

LONDONDERRY TOWN COUNCIL MEETING MINUTES

1
2 **June 16, 2014**
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4 The Town Council meeting was held in the Moose Hill Council Chambers, Town Hall, 268B Mammoth Road, Londonderry,
5 NH.
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7 Present: Chairman Tom Dolan; Councilors Tom Freda, Jim Butler and John Farrell; Town Manager Kevin Smith; Executive
8 Assistant Kirby Wade; Absent; Vice Chairman Jim Butler
9

10 **CALL TO ORDER**

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12 Chairman Dolan opened the meeting with the Pledge of Allegiance. This was followed by a moment of silence for all those
13 who serve us here and abroad.
14

15 **PUBLIC COMMENT**

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17 Chairman Dolan stated that the agenda is potentially heavy. Chairman Dolan stated before the meeting gets started he wants to
18 reiterate the rules of engagement that the Council normally adhere to at the Council meetings. Questions and comments need
19 to be directed to the chair. There should be no side debates and if someone wants to speak to someone other than the Chair
20 they need to ask permission, and it is usually granted. As always the meetings are started off with Public Comment. Chairman
21 Dolan opened it up to the public on any topic they would like to bring forward to the Council.
22

23 Martin Srugis, 17 Wimbledon Drive, stated that he want a little clarification, in the Londonderry Times he read that the
24 Council is getting over a half a million dollars from the UPS Warehouse and it is going into a TIF account. Srugis stated that
25 he knows the bond was never voted on but he knows the TIF District was established. Srugis asked why is the one being
26 diverted there versus the General Fund. Chairman Dolan asked Councilor Farrell to answer the question as he is the leader of
27 strategic initiatives. Councilor Farrell stated that every April first it is assessed where the Town stands. Right now all they are
28 doing is moving around dirt and trying to figure out what the next steps are. They still have to go through the Planning Board
29 process so there is not going to be any money until next April 1st. Councilor Farrell stated that we need to wait to see what is
30 built and what will be assessed. What the Council is doing, because the Town has never had a TIF before and in trying to
31 understand it, is that we the Council is working through a series of discussions between developers and lawyers. Councilor
32 Farrell stated that there are a lot of discussions going on that are not open yet, of exactly how the Pettingile Road area is going
33 to build out. Councilor Farrell stated that the Council is taking things slowly and no one is paying any money right now. Srugis
34 stated that that was going to be his next questions, has anything been exchanged between the developer there and the Town.
35 Councilor Farrell stated that if you watch the Woodmont piece, there is a very complicated process around developer
36 agreements. Councilor Farrell stated that it would not surprise him if the same process was being followed. Councilor Farrell
37 stated that there should be little burden to the taxpayers. Councilor Farrell stated that the Council has not gone down the path
38 of what to do yet. Town Manager Smith stated that when the Council designated that area a TIF district, it automatically, any
39 revenues above and beyond what the Town was currently getting in that area would start going into a separate account, the TIF
40 account, because it was designated a TIF district. Town Manager Smith stated that the money from that account can only be
41 used for improvements to that area so long as the district stays up there. At any time the Council decides to dissolve that
42 district, any money that would be in that TIF account that are not used there, would all go back into the general fund. Srugis
43 stated that it was his understanding that if you designate a TIF district you have to float a bond and the bond pays for the
44 improvements in the district and then the base rate that you get the taxes on, anything above that would go to pay for the bond.
45 Srugis stated that he is curious as to why we created a TIF district that the Town can automatically start putting money into.
46 Chairman Dolan stated that the bond is one option that the taxpayers have. You can set aside money in the TIF district for
47 improvements in that district without going through a bond.
48

49 Chairman Dolan stated that he was going to take up Ordinance #2014-4 because there has been a special request Councilor

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50 Farrell would like to make. Councilor Farrell stated that since Councilor Butler can't be here and he will be leaving at eight
51 o'clock, Councilor Farrell stated that if the Council agrees, can the Ordinance be tabled to the next meeting? Councilor Green
52 and Freda mentioned that they were fine with that. Chairman Dolan stated that it will be tabled until the next meeting.

PUBLIC HEARING

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56 Councilor Green motioned to open Public Hearing and second by Councilor Farrell.
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58 Chairman Dolan stated that the three items in Public Hearing will be taken out of order. Chairman Dolan stated that Order
59 2014-12 will be addressed first. Chairman Dolan introduced the licensing of Murrays Junkyard run by Mr. Dudek. Chairman
60 Dolan asked Richard Canuel, Londonderry's Building Inspector, what the status is. Canuel stated as the Council is aware;
61 again it is a Public Hearing matter as it was last year regarding the merits of the license renewal for Mr. Dudek doing business.
62 Over the past year there have been a number of complaints and they have all been investigated by the Building Department.
63 Canuel stated that it has come down to three determining factors regarding non-compliance with conditions of the license. One
64 of them has to do with stacking the vehicles above the fence, which was a matter of contention at last year's hearing as well.
65 Canuel stated that the other has to do with the hours of operation. The third has to do with parking of equipment in the front
66 lot. Canuel stated on the first item has been addressed and resolved by Mr. Dudek as a result of an enforcement notice from the
67 Building Office, a notice of violation. Canuel stated that those vehicles are now below the line of the fence. Canuel stated that
68 Mr. Dudek is in compliance with that condition, presently. Item number two having to do with the hours of operation; Canuel
69 stated that there have been a number of complaints from the neighbors regarding deliveries of junk vehicles after the close of
70 business at 5 PM. Canuel stated that on occasion there have been complaints of early deliveries as well, prior to the open of
71 business at 8 AM. Canuel stated that it has been interpreted by the Town's legal Council that the delivery of Junk vehicles is in
72 operation of the junkyard and the established hours of operation being between 8 AM and 5 PM. They should not be delivered
73 after 5 PM. The third item has to do with the parking of equipment in the front parking lot. As part of the stipulation for decree
74 in 2000, there was distinct conditions stated in that stipulation on what can and cannot be done in the front lot. One of the
75 issues was the parking of equipment. There shall be no equipment parked in the front lot. That has also been interpreted by
76 legal Council that tow trucks, all the flatbed trucks that tow the junk vehicles, should not be parked there. Canuel stated that
77 his year end inspection of the junkyard as far as the junkyard itself, the overall operation and draining of fluids appeared to be
78 in compliance with the States 'Best Management Practices'. The internal operation of the junkyard, Mr. Dudek is following
79 the proper procedure. Canuel stated that however, during his inspection a week ago, he did notice that there were two flatbed
80 trucks parked in that front lot. Those issues have been brought to Mr. Dudek's attention this past year. Canuel stated that those
81 issues need to be addressed by the Council.

82
83 Chairman Dolan opened up question from the Council. Councilor Freda asked Canuel if he goes out there and sees trucks that
84 are not supposed to be in that front lot but he has knowledge from complaints of other incidents where there have been trucks
85 present there, when does he consider it a violation. Canuel stated that the issues with the hours of operation has not been
86 observed by his office at any time. Strictly based on complaints from the neighbors. Canuel stated that the parking of the
87 trucks in the yard, this is the first time during the recent inspection, he observed that they were actually parked there and sitting
88 there. Canuel stated over the past year it has been based on complaints from abutting property owners. Councilor Freda asked
89 Canuel what is needed to issue a notice of violation. Canuel stated that it would need to be observed by himself or someone
90 else from the building department. Canuel stated it really needs to be official.

91
92 Richard Bielinski, 89 Hall Rd, stated that he has been bringing up a number of these issues for years. Bielinski showed the
93 Council a few pictures he took that day of one of the flatbeds parked out front. Chairman Dolan stated that that issue was
94 addressed and taken care of. Bielinski passed around photos. Bielinski mentioned the lawsuit in the US District Court in
95 Concord about the permits for the Clean Water Act and the Water Discharge Act. Bielinski stated that his disappointment is
96 because it has been brought up for ten years now that some type of permit was needed there and the Town did nothing about it.
97 Bielinski stated that the actions that are in US District Court in Concord were initiated by the CLF (Conservation Law
98 Foundation). Bielinski stated that Court action is not a matter of whether the permits exist, they don't exist, it is to bring the
99 site into compliance with the Clean Water Act and Water Discharge Act. Bielinski stated that the Council has a copy of it.
100 Bielinski stated that he doesn't see how a license can be issued when he does not have all the proper permits required.
101 Councilor Freda asked Canuel how does he know if he doesn't have a permit. Bielinski stated that the lawsuit has already been

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102 checked with the US Government and Mr. Dudek himself stated in the newspaper that if he had known that he needed them he
103 would have applied for them. Bielinski stated that he wrote a letter to John Farrell when he was on the Zoning Board when
104 they were letting the new building go in, bringing this all up. Councilor Freda addressed Richard for the record and asked him
105 if he was speaking as an abutter or neighbor. Bielinski said no he was speaking as a resident of Londonderry. Bielinski stated
106 that he lives on Hall Road a half a mile up the road. Bielinski stated that on the hours of operation, the Town took Mr. Dudek
107 to Court about six years ago. Bielinski stated that Mr. Dudek signed a stipulation stating the hours are eight to five, but things
108 have been going on after five.

109
110 Gerard Adams, 54 Hall Rd, stated that he fully expects that the Council will give him his license tonight. Adams stated that
111 there have been a number of complaints over the last few years. Adams stated that last year Attorney Ramsdell mentioned
112 operating after five o'clock. Adams stated that the Council also asked the owner of the property if he would do a certain thing
113 and he didn't and the license was issued anyways.

114
115 Claudet Adams, 54 Hall Road, addressed a question to Councilor Freda. Chairman Dolan asked if she could address her
116 comments to the Chair. Adams stated that she can answer a question that Councilor Freda had before with regard to the court.
117 Adams stated that she thought she understood Councilor Freda to say the attorney mentioned in terms of the Court Order and
118 the expansion of the nonconforming use that it wasn't an expansion. Adams pointed out page 14 of the 1997 Court Order. [See
119 highlighted attached document]. Adams stated as Councilor Freda mentioned, the junkyard owner was required to move the
120 building to the original spot where it was located. Adams stated that it was not done. Adams stated that last year she requested
121 that the fence be replaced so that the trailer is not in front. It was supposed to be behind. Adams stated that she believes it
122 would be reasonable thing to ask that the fence be put back the way it was since he was not required to move the trailer to be
123 compliant with the Court Order, and the fence be put up in front of the trailer. Adams shared pictures with the Council.
124 Councilor Green stated that the Council has no jurisdiction to go against a Court Order. Councilor Freda stated the he agrees.
125 Adams asked if he was following best management practices. Chairman Dolan stated that he does appear to be following best
126 management practices. Canuel stated that he did view the yard and Mr. Dudek seems to be following the States recommended
127 best management practices as far as the handling of vehicle fluids and the storage of tires and batteries. Town Manager Smith
128 stated annually the Town receives a copy of the permit from DES for all of the junkyards in town. Canuel stated that it is not
129 from DES, it is a copy of the license that comes from the State Department of Motor Vehicles, to license junkyard dealer, and
130 the town does get a copy. Adams stated that she checked the DES website and there is a log or summary on May 14, 2014,
131 there is an entry that says site and inspection performed to oversee well installation and it stated that the site appears to lack
132 best management practices. Councilor Green stated that in 1972 there was a water act and it specifically states under national
133 pollution discharge elimination systems under that act that facility subject to federal storm water or fluent discharge standards
134 of 40CFR include junkyards, and under that law permits required before you can even renew a license you have to have this
135 permit. Councilor Green stated that is a problem. It is not just a lawsuit, it is a federal law.

136
137 Dana Coons, 2 Aspen Cr, stated that he is not an abutter; however he does drive by every day. Coons stated that looking over
138 his site and comparing it to some of the other sites in town; he finds it to be much more pleasing. He does not have cars and
139 trucks parked out front. Coons stated that he has seen trucks there making deliveries, but that is part of the business. Coons
140 stated that he has never seen any parked there over night. Coons stated that he has also not observed anyone there past eight or
141 nine o'clock but he has to understand that he is running a business and if he does own equipment picking up vehicles, if they
142 are running late because of traffic or weather. He said he does not see a problem with what Mr. Dudek does.

143
144 Attorney Pat Panciocco stated that she was asked by Mr. Dudek three or four days ago, to assist with the matter. Panciocco
145 stated that what she would like to request after hearing some of the testimony and concerns and observing that a lot of us are
146 not familiar with the history of the site. Panciocco requested for consideration that the board think about whether they would
147 be willing to extend Mr. Dudek's license for a limited period of sixty days, which would give her some time to get the facts
148 together. Panciocco stated that she understands that there is a court order but she also thinks that there have been some new
149 ideas that have been floated by her client, Mr. Dudek. Panciocco asked the Council for a sixty day extension.

150
151 Councilor Farrell stated that he has no problem with the sixty days. Councilor Freda stated that he would like to see what they
152 propose to do within the next sixty days, providing that they strictly comply with all the existing conditions right now.
153 Councilor Green stated that he has a problem with the sixty days. Councilor Green stated that the Council knew they were out
154 of compliance in November. It is hard to get compliance in two months. Chairman Dolan stated that the Council has been

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155 advised by Attorney Ramsdell that the parking of the vehicles/equipment is not something the Council has the authority to
156 negotiate. That is a Court Order. Chairman Dolan stated that going forward; the Council has asked the Town Official to
157 enforce that. Panciocco asked Chairman Dolan, from what she has heard, there have been a few different Court Orders
158 involved with this site. Panciocco stated that if she understands correctly, the term equipment originated with the Court.
159 Panciocco stated that it would be good to get a clearer definition of what the Court was referring to when they referred to
160 equipment. Chairman Dolan stated that if it has four wheels and it is used to run the business it is considered equipment, even
161 though it is road worthy.

162
163 Chairman Dolan asked what the Council if they wanted to take a vote on this matter or do it by consensus? Councilor Freda
164 stated that he is fine doing it by consensus. Councilor Green stated that he is not in favor. Councilor Farrell also stated that he
165 is fine with giving them until August 11th. Chairman Dolan stated ok, Mr. Dudek has until August 11th **by consensus**.

166
167 Councilor Farrell recused himself from the meeting. Chairman Dolan stated that there is still a quorum of three so the Council
168 can move on.

169
170 Councilor Green read in **Ordinance #2014-03**, an Amendment to the Municipal Code, Title 1, Chapter XXVII, Civil Marriage
171 Ceremonies. Councilor Green motioned to approve, second by Councilor Freda. There was no discussion from the public or
172 the Council. **Chair votes 3-0-0**.

173
174 Sue Hickey, Finance Manager and Doug Smith, Controller, presented RSA 31:95b, the appropriation for funds made available
175 during the year. Hickey stated that this is an annual Public Hearing under this RSA. Hickey stated that it is broken down by
176 department. It is to accept the miscellaneous grants and donations they have received and then donated equipment from
177 companies. Hickey stated that the total amount of unanticipated revenue's for this year is \$343,391.94. Councilor Freda asked
178 about the LGC refunds, does the town have to give any of that to employee's or is that the Town share. Hickey stated that it is
179 just the employers' share and the employee's share was already given back. Town Manager Smith asked if the monies
180 received from the Pennichuck Water purchase should be put on this. Hickey stated that both her and Doug Smith looked at that
181 based on some of the grant revenue that the Town budgeted for in comparison with that, so there were some question's they
182 had on that because there was some budgeted revenue grant lines that the Town didn't received grants for that went into that,
183 so the Town was not over on the grants, so it was put in there. Councilor Freda asked if the Fire and Police Department funds
184 go to the department or do they go to the General Fund. Hickey stated that they go to the General Fund and get listed under
185 Fire and Police Department grants. There were no further questions from the Council or the public.

186
187 Chairman Dolan announced that that concludes the Public Hearings. Motion to close Public Hearing made by Councilor Freda
188 and second by Councilor Green. **Chair votes 3-0-0**.

189 190 OLD BUSINESS

191
192 Chairman Dolan gave a brief update on the Musquash and the target shooting topic that has been brought up. Chairman Dolan
193 stated that he wanted to reassure the public that the Town Council is looking into this matter as to what policy, if any, the
194 Council should put in place to deal with this issue. Chairman Dolan stated that they have done research to see how the
195 surrounding towns have dealt with this issue. Chairman Dolan stated that the Town usually brings a new Ordinance to the
196 public, but this topic will be handled slightly differently. Chairman Dolan stated that once the summer vacation season ends,
197 there will first be a public workshop on the topic which will give the public an extended period of time to provide input and
198 advice to the Town Council as they consider what policy, if any, should be put in place. Chairman Dolan stated that the public
199 should look for the public workshop somewhere in the September time period.

200 201 NEW BUSINESS

202
203 Chairman Dolan introduced Order's #2014-13 and #2014-14, the licensing of a junkyard pursuant to RSA 236. Canuel stated

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204 that those are two remaining junkyards. The forth junkyard has not filed to renew their license for this year. Canuel stated that
205 the other two junkyards, S&S Metals and Londonderry Salvage in his year end inspection, he did not know any adverse
206 conditions that would affect renewal of a license. Both of the entities have filed their certificate statements of compliance with
207 the best management practices. Canuel stated that he recommends granting renewal of license for both.

208
209 Councilor Freda read in Order #2014-13. Motion to approve Order #2014-13 made by Councilor Freda and second by
210 Councilor Green. **Chair votes 3-0-0.**

211
212 Councilor Green read in Order #2014-14. Motion to approve Order #2014-14 for discussion made by Councilor Green and
213 second by Councilor Freda. Councilor Green stated that he would like to put a condition on this Order. A license to follow,
214 complied with requirements to RSA 236:111-129 and within that saying that they are in compliance with 123 and just to be
215 consistent with thoughts and reasoning earlier, it is not prudent for the Council not have that as a stipulation considering it
216 doesn't follow with regulation. Chairman Dolan suggested that from a code enforcement standpoint that at the point in time in
217 the year when the leaves have left the tree's, that the Council ask Richard Canuel to make a visit to the junkyard at that point
218 and make some evaluation of the screening and bring that evaluation back to the Council at this time next year for
219 consideration. Councilor Freda stated that he is in favor of treating all of the junkyards the same, including all of the
220 conditions. Hours of operation and fence. The Council discussed different options. **Chair votes 3-0-0.** Canuel stated that he
221 will make note to physically visit the property this winter and take a look at it.

222
223 Sue Hickey and Doug Smith handed the Council documents as required in the Town's Impact Fee Ordinance, every six
224 months, December and June the Finance department is to present an activity schedule and summery of impact fees for the
225 year. Hickey stated that since the impact fees are under suspension, there is not a whole lot to see except for additions, which
226 are interest, \$37.83 for the year. Hickey stated some deductions, which have been expired or any Court Order refunds that the
227 Town had to do, which was one. It gives you the ending balance for the period ended May 31st, 2014. Hickey went through the
228 packet with the Council. Hickey stated that there are a lot more impact fees due to expire in December. Councilor Freda asked
229 Hickey if she has been able to find everyone who is due to a refund. Hickey stated no. There are some people who are no
230 longer around, especially companies. Hickey stated that the Town gets the check back and holds onto it. What will end up
231 happening is the Town will put legal ads in the paper to see if anyone comes forward to claim it and then it will be turned over
232 to the State as abandoned property. Chairman Dolan asked if Hickey could give the Council some assurance that the oney
233 being refunded is one account and reserved for this purpose. Hickey stated that it is. Councilor Freda read in Order #2014-15,
234 an Order relative to impact fee refunds. Motion to approve Order #2014-15 made by Councilor Freda and second by Councilor
235 Green. **Chair votes 3-0-0.**

APPROVAL OF MINUTES

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238 Approval of the minutes from June 2, 2014 made by Councilor Green and second by Councilor Freda. **Chair votes 3-0-0.**

LIASON REPORTS

241
242 None

TOWN MANAGER REPORT

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246 Town Manager Smith recognized the Building Department who recently received their Certificate of Achievement from the
247 International Code Council for obtaining 100% staff certification and by doing so they are the first department in New
248 Hampshire to receive this status. Town Manager congratulated the Building Department. Chairman Dolan also complimented
249 Richard Canuel stating that he was very prepared for junkyard licensing and was very professional with the process. Canuel
250 thanked the Council.

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252 Town Manager Smith stated that the Town is preparing early for budget discussions for the FY16 budget. Looking for some
253 direction from the Council as to how they would like the budget prepared. Smith stated that last year the Town went in at
254 default and prepared the budget based on the default as a starting place. Unless the Council says otherwise, that would be
255 where it would be good to start FY16 budget as well. Councilor Green stated that it has always been a good starting place.
256 Chairman Dolan stated that the Town has that direction from the Council.

257

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APPOINTMENTS & REAPPOINTMENTS

259

260 Chairman Dolan introduced the Southern New Hampshire Planning Commission reappointments. Chairman Dolan introduced
261 the appointment of Art Rugg, Sharon Carson and Deb Lievens. Motion to appoint all three individuals to a four year term on
262 the Southern New Hampshire Planning Commission made by Councilor Green and second by Councilor Freda. **Chair votes 3-**
263 **0-0.**

264

265 CART (Cooperative Alliance for Regional Transportation) appointed Nancy Michaels and Art Rugg to serve on their Board of
266 Directors. Motion to approve Art Rugg and Nancy Michaels made by Councilor Green and second by Councilor Freda. **Chair**
267 **votes 3-0-0.**

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269

ADJOURNMENT

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Motion to adjourn made by Councilor Green and second by Councilor Freda. **Chair votes 3-0-0.**

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Notes and Tapes by: Kirby Wade

Date: 06/16/14

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Minutes Typed by: Kirby Wade

Date: 06/24/14

277

Approved by: Town Council

Date: 07/21/14

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Town of Londonderry
FY14 Grants and Donations

Fire Department

State of NH (FEMA Reimbursement) - \$55,808.16
Highway Safety (Rescue Tools) - \$44,969.15
LGC Wellness Grant - \$500

Police Department

LGC Wellness Grant - \$500
Highway Safety (Seatbelt Enforcement) - \$3,900
Department of Safety (Radio Equipment) - \$10,613.52

Finance Department

LGC Refunds - \$222,441.27

Donated Equipment:

Charles George Trucking donated monitors - \$1,200
Lund International donated car window shades - \$959.84
Factory Mutual smoke detectors - \$2,000
Granite Ridge Energy air monitoring supplies - \$500

Total Unanticipated Revenues -

\$ 343,391.94