AR-I to I-I. The parcel is located on Jacks Bridge Road and Clark Road. (See below map and picture).





As was presented to the Planning Board earlier tonight in the conceptual discussion, the applicant seeks to develop an 18,000 square foot vehicle repair facility and subdivide the property. The particular use proposed, “Major motor vehicle maintenance and repair” is not a permitted use in the proposed I-I district, and would require a variance in order to be constructed. This use is permitted in the I-II district, however, the applicant is aware that staff would not likely support I-II zoning for this parcel given the surrounding zoning (I-I and AR-I) and the other types of I-II uses which would not be compatible with this area.

Of note to the Planning Board: The Town’s legal counsel has advised that making conditional rezoning recommendations to the Town Council is not advisable. From this point forward, staff will no longer recommend that rezonings be recommended to the Council with conditions, but rather, as stated by legal counsel, “*when considering the rezoning of a property the consideration should be independent of any specific plan.*”

The 2004 Master Plan does call for the re-zoning of this area of the “triangle” of properties along this stretch of Clark and Jacks Bridge Roads to be rezoned to I-I. This property, and the property to the north, were both conditionally re-zoned by the Town Council in years past, however these rezonings never took effect as the conditions attached to them were never completed.

Staff Recommendation:

In summary, the rezoning is consistent with the Master Plan and surrounding land uses/area zoning. As such, staff recommends that the Planning Board **RECOMMEND** this rezoning from AR-I to I-I to the Town Council.

ORDER #2011-14

An Order Relative to

EXPENDITURE OF RECLAMATION TRUST FUNDS FOR DROP-OFF CENTER IMPROVEMENTS

Reading: 06/20/2011

Adopted: 06/20/2011

WHEREAS in 2003 voters established a Reclamation Trust Fund to fund the disposal of motor vehicle waste, and recycling and reclamation of other wastes; and

WHEREAS improvements are necessary to the Drop-Off Center to allow for the proper recycling and reclamation of wastes; and

NOW THEREFORE BE IT ORDERED by the Town Council that the Town Treasurer is hereby ordered to expend \$4,767.40 from the Reclamation Trust Fund for concrete work.

Sean O'Keefe, Chairman
Town Council

Marguerite Seymour
Town Clerk

***A TRUE COPY ATTEST:
06/06/2011***

TOWN COUNCIL MEETING
June 06, 2011

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

PRESENT: Town Council: Chairman Sean O’Keefe; Vice Chairman Joe Green; Councilors: John Farrell (7:08PM), Tom Dolan, Tom Freda; Town Manager Dave Caron; Executive Assistant Margo Lapietro.

CALL TO ORDER

Chairman O’Keefe opened the meeting at 7:00 PM with the Pledge of Allegiance. This was followed by a moment of silence for the men and women fighting for our country.

PUBLIC COMMENT

Boards/Committees/Commission Updates

Solid Waste Advisory Committee (SWAC) & Beautify Londonderry – Paul Margolin, Chair of the SWAC and Joel Sadler coordinator of the Beautify Londonderry program reported 615 people were involved this year to include a total of 54 groups. They picked up 424 tires and worked on 32 different streets. He outlined the areas which included all 6 schools and 10 town sites. Chairman O’Keefe asked what they do with the refuse, he responded some is recycled by the town and the tires go through shredders. P. Margolin said one goal this year was to expand the program which was done. Stonyfield Farms had their first 5K road race and they donated 10% of their proceeds to Beautify Londonderry. He reviewed the responsibilities of the committee and the different programs they monitored. The repairs being done to the drop-off center have been well received. Trash and recycling are going in the right direction in the first two years of the five year contract. He reviewed their goals for this year. The committee has been around over 20 years, and they recommend Beautify Londonderry become a subcommittee to SWAC. They have had a core of three volunteers, a fourth joined this year and they want to petition the Council to make them a formal sub-committee reporting to SWAC. The Councilors thanked all the volunteers for all their work.

Dottie Grover, a resident of town said she watched a School Board meeting a few weeks ago in which it was mentioned that a student at South School wrote a letter to the principle about the dog excrement found on the school grounds. D. Grover suggested forming a committee to establish a dog park in Londonderry. It would be a service to the community with the amount of dogs in town. Chairman O’Keefe asked if the Council wanted to create a committee. Councilor Farrell asked D. Grover if she wants to head it up. She responded if it is OK for an employee to do it she will. Councilor Farrell asked the Town Manager if that was acceptable and he responded we have in the past. Councilor Dolan pointed out we don’t have a leash law in this time, only the ball fields require dogs to be leashed, is it time to do so? Councilor Green said in Boston you have to pick it up or you get fined. The consensus was to explore the possibility.

48 **PUBLIC HEARING**

49 **Councilor Green made a motion to open the public hearing, second Councilor Freda.**
50 **Council's vote was 5-0-0.**

51
52 **Resolution #2011-08 – Relative to the Discontinuance of a Portion of Kelley Road –**

53 **Councilor Green made a motion to adopt, second Councilor Freda.** Kelly Rd. is a Class VI
54 road subject to gates and bars. Bob Duval from T F Moran and Pat Pinault from PSNH were in
55 attendance. B. Duval explained this is the discontinuance of a portion of Kelly Rd between
56 Shasta and South Mammoth which is about a 250ft. length of road. PSNH does own the land on
57 both sides of the road, there are actually 5 properties along the road and two of them are owned
58 by PSNH. The purpose of the expansion is to move a mobile sub-station transformer into the
59 area. This closure will allow their equipment to be parked directly under the affected lines.
60 Tom Pajak, 333 Mammoth Rd. asked P. Pinault if this would affect the property in the front of
61 his house. P. Pinault said the only affect would be pulling the mobile sub-station in using that
62 road, getting it in the fence. T. Pajak asked why would they go in front of his house and cut trees
63 when they have another access. P. Pinaulte said the location of the sub-station is closer to Mr.
64 Pajak's house and proceeded to show the site plans to the home owner. He explained the
65 logistics and said the unit is temporary. P. Pinault explained the existing tree line is his buffer to
66 Mammoth Rd and his privacy. Discussion entailed between the homeowner and P. Pinault.
67 Councilor Farrell suggested it would be better to have everyone go out and agree to what is
68 reasonable and settle the issues and then come back to Council. **Councilor Dolan made a**
69 **motion to continue the hearing to 6/20, second Councilor Farrell Council's vote was 5-0-0.**
70 John Laferriere, 331 Mammoth Rd. recommended that a site plan be established before they
71 come back to Council. There was one done in 2008 which was to be put at the back side of 333
72 Mammoth Rd. where they had done a lot of site work to put the sub-station in. Now they are
73 talking about a discontinuance of the road without any site plans. Before we give them the
74 discontinuance of the road we should see the site plan, let him work with the abutter and come
75 up with something more reasonable. They have done improvements on the back side where the
76 main power station is but they have never done anything with the temporary set-up.

77
78 **OLD BUSINESS**

79
80 **Resolution #2011-05 – Relative to the Allocation of Cable Franchise Fees –** Councilor Freda
81 read the continued first reading; **Councilor Dolan made a motion to accept the first reading**
82 **and schedule a public hearing on 6/20/11, second Councilor Farrell. Councils vote 5-0-0 to**
83 **move it to the public hearing on 6/20/11.**

84
85 **Order #2011-06 – Relative to the Distribution of Conservation Funds to Purchase a**
86 **Conservation Easement, 587 Mammoth Road -**

87 Chairman O'Keefe said that Council had
88 some legal questions. Town Manager Caron said the issue was if the town purchased the
89 easement instead of outright buying the property would there be the possibility of a Medicare
90 lien on it. Town Attorney Bart Mayer advised that there is an inherit risk on any land transaction
91 if the IRS or Medicare believes there might be a fraudulent sale. The town attorney feels that
92 there is a very remote possibility due to the fact that we secure the services of an independent
93 appraiser for a market value assessment of the property. The town attorney recommends that
94 that issue alone is not reason to reject an easement. Councilor Dolan stated that other
95 communities aren't acquiring property outright, just the easements because it is less money for
96 the taxpayers; easements last into perpetuity, the easement stays with the property. If a political
body decides to do something different with it other than what it was originally intended for it

97 can change hands. An easement prevents future development. If a town acquires property
98 outright it is the responsibility of the town to maintain it. He said his research points out it
99 makes more sense to acquire easements as opposed to owning it outright. Councilor Freda said
100 he disagrees with purchasing easements; it ties us to a partnership with the owners of the
101 property. Easements can be destructible and we should not have that as a possibility. It is better
102 to buy it outright and offer leasing it to the Merrill family. He attended the Open Space
103 Taskforce meeting where it was brought up that we have 30% protected land. According to the
104 2006 Taskforce Report the goal was 25%. He said we need to defer until we get the Open
105 Space Report. Councilor Green said he agrees with Councilor Freda, easements are a poor use of
106 taxpayer money. Councilor O'Keefe said he wants to hear from the taxpayers; he said he has a
107 problem with spending the money at this time. Conservation Commission Chair, Deb Lievens
108 said the parcel fits all the criteria, it connects conservation land and it is a good purchase.
109 Counselor Freda asked if this purchase went through what the total connected acreage would be.
110 Mr. Merrill said it would be 52 continuous acres. Councilor Freda brought up the 10/10
111 requirement; 10 acres within 10 minutes of walking time, it was considered a low priority. D.
112 Lievens responded they are not even considering the 10/10 aspect they are considering its other
113 attributes a lot higher. Councilor Farrell clarified that he heard: easements are not good, we
114 would like to wait for the report, and learn what the public wants. He suggested asking Mr.
115 Merrill if we could wait until we get more information. Councilor Green responded that it is
116 very clear that we don't want an easement, we want to buy. If Mr. Merrill wants to sell the
117 property outright it will be a different question and a different answer. Councilor Freda said with
118 the last two purchases of the proposals we offered to pay between 90% & 95% of the value of
119 the property and all we got was an easement. Councilor Dolan said if the goal is to preserve the
120 property from development and you can accomplish that by spending 90 cents on the dollar as
121 opposed to a dollar on a dollar that to him is a no brainer on what is the smart financial thing to
122 do. Across the state the best minds in terms of planning, land planning, preservation, open space
123 have all agreed with buying easements. Chairman O'Keefe said for years we have heard different
124 spins on why we have bought open space. We bought under the guise it was going to save us
125 money. We don't really know if it is going to save us money, then we were told it was for water
126 protection. For years we have asked all the departments in town to reduce/cut budgets. We have
127 never asked the Conservation Commission to cut costs. We put a taskforce in place to find out
128 where we want to go. We decided we wanted to hold off until we have all the information.
129 Councilor Farrell said we have to send the right message back, he said he was on the original
130 Open Space Taskforce Committee and wrote the formula on how to save money; he was also on
131 the next one who wrote the formula on how it didn't save money. He said he also a few years
132 ago led the charge against easements saying we needed to look at it a different way. We have a
133 long time resident of the community who is looking to make a decision. He said he is trying to
134 understand if we say we are still interested in the piece of property or if we are buying it and the
135 report supports it but we will listen to him. Councilor Freda said there is a clear message that
136 some of us on the Council do not believe easements are appropriate, it does not make sense that
137 it saves money. He said he has spoken against it for a long time; it never made economic sense
138 to buy easements. He said he had no problem with purchasing the land with a long term lease;
139 savings has never materialized with the easements. If we are going to conserve land he wants
140 control. There have been problems with stewardship and inventory control of the land. Most
141 people don't use conservation land because they don't know where they are or what you can do
142 on the lands. He said he disagrees with the legal conclusion, there is an issue with bankruptcies.
143 We should have a plan before we spend taxpayers' money. Councilor Dolan said the original
144 and continuous goals are with open space preservation. He said there is a connection with open
145 space and the declining enrollment in the schools and the slowdown in residential housing.

146 Open space is passive recreation; taxpayers want open space for large game wildlife corridors.
147 He also said 85% of people in town get water from the groundwater. People like to have open
148 space for a complex set of reasons. Councilor Green said that most people watching tonight
149 would probably state that if you spend \$219K for a piece of paper vs. \$230K for a piece of land
150 and give you the right to do whatever you want to do with that land for \$1.00 that is realistic.
151 We are talking about open space and purchasing open space. He said he believes in open space,
152 it is important for the town to keep its rural esthetics; this is just a different way of doing it.
153 Councilor Freda said the decrease in school has nothing to do with the conservation efforts.
154 During the time period we have added 1,200 homes. Councilor Farrell asked Council if we are
155 interested in Mr. Merrill coming back and looking at his land again. Councilor Freda said we
156 should survey the taxpayers and find out if they are interested in purchasing an easement, or are
157 they interested in buying. He said he is interested in buying. Councilor Dolan said we should be
158 purchasing easements because boards like this cannot be trusted. He explained when we begin to
159 own property the boards beyond us will be of a different makeup. The board is going to change,
160 if the town owns the property outright they can do anything they want to do to it; they don't have
161 to preserve it. An easement can't be changed into perpetuity. An easement is cheaper and
162 preserves the property the way it was originally intended to preserve. The long term picture is to
163 preserve the community the way it originally was intended to preserve. Councilor Green asked
164 the Town Manager if we were to purchase a lot could we put the language into it that it could
165 only be used for conservation. Town Manager Caron responded any sale negotiated between the
166 buyer and the seller with certain conditions is a possibility. Lisa Whittemore, 40 Griffin Rd. said
167 we have a limited window of putting this land aside for the easement protection for the future
168 generations of Londonderry. This Council is in a position to protect this land for the future
169 generations. She said she is extremely upset that Council is taking a vote on this easement
170 without even reading the Open Space Report. Chairman O'Keefe said the Conservation
171 Commission came to us and wanted a decision right away. If they want to come back after the
172 report is produced that would be OK. Councilor Freda said he does not want to buy the
173 easement with someone who could have possible difficulties in the future. Mary Soares said
174 buying the property takes money off the tax rolls. Councilor Freda said the tax revenues from
175 open space are nominal. John Curran, 6 Faye Lane said the Open Space Taskforce touched on
176 these things and the survey received back was that the majority of people wanted open space. A
177 majority voted that they do not want to spend money on stewardship. He suggested asking the
178 Merrills if they want to withdraw their request at this time because we know what way the vote is
179 going. He said he would like to preserve the ability for the town to still have an opportunity to
180 maintain a farm. The final report hopefully will come out in July. Councilor Farrell asked Mr.
181 Merrill if he would be willing to wait on this vote until after the report comes out instead of
182 voting on it tonight. Mr. Merrill conferred with his lawyer and said he will wait for the report.
183 **Councilor Farrell made a motion to table this Order until 8/15/11 until we have the Open**
184 **Space Taskforce Report, second Councilor Green. Council's vote was 5-0-0.**
185

186 **FY12 Goals and Objectives – Objective** Councilor Farrell asked if we can move this discussion
187 to the end of the meeting or to the next meeting on 6/20. The consensus was to move this item to
188 the 6/20/11 meeting.
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NEW BUSINESS

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Order 2011-08 – Relative to the Licensing of a Junkyard pursuant to RSA-236 (Murray’s Auto Recycling) Councilor Freda made a motion to adopt, second Councilor Green. Richard Canuel, Sr. Building Inspector made a presentation of the four licenses being discussed tonight. Murray’s Auto Recycling has again had an issue with hours of operations this year as in the past. Late deliveries were a concern for complaints from the one abutting homeowner. Last year Town Counsel was contacted for a legal opinion which at that time said late deliveries with junk vehicles after 5:00PM were considered part of the operation and would be considered a violation. R. Canuel said he monitored the site for the past year and discussed with Counsel and their concurred opinions have changed. If an employee delivers a vehicle after hours, driving the vehicle behind the gate, closing the gate and leaving in his personal vehicle; the Town Attorney agrees that cannot be considered an operation of the junkyard. It does not pose a public nuisance as listed in the statute. R. Canuel said aside from that issue there are no outstanding violations or issues with that particular junkyard. All junkyards have made strides in meeting the Best Management Practices that are established by the State Dept. of Environmental Services. He recommended renewal for all those licenses. Councilor Green said the abutters should not have to deal with business being conducted after hours. Richard Belinski, 89 Hall Rd. said this has been going on for years; deliveries after 5PM, cars above the fence, cars are parked outside the fence; trucks are parked on the side of the road. He also said there are multiple businesses listed with the state with that address which is against the grandfathering clause. It is only a salvage business. Mr. Belinski said the Code Enforcement Officer cited Mr. Dudek once this year for off loading equipment in the front parking area. He said he does not agree with the legal opinion that delivering salvage vehicles after hours was not part of business when it is a salvage operation. He handed Council a picture of a vehicle parked on the side of the road on 6/1/11. He said the parking lot has never been approved and never had a site plan done. Councilor Freda asked if he or Mr. Adams made a complaint this year, Mr. Belinski responded no, the violations can’t be verified they are done after hours. Councilor Green said we ask citizens to report violations because that is the only way we can do enforcement. We should take these violations seriously. Chairman O’Keefe asked the Town Manager if he received feedback from our lawyer regarding a question he had sent to him. Town Manager Caron said he confirmed with R. Canuel that it is the attorney’s position that if an employee opens the gate after hours, drives a vehicle in behind the gate and starts unloading the vehicle it is part of operations. Chairman O’Keefe said he had a problem with vehicles being delivered after hours. He told Mr. Belinski he understood his frustrations but told him to follow-up with taking pictures of violations. Mr. Belinski responded for many years he has provided pictures, and explained the next Council says they don’t want pictures, the next Council instructs him to put it in writing. Councilor Green asked the Town Manager if we had a signed site plan for the parking lot to which the Town Manager responded we do not have an approved site plan for the paving of that parking lot. Councilor Green then asked how that violation would be handled. R. Canuel responded those issues have no bearing on Mr. Dudek’s ability to operate a junkyard under the licensing statute. If it is a matter of a site plan being required that is an enforcement matter. If it is an issue of him operating other business there other than a junkyard that is an enforcement matter. Those issues have no bearing whatsoever on whether he should be licensed to operate a junkyard. Chairman O’Keefe responded that Councilor Green specifically asked why action wasn’t taken place for the parking lot. R. Canuel said he will take a look at it. R. Belinski said if he is not in compliance with zoning and he has more than one business running in a grandfathered use that is a violation of zoning. He may be in compliance with the RSA 236 but not with our zoning. Councilor Freda asked Mr. Belinski if he was saying the multiple business being run from 55

244 Hall Rd. are in violation of his junkyard license. R. Belinski responded it is a violation of zoning
245 which is one of the things he has to meet because it's a grandfathered use which can only
246 continue in its current use, it cannot be changed to anything else; and the license must not lapse
247 for more than a year, otherwise the grandfathering goes away. Councilor Freda said you can
248 create a corporation with a legal name with a mailing address and not be operating a business.
249 Councilor Freda asked R. Canuel if having multiple business at that address is a violation, R.
250 Canuel responded it is not a violation just for listing that as his business address. He would have
251 to actually conduct business at that site other than his junkyard business. Councilor Freda asked
252 if a third party picks up a truck and arrives after hours is that Mr. Dudek's problem or is it the
253 third parties problem. R. Canuel responded that in discussing that with the Town Attorney he
254 does not feel that is a violation whether it is Mr. Dudek's or someone else's. R. Belinski said Mr.
255 Dudek was found in violation of the town hours of operation by a judge by opening the gate after
256 hours to do business in Derry District Court. Councilor Freda suggested Mr. Belinski provide
257 Council with a copy of the court order. Chairman O'Keefe asked the Town Manager to get a
258 copy of it. Town Manager Caron said he could get a copy of all the violations that were found
259 and the court orders/decisions. R. Canuel clarified that based on the court order these conditions
260 were established as part of his licensing. If there were any other issues from that court order they
261 would have been listed as part of those conditions. As long as Mr. Dudek is meeting these
262 conditions and we have opinion from our Town Attorney that he is, then there is no reason to
263 deny his license. Councilor Dolan asked if anybody observed other business being operated on
264 the premises, if they are not operating there than that is not an issue. If they have been observed
265 running another business from the premises then it would be a violation of a zoning ordinance.
266 Councilor Green referenced one of the conditions for Mr. Dudek's business hours anything after
267 5:00 PM is business. It is simply stated. Gerard and Collette Adams from 54 Hall Rd. said the
268 Town Manager talked to the town attorney last year and he said that deliveries after 5:00PM
269 were considered business and asked if that has changed? R. Canuel responded the opinion has
270 changed because he has been monitoring the site for the past year a little more closely. It was the
271 town attorney's understanding at last year's renewal that those deliveries involved actual
272 unloading/loading of vehicles and not just necessarily just simply driving the company truck
273 inside the gate. Discussing that with our attorney and with more detail explaining of what the
274 actual operation was and what was occurring there his opinion is that if all the driver is doing is
275 simply bringing the company vehicle into the gate, closing the gate and leaving in his personnel
276 vehicle that is not part of the junkyard operations. G. Adams asked R. Canuel when he received
277 that opinion, he responded 5/16/11. Councilor Farrell clarified that Mr. Dudek came here last
278 year with his attorney. If his truck is stuck in traffic and cannot be there by 5:00 PM some of
279 Mr. Dudek's neighbors have offered to let him park his truck in their driveway. He wanted an
280 exception to the policy, not a regular policy. Under extenuating circumstances a truck arrives,
281 pull it in behind the gate, deal with it the next morning. Is that what our attorney is saying that it
282 is the exception rule, R. Canuel responded exactly. Councilor Farrell asked Mr. Dudek if what
283 he just described what he was intending. Mr. Dudek explained his trucks come back after the
284 end of the day, they open the gate; drive the trucks in, close the gate and leave. This takes all of
285 a minute. They don't unload; they shut the truck off, lock the gate and go home. Councilor
286 Farrell asked if this happens every day that they come in late. Mr. Dudek responded a lot, yes.
287 Councilor Farrell directed his next question to R. Canuel saying that Mr. Dudek says it is a
288 regular operation that is going to happen every day; you are saying it is a rule of exception. Mr.
289 Dudek said when he went to court the judge asked the then prosecutor about the trucks coming in
290 after 5:00PM. The prosecutor told the judge that he didn't care what time the trucks get in after
291 5:00PM, he said the Adams' and Belinski were in the courtroom and heard it. He said he also
292 has a recording of the hearing. R. Canuel said it is not a matter of how often it occurs but what

293 occurs. If a driver is simply driving the truck into the gate, closing the gate and leaving then that
294 is not part of Mr. Dudek's operation. Councilor Farrell clarified that he is interpreting the advice
295 that it is OK if it happens every day. R. Canuel responded he did not give any specifics on
296 whether it happens on occasion or daily. It is not when it happens it is what happens. G. Adams
297 informed Council that they have complained a number of times about this problem and it
298 involves more than a minute and they have observed the gate being opened as late as 10:00 PM.
299 Mr. Dudek said he never recalled any of his employees arriving that late. Councilor Farrell
300 asked Mr. Dudek what is the latest his employees come back on average, he responded 7:00 PM
301 the latest but they do come back earlier. Councilor Farrell said he asked the Town Manager
302 earlier today if any of the other junkyards in town have the same hours of operations and he
303 responded they don't. The Hall junkyard is located in a residential area and is now for sale.
304 Councilor Farrell said we don't hold any other business in town to the same standard we are
305 requiring of Mr. Dudek. He suggested gathering all the information and making a decision.
306 Councilor Dolan read an excerpt from the attorney's letter where he says "he does not believe
307 that just the mere appearance of a company vehicle with or without cargo constitutes operating
308 after hours. The act of returning the work vehicle to the job site would probably not be seen as
309 operating the business since the employee must return the work vehicle and return his/her's own
310 personal vehicle". He talked about last year when the employee was not only returning the work
311 vehicle but also unloading the cargo and that is the distinction our attorney made. If the vehicles
312 are returned after hours it is not considered running the business unless you do something to the
313 vehicle like unloading and processing. Gerard and Collette Adams said the vehicle coming in
314 after hours is business hours. Councilor Green said we should define in the conditions that "no
315 one should be returning after a delivery after 7:00PM" or something to that effect. We could
316 address some of the concerns of the residents tonight. Mr. Dudek compared his employees
317 returning to the yard to someone returning home from work and parking their car, it is only a
318 minute and it a gas engine. Town Manager Caron said Counsel does not consider driving a
319 vehicle through a gate, closing the gate and leaving as part of operations. He said he is not sure
320 if his opinion would change if the hour is changed but he would check with Counsel. C. Adams
321 said if you are going to change the hours of operation how are you going to enforce it when you
322 can't enforce the hours of operation now, it has been a problem for years. Councilor Green said
323 we are addressing the Adam's concerns by changing the hours of operation by stating that return
324 deliveries cannot be done after 7:00PM. If we put it into the exceptions then we can enforce that
325 part. Right now we don't have anything that is defined that way. The hours of operation have
326 not been defined as opening the gates; the trucks coming in have not been defined. Councilor
327 Freda said we have a legal opinion that the inspector has to follow. He suggested the abutters go
328 to court and ask the judge to interpret his own ruling or you could work out something with Mr.
329 Dudek. Councilor Dolan said we have to operate within the legal framework established for us
330 by the courts and our legal representation to the courts. He talked about the code enforcement
331 position being created and one of the reasons to add that position was based on the junkyard
332 complaints. He said there have been dramatic changes in operations for the past 10 years.
333 Junkyards and residential areas do not mix which is why we currently do not allow them to be
334 put together. Al Baldasaro, 41 Hall Rd an abutter thanked the Code Enforcement Officer,
335 Council and Mr. Dudek for doing a good job. He said he and his neighbors have appeared before
336 Council in prior years and have said they have no problems with Mr. Dudek and his junkyard.
337 He said the junkyard was there before any of the houses were built. He said it is not right to go
338 to Mr. Dudek and tell him he does not belong there. Do the right thing and give the man his
339 license. He said he has offered him use of his property to park his trucks and emphasized Mr.
340 Dudek has done a lot for the community.

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342 **Order 2011-09 – Relative to the Licensing of a Junkyard pursuant to RSA 236 (S&S**
343 **Metals) –**

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345 **Order 2011-10 – Relative to the Licensing of a Junkyard pursuant to RSA 236**
346 **(Londonderry Salvage) –**

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348 **Order 2011-11 – Relative to the Licensing of a Junkyard pursuant to RSA 236 (Hill’s**
349 **Salvage Facility) –**

350
351 **Councilor Farrell made a motion to cover all the junkyards and referred to Orders 2011-**
352 **08, -09, 10 and 11 to be adopted and approved, second Councilor Dolan. Council’s vote**
353 **was 5-0-0.**

354
355 **Order 2011-12 – Relative to Expenditures from the Reclamation Trust Fund for Drop-Off**
356 **Center Improvements – Councilor Farrell made a motion to accept, second Councilor**
357 **Dolan. Council’s vote was 5-0-0.**

358
359 **Order 2011-13 – Relative to the Expenditure of Maintenance Trust Funds for Various**
360 **Projects – Councilor Farrell proceeded to read the Order but Councilor Dolan make a point of**
361 **order and recommended suspending reading of the order and note the total expenditure of \$32,**
362 **607.88. Councilor Farrell made a motion to approve the total expenditure of \$32,607.88,**
363 **second Councilor Dolan. Council’s vote was 5-0-0.**

364
365 **Ordinance 2011-04 – Relative to Amendments to the Municipal Code, Adoption of Title VI,**
366 **Chapter VI-A, Purchasing Policy, Minority/Women Business Enterprises – Councilor**
367 **Dolan asked the Town Manager if there was a requirement for a public hearing on this**
368 **Ordinance. Town Manager Caron said the Ordinance recommends that a public hearing be held**
369 **on 6/20/11. Councilor Farrell made a motion that the first hearing is tonight and public**
370 **hearing is for 6/20/11, waive the reading, second Councilor Freda. Council’s vote was 5-0-**
371 **0.**

372
373 **Ordinance 2011-05 – Relative to an Amendment to the Zoning Ordinance regarding the**
374 **Planned Unit Development Process (PUD) - Town Manager Caron said that Town Planner**
375 **Tim Thompson reminded him that pursuant to the zoning ordinance any proposed amendments**
376 **generated outside of the Planning Board process are transmitted to the Planning Board for their**
377 **public hearing and recommendation. If Council approves the first read tonight it will be sent to**
378 **the Planning Board and they will return it with their recommendations to the Council. Councilor**
379 **Farrell said in the legal packet from counsel it was strongly recommended that we don’t go down**
380 **this path, it may suggest a different path in light of the fact that it has to go back to the Planning**
381 **Board. Maybe what we could do is we know this is not going to affect the Woodmont project,**
382 **we could do what we did with the Performance Overlay District a few years ago. We asked the**
383 **Planning Board to work through their process with regards to the Woodmont project, work with**
384 **staff, and find what worked and didn’t, what may or may not to be adjusted & have them make a**
385 **recommendation or have a joint meeting with Council to come back and say this is what we**
386 **learned, this is what we think might need to be changed and do this in a thorough sort of way.**
387 **The Planning Board is very busy right now and they might not have enough time to send**
388 **something back to us that is well thought out and has gone through the processes. Councilor**
389 **Dolan said he has been on this board for a number of years and this is probably the strongest**
390 **legal wording of advice received from an attorney about not going down this path. We should**

391 table it permanently as this is not something we should do and let the Planning Board once they
392 have gained more experience with the PUD itself to come back and recommend any
393 changes/additions/subtractions/re-wording to the Council. This is not a considered piece of
394 legislation we ought to put forth at this point. Councilor Green said he did not interpret the legal
395 advice to mean that. We are mixing up the Ordinance and the Woodmont project. This is an
396 Ordinance we are trying to adjust to do a couple of things. Getting this board more involved is
397 one of the objects of this Ordinance; not having that in our purview doesn't make sense to a lot
398 of people. The zoning has always been a part of Council's authority as well as Master Plan.
399 Councilor Farrell said the Master Plan is a Planning Board document it is not part of the
400 Council's authority. Councilor Green said oversight is an important piece to look at, he is trying
401 to install those measurements into this ordinance. Councilor Freda said he is not in favor of
402 tabling it, he wants to hear what the Planning Board has to say. He said back in July of last year
403 there was a one acre zoning change that required Council approval. He is just not sure why we
404 need one acre approved by Council and a potential 600 acre project is not approved by the
405 elected/governing body. It deserves consideration. The statute designated three possible boards
406 to make the final decision, Planning, Zoning and the Board of Selectman/Town Council. The
407 legislature clearly outlined something that is being contemplated here whether it isn't a good
408 thing or not, he didn't know but said he is willing to hear what the Planning Board thinks so he
409 does not agree with tabling it. Chairman O'Keefe said he is torn on this. Councilor Farrell said
410 there are two different things going on here. Our attorney told us we can't affect the Woodmont
411 project. It will go under the Ordinance as written. Chairman O'Keefe said this has nothing to do
412 with Woodmont, the PUD is an obviously big plan, there is a lot to it, it has a lot of unknowns to
413 it. He said as one person on this board when we passed this thing he didn't understand why we
414 would give up an approval process at the end of it. He thought a checks and balance system was
415 set in place and was surprised that basically we gave it up. He is interested in hearing what the
416 Planning Board has to say and more people from the public. He stated that was what he thought
417 this was all about. He knows it has nothing to do with Woodmont and he has never come out
418 one way or the other for or against. He said in all actuality he is for it because it has a lot of
419 good things it is going to bring to the Town. He said he feels the Council is the elected body and
420 should have some input into it. Councilor Dolan said he respectfully disagrees. It has everything
421 to do with Woodmont and the only reason this is before us is because of Woodmont and because
422 of some of the political pressure that is now being brought to bear. It would be a wild
423 coincidence that we would be bringing up a dramatic change that our lawyers are telling us to be
424 very careful with it because it is fraught with danger. We wouldn't be even considering this if it
425 wasn't for what is going on with Woodmont right now. Chairman O'Keefe asked if he is being
426 naïve in saying that this is. Councilor Dolan responded we need to recognize that the political
427 issues that are beginning to arise from the Woodmont project are what's driving this initiative.
428 The Woodmont "horse is out of the barn" and this cannot affect Woodmont. If there is some
429 thought that this is the political remedy for what is going at Woodmont, it won't change
430 anything, it can't impact it. He said he is not sure why we would take this action in the face of
431 the Woodmont activity going with the Planning Board and the developers. There is a lot of
432 emotion around this issue and for us to enact a law based on that emotion that really can't affect
433 the outcome of that issue that is creating that emotion is puzzling to him. The impact of what
434 this will really do is to introduce a political process into something that should be an apolitical as
435 possible. One of the reasons we have the Planning Board and the way it is created and the way
436 we run it is that they are not elected people, they are somewhat pulled back from the elective
437 process and therefore should be making decisions based on what they think are the right thing,
438 not what they think is the politically expedient thing which is what political bodies will do from
439 time to time. We want to keep the planning process free from politics as our lawyer recommends

440 we do because we know whenever we have a process like this there are going to be aggrieved
441 parties on either side of every issue. He said we should try to stand back and let the process
442 continue on its way, stay connected with the Planning Board, get lessons learned and see what
443 we have to do down the road. At this point it is premature and introduces that political process.
444 Councilor Green said he introduced this Ordinance and it has nothing to do with Woodmont. He
445 said there are nine other parcels of land that can qualify for a PUD; he is asking the consideration
446 of the Council to adjust the PUD to again bring the pervue of zoning back into the arena it has
447 always been for many, many years and put an essence of oversight. He said that is all he is trying
448 to accomplish. Councilor Farrell said with all due respect our attorney has told us we have not
449 given up anything, we acted appropriately. He also writes to us to tell us there are hidden
450 dangers lurking in the procedures sent forth in the proposed Ordinance. What he is suggesting is
451 the same thing we did with the PUD which turned out the way we wanted it to turn out in the
452 long run; to do the work and make a decision. The Planning Board has that responsibility.
453 Councilor Green said the attorney is the one who wrote that update, is that correct? Councilor
454 Farrell responded he is reading the legal advice. Chairman O'Keefe asked for clarification on
455 who wrote the amendment to the Ordinance. Town Manager Caron responded staff wrote it.
456 Councilor Farrell said the argument being made is that we face Woodmont, which is what
457 brought this about. From an economic development standpoint we need to try to be smart about
458 this. We don't want to throw another roadblock up. Maybe we should change it back to Town
459 Council but we have a process going on, let's get educated. They spent months doing it and
460 brought it to us and we are going to make a decision in one night and they have all the
461 information, let's get educated. Councilor Freda said he is in agreement with that. Some of us
462 have different views. The legislature gave three bodies the potential to make the final decision,
463 Planning Board, Zoning Board and Board of Selectman/Town Council. Many towns have
464 Planning Boards that can be elected he said he is not aware of Zoning Boards being elected. He
465 said there is a political process in lots of those scenarios. Let's send it to the Planning Board and
466 follow procedure. He has been the one on the Planning Board encouraging them to get moving
467 on Woodmont, get some definitive proposals so people can see that; let's hear people's
468 comments and let's start going on it. Councilor Farrell said we have been down this path before
469 with the Performance Overlay District (POD), we know what the blueprint is. Councilor Freda
470 brought up the one acre parcel again and said if we are going to look into it logically you can't
471 say we can have the Planning Board decide on the 600 acre thing and bring the one acre to the
472 Town Council, it doesn't make a lot of sense. Councilor Farrell said the legislative body at that
473 time voted the way they did. He said he agreed with Councilor Freda they should send it back to
474 the Planning Board and let's move from there. Councilor Green stated he does not know why
475 Woodmont is being brought up in this Ordinance. Chairman O'Keefe said we are a board and
476 should be doing the best we can. Councilor Dolan's point is that in his eyes it seems that it was
477 politically motivated. Councilor Green responded he clarified it. Chairman O'Keefe said that
478 Councilor Dolan is worried that it might take on a persona of its own by passing this now, if we
479 did that, there might be factions taking up sides and that is what he is worried about what would
480 happen. Councilor Dolan stated that what is before us is bad legislation, bad law and we should
481 not entertain it. We shouldn't delay it and entertain it later. If we have some concerns as a body
482 that the PUD needs adjustments then we ask the Planning Board to consider that. They are
483 novices with this and as they gain more experience they will help us understand what needs to be
484 changed, we will turn that into good legislation and we will pass it. To take what is before us is
485 not good law, as the attorney says there are hidden dangers lurking in this procedure. That in and
486 of itself means take it off the table and go write different legislation. We have a very
487 experienced board that is in the process of gaining that experience and is accumulating that
488 knowledge, it is premature. He said this does not reflect on staff; they were doing what they

489 were asked to do. Councilor Dolan asked the Chairman to poll the Councilors if this was going
490 to move forward for a vote. He said if it is he was going to object under the Charter. Councilor
491 Farrell said he is willing to give it to the Planning Board. Chairman O’Keefe said the lawyer
492 does not indicate what the hidden dangers are. He said he gets what everyone is saying but for
493 years he has always heard we put up “roadblocks” in Londonderry and he has concerns that we
494 might be doing that. We are the elected body and we should have some say. Councilor Farrell
495 said that Council by consensus should direct the Chairman of the Planning Board to investigate
496 the PUD and bring it back to us what they are learning as they do this and what they would do
497 differently. Councilor Freda asked what would the problem be if we sent this to them because
498 they could amend every word of it. Councilor Farrell said it starts a 90 day clock and they don’t
499 have the time right now with Woodmont. Councilor Green said he is having a hard time with the
500 attorney’s opinion because he thinks he is looking at it with the thought process of Woodmont.
501 Chairman O’Keefe said his opinion is that nobody is saying it is affecting Woodmont. What we
502 are saying right now is this the right time to be saddling the Planning Board with something else
503 that is not going to affect Woodmont. We have no other big plans right in the works maybe
504 we can buy some time. Councilor Dolan said does the Planning Board have enough experience
505 with a PUD now to review that legislation and make recommendations for changes/re-writes.
506 Do they need to get more experience; we don’t have enough experience to change the law.
507 Councilor Green said he is not trying to push this forward. Maybe some of the issues we are
508 having with the current PUD is that the developer has been asking for direction. We have a
509 board who is dealing with something they have never dealt with before. Chairman O’Keefe
510 stated we are not a land use board. Councilor Green said if we combine the efforts of an elected
511 body with people that know a lot about land use we could come up with the right mix of changes
512 to zoning. Councilor Farrell said he can understand that but our attorney told us specifically not
513 to get involved. Councilor Green said that is not what he heard. Councilor Freda asked if it is
514 tabled tonight and 6 months from now can we re-introduce it or not. Town Manager Caron
515 replied that he thinks you can now because currently Council does not have any rules of
516 procedure. Everything is by consensus and determinations are made by the chair and the entire
517 Council can overrule the Chair similar to a Moderator at Town Meeting. Councilor Green asked
518 if we could have a second reading on 6/20/11 to put it off a little further to get people to talk
519 about it. Town Manager Caron responded that would have to be a consensus of the Council to
520 do that. Councilor Green asked what is the purpose of putting it off, having more people talk and
521 think about it? Councilor Freda replied one of the things is to have some input from the Planning
522 Board. Councilor Green responded that is why he thought we were sending it to the Planning
523 Board. Chairman O’Keefe said that we are not really sending it to the Planning Board because
524 this document is asking for us to approve it as written on the 20th, that is not what we are sending
525 to the Planning Board. Councilor Freda asked to put it off until the first meeting in October and
526 if the Planning Department gets a chance they can look at it. Councilor Farrell said the Master
527 Plan will be done by then and we will know what we are doing. Chairman O’Keefe said we have
528 a big project in front of us now; we are not doing anything right now by changing anything in
529 this Ordinance. All we are doing is changing the process going forward we should let it play out
530 and see how it goes. We have a Planning Board and a Zoning Board who are doing their job.
531 Councilor Dolan asked Community Development Director Andre Garron if any of the large
532 tracts of land are under consideration for a second PUD. He responded no, not as of today.
533 Councilor Dolan then said if there is no imminent threat than what is the hurry. Councilor Green
534 then suggested the second reading on 8/15/11 because September is too far out. By that time we
535 might have a presentation by Woodmont and any changes made by Mike Kettenbach will be
536 presented. Councilor Dolan said he didn’t think we could legally do that. He said he believes
537 the requirement is to consider this legislation it has to go to the Planning Board for a minimum of

538 90 days and that takes us to September. Town Manager Caron suggested if they want to discuss
539 it again you would continue your first read to that date understanding that the first time it's
540 adopted by the Council on the first read then it goes to the Planning Board for their legal process,
541 then it comes back with their recommendation for the public hearing. Town Manager Caron
542 stressed that we can't have a public hearing until you receive recommendations back from the
543 Planning Board. The clock will start with the 2nd read and the 2nd reading is the public reading.
544 Councilor Dolan suggested that since we have staff from the Planning Board in attendance
545 tonight give them direction as to what we want to happen. Look at the PUD in the current form
546 and at some point in time come back to Council with suggestions for modifications. We give
547 those modifications to staff and turn it into a piece of legislation that is more acceptable from a
548 legal standpoint. Councilor Freda said he had no problem with that approach but said maybe we
549 should ask Bart Mayer, maybe he has the suggestions and we can short circuit the process.
550 Councilor Dolan said that Bart does not have the PUD experience, the wealth of knowledge is
551 accumulating in the Planning Board. Councilor Green said it was his understanding that legal
552 counsel advised them that the final Master Plan would be signed off by Town Council. The
553 process was the problem not the signing. Town Manager Caron clarified that the process will be
554 that the Planning Board will complete its process with the PUD; then make a recommendation to
555 Council based on their recommendation to adopt the PUD. During the initial process of the PUD
556 as proposed under this Ordinance the Planning Board will still be an independent body making
557 its own recommendations and actions on any applications and that finished product will be as
558 recommended by the Planning Board to come to the Town Council. Town Manager Caron said
559 the process is explained in the Ordinance under 2.8.34 & 2.8.35 and proceeded to read the
560 sections. Councilor Farrell said the part we are missing is that Attorney Mayer said the Town
561 Council creates zoning, the Town Council created a PUD zone. When we create zoning we give
562 the authority to the Planning Board to manage that zone. We did nothing different than we have
563 done before according to the attorney. When he says the things he says in his letter that is what
564 he explained to us. We gave up nothing; we gave the authority to the Planning Board as we do
565 under every zone. Councilor Farrell said he would ask the Chair of the Planning Board to come
566 here on October 3 with some sort of point of view from the Planning Board and educate us so we
567 know we have an action item. Councilor Green said if there was another PUD area in town once
568 the PUD process starts from conceptualization, how do we handle it, does the legality of it start?
569 Town Manager Caron responded if Council continues this Ordinance discussion until October 3,
570 2011 then essentially the current PUD will rule as far as the process and the regulations for that
571 application. He said he thinks that is what counsel will tell him but he will confirm. Councilor
572 Farrell said something that big will be known months before any action would be taken.
573 **Councilor Freda made a motion to continue this to a first read on 10/3/11 second Councilor**
574 **Dolan. Council's vote was 5-0-0.**

575
576 **Resolution 2011-10 – Relative to the Adoption of Town Council Rules of Order – Councilor**
577 **Farrell read the first reading and made a motion to adopt today, second Councilor Freda.**
578 Town Manager Caron explained he looked at procedures mostly from the Town of Salem and
579 also a lot of this document is from the Town Charter. One of the proposed sections to this is any
580 amendments will be presented and then considered at the next meeting. He asked everyone to
581 look at it and have comments ready at the next meeting where it hopefully will be adopted. It is
582 a blueprint on how meetings will be conducted; the Council currently doesn't have any rules of
583 procedure. A public hearing is not required. **Councilor Farrell amended his motion to have**
584 **the adoption of the Resolution on 6/20/11, second Councilor Freda. Council's vote was 5-0-**
585 **0.**

586

587 **Discussion Regarding the Use of Conservation Commission Funds for Debt Service**
588 **Payments –** Councilor Dolan made a motion to move this item out to a future meeting as
589 scheduled by the Chair, second Councilor Green. Council's vote was 5-0-0.
590

591
592 **Discussion Regarding Workforce Housing at Woodmont Commons** Councilor Farrell said
593 he thought Mike Kettenbeck withdrew this proposal. Councilor Freda said he is proposing 10%
594 of the 1,300 homes as Workforce Housing. He would consider Senior Housing being part of that
595 10% provided it didn't interfere with his 1,300 units in the proposed development. Councilor
596 Green stated they have not been approved for 1,300 so that is not a valid figure. He said due to
597 the economy it has created enough workforce housing. Mike Kettenbach wanted a definition of
598 it; it is a question of density. Councilor Farrell said he spoke to the Planning Board Chair about
599 workforce housing. He explained it was made mandatory by the state. The community was
600 strong about how they felt about workforce housing and we worked through a long complex
601 Ordinance. He said maybe we should lean on it. Councilor Green asked Community
602 Development Director Andre Garron for input. Councilor Green said he thought we had enough
603 housing. A. Garron said when they worked on the workforce housing Ordinance a few years ago
604 they found at the time that our inventory of housing units that would meet the affordable level
605 was high, greater than 50% met the threshold. Councilor Green said if we don't have to have
606 any there then don't do it. Made a decision and if we have enough inventory then move forward
607 and give the answer to Kettenbach that we have enough. He said he would like to see senior
608 affordable housing. Councilor Freda said if you have an Ordinance doesn't he have to comply
609 with it. If he is not required to do it under the Ordinance why is he talking about it? A. Garron
610 said anybody at anytime if they propose a residential development can include affordable
611 housing in there. The current Ordinance is based on state law that the Town of Londonderry has
612 to make available the opportunity. **Councilor Dolan made a motion that the Town Council**
613 **does not request inclusion of the Workforce Housing component in the Woodmont**
614 **Commons Master Plan, second Councilor Freda. Council's vote was 5-0-0.** Chairman
615 O'Keefe thanked the Planning Board for attending tonight's meeting.

APPROVAL OF MINUTES

616
617
618
619 **Councilor Dolan made a motion to approve the Public Meeting Minutes of 05/16/11, second**
620 **Councilor Freda. Council's vote was 5-0-0.**

OTHER BUSINESS

621
622
623
624 **Liaison Reports –** Councilor Farrell attended the School Board meeting. The consensus of the
625 board in relation to combining resources with them and the Town is if the Superintendent and the
626 Town Manager can find something they are willing to talk about it.

627
628 **Town Manager Report** - Town Manager Caron reported that the elderly housing proposed on
629 town owned land had a review by the HUD Environmental Review Officer and they are leery of
630 any properties that they perceive to have environmental issues. The Town's development partner
631 is looking at another piece of property in North Londonderry and they are negotiating with the
632 buyers. The Town received 5-6 bids to replace the Library roof, ranging from \$42K – \$84K and
633 they should have a decision by the end of this month on the lowest responsible bidder.
634 Councilor Green asked how they used inferior products that we didn't approve and he stated he

635 would go after the installer. Town Manager said he would be willing to take legal questions in
636 non-public session, that subject could not be talked about in public.

637
638 **Board/Committee Appointments/Reappointments – Council Representative on Master**
639 **Plan Steering Committee** - Consensus was Councilor Green would be the Council
640 Representative.

641
642 Reed Clark suggested eliminating on the agenda that the meetings will adjourn by 10:00PM
643 since Council is unable to adhere to that time. Councilor Dolan said he observed another
644 Council had a pre-determined adjournment time and if it was going past that time the Board had
645 to vote to extend the meeting 15 minutes to a maximum of 2 extensions. If the board voted “no”
646 then the meeting ended and any further agenda items were postponed to the next meeting. He
647 said this could be part of the rules we would adopt.

648
649 **Councilor Farrell made a motion to adjourn at 10:45 P.M., second Councilor Green.**
650 **Council’s vote was 5-0-0.**

651
652 **Notes and Tapes by:** Margo Lapietro **Date:** 06/06/11
653
654 **Minutes Typed by:** Margo Lapietro **Date:** 06/09/11
655
656 **Approved;** Town Council **Date:** 06/ /11

