

**TOWN COUNCIL AGENDA**  
**October 20, 2014**  
**7:00 P.M.**

The Town Council meeting will be held in the Moose Hill Council Chambers, Town Hall, 268B Mammoth Road, Londonderry, NH. Regular meetings are cablecast live and videotaped for the convenience of our viewers at home. 7:00 PM

**A. CALL TO ORDER**

**B. PUBLIC COMMENT**

1. Candidate for State Representative Doug Thomas
2. Melanson Heath – Presentation of FY 2014 Town of Londonderry CAFR  
**Presented by Frank Biron and Karen Snow**
3. Quarterly Financial Update  
**Presented by Sue Hickey and Doug Smith**
4. Update on Town Website Enhancements (Living in Londonderry, Economic Development, Outdoor Rec Guide)  
**Presented by Stu Arnett**

**C. PUBLIC HEARING**

1. **Resolution #2014-02** – Discontinuance of Highway (Portion of Reed Street)
2. **Resolution #2014-03** – Discontinuance of Highway (Golen Drive)
3. **Resolution #2014-04** – Discontinuance of a Portion of Class VI Highway (Pettengill Road from Industrial Drive to the Easterly Side of Map 28 Lot 17-2 and Map 14 Lot 49)
4. **Ordinance #2006-08 (A)** – AN Amendment to the Municipal Code, Title I, Chapter XXIII, Relating to Approval of Sanctioned Recreation Groups.

**D. OLD BUSINESS**

1. **Target Shooting in Musquash** – Town Council Discussion on Next Steps

**E. NEW BUSINESS**

1. **Order #2014-23** – Expenditure of Maintenance Trust Fund for Various Projects.  
**Presented by Kevin Smith**

**F. APPROVAL OF MINUTES**

Approval of October 6, 2014 Town Council Minutes

**G. OTHER BUSINESS**

1. Liaison Reports
2. Town Manager Report
3. Board/Committee Appointments/Reappointment
  1. Appointment of Noreen Villalona to the Heritage Commission as an Alternate Member
  2. Resignation of Mike Boyle from the Recreation Commission

**H. ADJOURNMENT**

**I. MEETING SCHEDULE**

1. Town Council Meeting – **11/03/14** Moose Hill Council Chambers, 7:00PM
2. Town Council Meeting – **11/17/14** Moose Hill Council Chambers, 7:00PM
3. Town Council Meeting – **12/01/14** Moose Hill Council Chambers, 7:00PM
4. Town Council Meeting – **12/15/14** Moose Hill Council Chambers, 7:00PM



## LEGAL NOTICE

The Londonderry Town Council will hold PUBLIC HEARINGS on the following items:

- 1.) Resolution #2014-02 – Discontinuance of Highway (Portion of Reed Street)
- 2.) Resolution #2014-03 – Discontinuance of Highway (Golen Drive)

The Public Hearings are scheduled for Monday, October 20, 2014 at 7:00 PM at the Londonderry Town Hall, 268B Mammoth Road, Londonderry, NH 03053. Copies of the proposed amendments may be viewed at the Town Manager's office during regular business hours and online at [www.londonderrynh.org](http://www.londonderrynh.org).

Londonderry Town Council

## RESOLUTION 2014-02

A Resolution Relative to the

### ***DISCONTINUANCE OF HIGHWAY (Portion of Reed Street)***

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First Reading: 09/08/14  
Second Reading/Public Hearing: 10/20/14  
Adopted: 10/20/14

**WHEREAS** the Town Council, in accordance with RSA 231:43 has received a petition to completely discontinue and relinquish all public interest in the westerly portion of a Class V highway known as Reed Street for approximately 340 feet from the intersection with Golen Drive, convey by deed without covenants, whatever interest the Town may have in that portion of Reed Street to the abutters, with each abutter being given that portion of Reed Street abutting their property to the center-line of Reed Street; and

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

**WHEREAS** the discontinuance of the westerly portion of Reed Street would enable the beneficial development of the adjacent parcels,

**NOW THEREFORE BE IT RESOLVED** by the Londonderry Town Council that the discontinuance of the westerly portion of Reed Street as shown on the plan entitled "Reed Street and Golen Drive Discontinuance Plan (Tax Map 7, Lots 132-1, 132-2, 132-8, 132-9, 132-10, 132-11, 132-12, 132-13, 132-14, 132-15, 132-16, 132-17, 132-18, 132-19 & 132-10) Button Drive, Londonderry, New Hampshire, prepared by Bedford Design Consultants, Inc., dated July 22, 2014, with the last revised plan dated \_\_\_\_\_ to be recorded with the Rockingham County Registry of Deeds as Plan Number \_\_\_\_\_, that the discontinuance is hereby approved subject to the condition that Team Business Development Corporation shall indemnify and hold harmless the Town of Londonderry from any claims arising from the Town Council's decision to discontinue said portion of Reed Street, with said discontinuance to be conditioned upon the Planning Board's approval of the plan entitled "Lot Consolidation and Lot Line Adjustment Plan for The Grand Estate at Londonderry", prepared by Bedford Design Consultants, Inc., dated July 22, 2014, with the last revised plan dated \_\_\_\_\_ to be recorded with the Rockingham County Registry of Deeds as Plan Number \_\_\_\_\_.

Tom Dolan, Chairman  
Town Council

(Town Seal)

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Sherry Farrell  
Town Clerk/Tax Collector

**A TRUE COPY ATTEST:**  
**Adopted 10/20/2014**

PETITION TO FULLY DISCONTINUE PORTION OF REED STREET

Team Business Development Corporation (“Petitioner”) submits this Petition and states there is a public benefit associated with the full discontinuance of the westerly PORTION OF REED STREET located in the Town of Londonderry, Rockingham County, New Hampshire as it is shown on the attached Exhibit A.

RECITALS

1. Reed Street was originally laid out by a plan entitled: “*SUBDIVISION PLAN OF COMMERCIAL LOTS IN LONDONDERRY, N.H. AS DRAWN FOR ALICE GOLEN*” Scale 1”-60’ dated February 1971 and recorded in the Rockingham County Registry of Deeds as Plan #D-2353.
2. Reed Street also appears on a second plan entitled “*BOUNDARY PLAN, TAX MAP 7 TAX LOTS 132-1 TO 132-20 (INCLUSIVE) ROUTE 102 LONDONDERRY, NH*” Scale: 1” = 100’ Sheet 1 of 1 dated June 30, 1988 prepared for John DiPalma. The stated purpose of this plan was to re-establish the outer boundary of the parcels shown on Plan #D-2353 for conveyance purposes. This plan was recorded as Plan #D-18299 in said Registry.
3. Reed Street was laid out by Plan #D-2353 and built and is therefore considered to be a Class V public highway.
4. The Petitioner owns all the lots with frontage along the length of Reed Street this Petition proposes the Town Council discontinue.
5. Owners of lots fronting along the easterly end of Reed Street which will remain a Class V road but end in a cul de sac will continue to access other public ways via Mohawk Drive.
6. The Petitioner has entered purchase agreements to sell the lots it owns to two (2) different entities which plan to construct a privately maintained common driveway as the primary access to those lots from Meadow Drive. Any future use of the remaining east end of Reed Street will be for emergency purposes only.

AUTHORITY

7. RSA 231:45-a authorizes the legislative body to vote to approve the discontinuance of a public highway.
8. Pursuant to RSA 49-B, the Town of Londonderry (“Town”) adopted the Town Council/Town Manager form of government set out in RSA 49-D on March 12, 1996.
9. As required by RSA 49-D:2(II)(a) the Town’s Charter states the Town Council shall serve as the legislative and governing body of the Town. See also, RSA 49-D:3(I).

10. Section 3.12 of the Town's Charter delegates all the powers conferred upon town councils and town meetings to the Londonderry Town Council.

#### ANALYSIS FOR DISCONTINUANCE

11. Occasion for a public road layout exists if "*the public interest requires the town's acceptance of the roads*". Green Crow Corporation v. Town of New Ipswich, 157 N.H. 344, 350 (2008). The "*public interest*" has been interpreted as a public benefit warranting the expenditure of tax dollars. Opinion of the Justices, 88 N.H. 484 (1937).
12. The public interest is no longer served by maintaining, repairing and plowing the section of Reed Street shown on Exhibit A.
13. No abutting property owner will be deprived of access to a public way by the Town Council discontinuing the westerly end of Reed Street.
14. There is no public benefit associated with the Town of Londonderry maintaining, repairing or plowing the westerly end of Reed Street shown on Exhibit A.
15. The Petitioner hereby requests the Town Council fully discontinue that portion of Reed Street and allow its underlying fee interest to revert to the abutting lots and be returned to the Town's tax rolls.
16. As provided by RSA 231:43(II) copies of this Petition have been forwarded by certified mail, return receipt requested to the following persons whose properties abut the portion of Reed Street shown on Exhibit A.

Tax Map 7, Lot 132C-58A  
Megan R. Currie  
7A Karen Lane  
Londonderry, NH 03053

Tax Map 7, Lot 132C-58B  
Robert K. Jamer, Jr.  
7B Karen Lane  
Londonderry, NH 03053

Tax Map 7, Lot 132-19; Lot 132-14; Lot 132-20  
Team Business Develop Corp.  
Attn: Charles Kulch, President  
491 Amherst Street  
Nashua, NH 03063

Tax Map 7, Lot 132C-56A  
Lawrence J. and Elaine F. Parker, Trustees  
Parker Family Revocable Trust  
4A Reed Street  
Londonderry, NH 03053

Tax Map 7, Lot 132C-56B  
Daniel W. and Joan B. Clark  
4 B Reed Street  
Londonderry, NH 03053

Tax Map 7, Lot 132C-55A  
Denise Maioux  
5A Reed Street  
Londonderry, NH 03053

Tax Map 7, Lot 132C-57  
Theodore J. III and Pamela Nusbaum, Trustees  
Nusbaum Family Revocable Trust  
12A Jefferson Drive  
Londonderry, NH 03053

Tax Map 7, Lot 132C-54A  
David, Peter and Christine Masciarelli  
7A Reed Street  
Londonderry, NH 03053

Tax Map 7, Lot 132C-54B  
Stephen and Deborah Quinlan  
7B Reed Street  
Londonderry, NH 03053

Tax Map 7, Lot 132C-55B  
Jeffrey and Kristy Leach  
5B Reed Street  
Londonderry, NH 03053

Calamar Construction Corporation  
c/o Patricia M. Panciocco, Esquire  
Baroff Professional Association  
10 Commerce Park North, Suite 13B  
Bedford, New Hampshire 03110

Respectfully submitted,

TEAM BUSINESS DEVELOPMENT CORPORATION

By: \_\_\_\_\_  
Charles Kulch, President

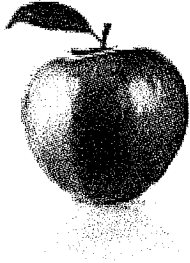
STATE OF NEW HAMPSHIRE  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of  
August \_\_, 2014 by Charles Kulch as President of and on behalf of the Company.

\_\_\_\_\_  
Notary Public/Justice of the Peace  
Printed Name:  
My Commission Expires:







# Town of Londonderry

## Planning & Economic Development Department

268B Mammoth Road  
Londonderry, New Hampshire 03053  
Phone (603) 432-1100 x134  
[www.londonderrynh.org](http://www.londonderrynh.org)



## **NOTICE OF DECISION**

The Londonderry Planning Board held a meeting on Wednesday, October 1, 2014 to consider the following:

Team Business Development Corporation (Owner) and **Calamar Builders (Applicant)**, Tax Map 7 Lots 132-8, 9 and 13 through 20 – Application Acceptance and Public Hearing for formal review of a **lot consolidation and roadway lot line adjustment plan** to consolidate Lots 132-8, 9 and 13 through 20, to discontinue Golen Drive, and to terminate Reed Street in a cul de sac within the consolidated area, creating a new lot of 12.725 acres. Street addresses for the aforementioned lots are 5 Button Drive; 4, 6, 7, 8, 9, 11 and 12 Golen Drive; and 1 & 3 Reed Street, Zoned C-I in the Route 102 Performance Overlay District.

### **The Planning Board granted the following waivers to the Subdivision Plan Regulations:**

1. A waiver to Sections 3.02 and 4.12.c.4 requiring the plan indicate and label all monuments. Monumentation for the proposed common lot line will be created down the centerline of Golen Drive, which will become the private common driveway for both sites in the future, and be shown as off-set from the property line and on the abutting lot along the westerly portion of the site. It is not feasible to locate boundary monuments within the pavement of Golen Drive, and it would be appropriate to place them on the side as requested.

**The Planning Board granted final approval to the to the Lot Consolidation and Roadway Lot Line Adjustment Plan for Calamar Builders (Applicant), Map 7 Lots 132-8, 9 and 13 through 20, to consolidate Lots 132-8, 9 and 13 through 20, to discontinue Golen Drive, and to terminate Reed Street in a cul de sac within the consolidated area, creating a new lot of 12.725 acres, in accordance with the plans prepared by Bedford Design Consultants, Inc., dated July 22, 2014, and last revised September 9, 2014, with the precedent conditions to be fulfilled within two (2) years of the approval and prior to plan signature, and the general and subsequent conditions of approval to be fulfilled as noted in the Staff memo, dated October 1, 2014.**

"Applicant", herein, refers to the property owner, business owner, or organization submitting this application and to his/its agents, successors, and assigns.

### **PRECEDENT CONDITIONS**

All of the precedent conditions below must be met by the applicant, at the expense of the applicant, prior to certification of the plans by the Planning Board. Certification of the plans is required prior to commencement of any site work, any construction on the site or issuance of a building permit.

1. The Applicant shall address all appropriate items from the Planning & Economic Development/Public Works & Engineering/Stantec review memos dated October 1, 2014 (see attached).
2. The Applicant shall provide the Owner's signature on the plans.
3. The Applicant shall note the waiver granted on the plan.
4. The Reed Street and Golen Drive Street Discontinuances shall be approved by the Town Council prior to plan signature.
5. Team Business Development Corp. c/o Kulch Financial Services Inc. shall execute a Notice of Lot Merger to consolidate at least Tax Map 7 Lots 132-10, 132-11, and 132-12 and submit that document to the Town prior to plan signature.
6. The Applicant shall provide copies of easements, deeds, protective covenants and any other legal documents.
7. The Applicant shall provide a digital (electronic) copy of the complete final plan to the Town prior to plan signature by the Board in accordance with Section 2.05.n of the regulations.
8. The Applicant shall provide a check for \$25 (made payable to the *Rockingham County Registry of Deeds*) to pay for the LCHIP tax that became effective on recording of all plans and documents at the registry on July 1, 2008.
9. The applicant shall note all general and subsequent conditions on the plans (***must be on a sheet to be recorded, or a separate document to be recorded with the lot consolidation plans***), per the new requirements of RSA 676:3.
10. Outside consultant's fees shall be paid within 30 days of conditional site plan approval.
11. Financial guaranty if necessary.
12. Final engineering review.

**PLEASE NOTE** - If these conditions are not met within two (2) years to the day of the meeting at which the Planning Board grants approval, the board's approval will be considered to have lapsed and re-submission of the application will be required. See RSA 674:39 on vesting.

**GENERAL AND SUBSEQUENT CONDITIONS**

All of the conditions below are attached to this approval.

1. **No construction or site work for the subdivision is proposed, and therefore none may occur without prior approval by the Planning Board.**
2. All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this notice herein shall generally be determining.
3. It is the responsibility of the applicant to obtain all other local, state, and federal permits, licenses, and approvals which may be required as part of this project (that were not received prior to certification of the plans). Contact the Building Division at extension 115 regarding building permits.

When submitting plans for signature, four (4) paper copies and one complete set of mylars are required.

This notice is given pursuant to RSA 676:3.

**Londonderry Planning Board**

- Master Plan Implementation Committee

A. Rugg noted that the next meeting of this Committee will take place on October 22, 2014.

#### **Public Hearings/Workshops/Conceptual Discussions**

- A. Public Hearing to amend the Conditions of Approval for the Wallace Farm, LLC (Owner and Applicant), Site Plan, Tax Map 16 Lots 1 and 3; 48 and 62 Perkins Road, Zoned AR-I [Conditionally Approved June 11, 2014].

The Board voted earlier in the evening to continue this public hearing to the November 5, 2014 meeting at the applicant's request. A. Rugg noted that the vote would be the only public notice of the continuance.

- B. Team Business Development Corporation (Owner) and Calamar Builders (Applicant), Tax Map 7 Lots 132-8, 9 and 13 through 20 – Application Acceptance and Public Hearing for formal review of a lot consolidation and roadway lot line adjustment plan to consolidate Lots 132-8, 9 and 13 through 20, to discontinue Golen Drive, and to terminate Reed Street in a cul de sac within the consolidated area, creating a new lot of 12.725 acres. Street addresses for the aforementioned lots are 5 Button Drive; 4, 6, 7, 8, 9, 11 and 12 Golen Drive; and 1 & 3 Reed Street, Zoned C-I in the Route 102 Performance Overlay District.

J. R. Trottier stated there were no checklist items and that Staff recommends the application be accepted as complete.

**M. Soares made a motion to accept the application as complete per Staff's Recommendation memo dated October 1, 2014. L. Wiles seconded the motion. No discussion. Vote on the motion: 8-0-0.**

A. Rugg noted that the 65 day time frame for the Board to render a decision under RSA 676:4 commenced with acceptance of the application as complete.

George Chadwick of Bedford Design Consultants was joined by applicant Christopher Trevisani of Calamar Builders to present this proposal that will consolidate Lots 132-8, 9 and 13 through 20, after which a portion of Golen Drive will be discontinued and Reed Street will be terminated in a cul de sac built to Town standards on the eastern edge of the property (see Attachment #3). A 110-unit elderly housing (55+) development is proposed for the resulting 12.725 acre parcel (see next agenda item). Following its discontinuance, the approximate first half of Golen stemming from Button Drive will become a private driveway and will be shared with a separate development to occur on Lots 132-1, 2, 10, 11 and 12 to the west. The discontinuances are the jurisdiction of the Town Council and G. Chadwick said the first reading of the two orders has already taken place and will be followed by the second reading/public hearing to occur in the near future. A proposed utility easement will extend sewer service to the elderly housing development from the northeasterly abutting Woodland Condominium development and there are plans to bring both public water and natural gas to the property as well via the new lot's frontage on Button Drive. C. May noted later on that a

1 precedent condition for plan approval will be the merger of lots 132-10, 11,  
2 and 12 on the opposite side of Golen so that they will not lose their frontage  
3 and be considered unbuildable once Golen is discontinued as a Class V road.  
4 Being in common ownership, it will be a relatively simple voluntary merger  
5 with the resulting single lot having frontage on Button Drive.  
6

7 A. Rugg asked for Staff input.

8  
9 J. R. Trottier read into the record the waiver request from the Staff  
10 Recommendation memo:

11  
12 1. Sections 3.02 and 4.12.c.4 requiring the plan indicate and label all  
13 monuments. The applicant is requesting that the monumentation for the  
14 proposed common lot line to be created down the centerline of Golen  
15 Drive, which will become the private common driveway for both sites in  
16 the future, be shown as off-set from the property line and on the  
17 abutting lot along the westerly portion of the site. Staff recommends  
18 **granting** the waiver because it's not feasible to locate boundary  
19 monuments within the pavement of Golen Drive, and it would be  
20 appropriate to place them on the side as requested.  
21

22 J. R. Trottier also summarized the engineering review letter (see Attachment  
23 #4).  
24

25 A. Rugg asked for comments and questions from the Board.

26  
27 C. Davies confirmed that the cul de sac to be added to Reed Street will  
28 conform to Town standards. There were no additional questions from the  
29 Board.  
30

31 A. Rugg asked for public input. There was none.  
32

33 **M. Soares made a motion to approve the applicant's request for the**  
34 **waiver previously noted as outlined in Staff's Recommendation Memo**  
35 **dated October 1, 2014. L. Wiles seconded the motion. No discussion.**  
36 **Vote on the motion: 8-0-0.**  
37

38 **M. Soares made a motion to grant final approval to the Lot**  
39 **Consolidation and Roadway Lot Line Adjustment Plan for Calamar**  
40 **Builders (Applicant), Map 7 Lots 132-8, 9 and 13 through 20, to**  
41 **consolidate Lots 132-8, 9 and 13 through 20, to discontinue Golen**  
42 **Drive, and to terminate Reed Street in a cul de sac within the**  
43 **consolidated area, creating a new lot of 12.725 acres, in accordance**  
44 **with the plans prepared by Bedford Design Consultants, Inc., dated**  
45 **July 22, 2014, and last revised September 9, 2014, with the precedent**  
46 **conditions to be fulfilled within two (2) years of the approval and prior**  
47 **to plan signature, and the general and subsequent conditions of**  
48 **approval to be fulfilled as noted in the Staff memo, dated October 1,**  
49 **2014. L. Wiles seconded the motion. No discussion. Vote on the**  
50 **motion: 8-0-0.**  
51

## RESOLUTION 2014-03

A Resolution Relative to the

### **DISCONTINUANCE OF HIGHWAY (Golen Drive)**

---

First Reading: 09/08/14

Second Reading/Public Hearing: 10/20/14

Adopted: 10/20/14

**WHEREAS** the Town Council, in accordance with RSA 231:43 has received a petition to completely discontinue and relinquish all public interest in a Class V highway known as Golen Drive from the intersection with Button Drive to the end, convey by deed without covenants, whatever interest the Town may have in Golen Drive to the abutters, with each abutter being given that portion of Golen Drive abutting their property to the center-line of Golen Drive; and

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

**WHEREAS** the discontinuance of Golen Drive would enable the beneficial development of the adjacent parcels,

**NOW THEREFORE BE IT RESOLVED** by the Londonderry Town Council that the discontinuance of Golen Drive as shown on the plan entitled "Reed Street and Golen Drive Discontinuance Plan (Tax Map 7, Lots 132-1, 132-2, 132-8, 132-9, 132-10, 132-11, 132-12, 132-13, 132-14, 132-15, 132-16, 132-17, 132-18, 132-19 & 132-10) Button Drive, Londonderry, New Hampshire, prepared by Bedford Design Consultants, Inc., dated July 22, 2014, with the last revised plan dated \_\_\_\_\_ to be recorded with the Rockingham County Registry of Deeds as Plan Number \_\_\_\_\_, that the discontinuance is hereby approved subject to the condition that Team Business Development Corporation shall indemnify and hold harmless the Town of Londonderry from any claims arising from the Town Council's decision to discontinue said portion of Reed Street, with said discontinuance to be conditioned upon the Planning Board's approval of the plan entitled "Lot Consolidation and Lot Line Adjustment Plan for The Grand Estate at Londonderry", prepared by Bedford Design Consultants, Inc., dated July 22, 2014, with the last revised plan dated \_\_\_\_\_ to be recorded with the Rockingham County Registry of Deeds as Plan Number \_\_\_\_\_.

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Tom Dolan, Chairman  
Town Council

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Sherry Farrell  
Town Clerk/Tax Collector

(Town Seal)

**A TRUE COPY ATTEST:**  
**Adopted 10/20/2014**

## PETITION TO FULLY DISCONTINUE PORTION OF GOLEN DRIVE

Team Business Development Corporation (“Petitioner”) submits this Petition and states there is a public benefit associated with the full discontinuance of GOLEN DRIVE located in the Town of Londonderry, Rockingham County, New Hampshire as it is shown on the attached Exhibit A.

### RECITALS

1. Golen Drive was originally laid out by a plan entitled: “*SUBDIVISION PLAN OF COMMERCIAL LOTS IN LONDONDERRY, N.H. AS DRAWN FOR ALICE GOLEN*” Scale 1”-60’ dated February 1971 and recorded in the Rockingham County Registry of Deeds as Plan #D-2353.
2. Golen Drive also appears on a second plan entitled “*BOUNDARY PLAN, TAX MAP 7 TAX LOTS 132-1 TO 132-20 (INCLUSIVE) ROUTE 102 LONDONDERRY, NH*” Scale: 1” = 100’ Sheet 1 of 1 dated June 30, 1988 prepared for John DiPalma. The stated purpose of this plan was to re-establish the outer boundary of the parcels shown on Plan #D-2353 for conveyance purposes. This plan was recorded as Plan #D-18299 in said Registry.
3. Golen Drive was laid out by Plan #D-2353 and built and is therefore considered to be a Class V public highway.
4. With the express exception of Tax Map 7, Lot 129, the Petitioner owns all the lots with frontage along Golen Drive this Petition proposes the Town Council discontinue.
5. The Petitioner has entered purchase agreements to sell the lots it owns to two (2) different entities which plan to construct a privately maintained common driveway as the primary access to those lots from Meadow Drive.

### AUTHORITY

6. RSA 231:45-a authorizes the legislative body to vote to approve the discontinuance of a public highway.
7. Pursuant to RSA 49-B, the Town of Londonderry (“Town”) adopted the Town Council/Town Manager form of government set out in RSA 49-D on March 12, 1996.
8. As required by RSA 49-D:2(II)(a) the Town’s Charter states the Town Council shall serve as the legislative and governing body of the Town. See also, RSA 49-D:3(I).
9. Section 3.12 of the Town’s Charter delegates all the powers conferred upon town councils and town meetings to the Londonderry Town Council.



ANALYSIS FOR DISCONTINUANCE

10. Occasion for a public road layout exists if “*the public interest requires the town’s acceptance of the roads*”. Green Crow Corporation v. Town of New Ipswich, 157 N.H. 344, 350 (2008). The “*public interest*” has been interpreted as a public benefit warranting the expenditure of tax dollars. Opinion of the Justices, 88 N.H. 484 (1937).
11. The public interest is no longer served by maintaining, repairing and plowing Golen Drive shown on Exhibit A.
12. No abutting property owner will be deprived of access to a public way by the Town Council discontinuing Golen Drive.
13. There is no public benefit associated with the Town of Londonderry maintaining, repairing or plowing Golen Drive.
14. The Petitioner hereby requests the Town Council fully discontinue Golen Drive and allow its underlying fee interest to revert to the abutting lots and be returned to the Town’s tax rolls.
15. As provided by RSA 231:43(II) copies of this Petition have been forwarded by certified mail, return receipt requested to the following persons whose properties abut Golen Drive.

Tax Map 7, Lot 129  
Cathay Realty Corporation & Chin, et al  
361 Paquette Avenue  
Manchester, NH 03104

Tax Map 7, Lot 132-8 through Lot 132-19, inclusive  
Team Business Develop Corp.  
Attn: Charles Kulch, President  
491 Amherst Street  
Nashua, NH 03063

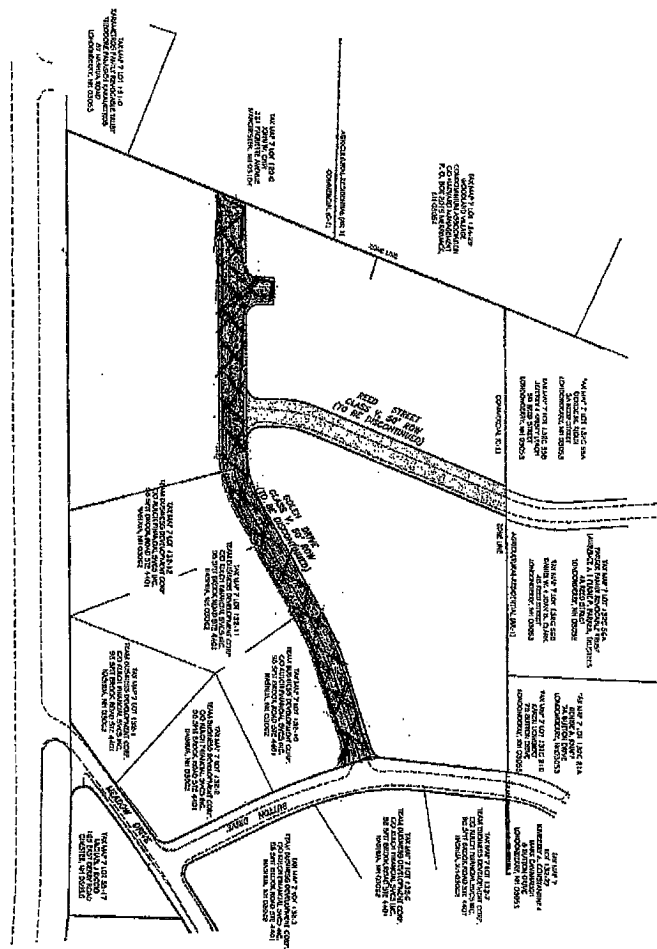
Calamar Construction Corporation  
c/o Patricia M. Panciocco, Esquire  
Baroff Professional Association  
10 Commerce Park North, Suite 13B  
Bedford, New Hampshire 03110

Respectfully submitted,

TEAM BUSINESS DEVELOPMENT CORPORATION

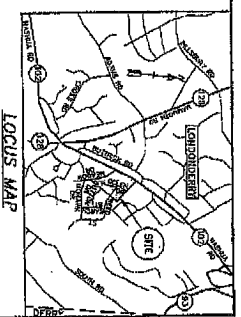
By: \_\_\_\_\_  
Charles Kulch, President

# EXHIBIT A

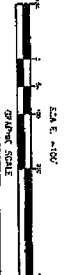


**NOTES**

1. THE CHARACTER OF THE TRACT IS TO BE DETERMINED BY THE ZONING MAP AND THE ZONING ORDINANCE OF THE TOWN OF LONDONDERY, NEW HAMPSHIRE.
2. THE LOTS SHOWN ON THIS MAP ARE SUBJECT TO ALL EASEMENTS, ENCUMBRANCES, AND OTHER INTERESTS WHICH MAY AFFECT SAID LOTS.
3. THE LOTS SHOWN ON THIS MAP ARE SUBJECT TO ALL EASEMENTS, ENCUMBRANCES, AND OTHER INTERESTS WHICH MAY AFFECT SAID LOTS.
4. THE LOTS SHOWN ON THIS MAP ARE SUBJECT TO ALL EASEMENTS, ENCUMBRANCES, AND OTHER INTERESTS WHICH MAY AFFECT SAID LOTS.



NO.	DATE	DESCRIPTION



**THE GRAND ESTATE AT LONDONDERY**  
**REED STREET & GOLDEN DRIVE**  
**DISCONTINUANCE PLAN**  
 BUTON DRIVE  
 LONDONDERY, NEW HAMPSHIRE

PREPARED FOR/APPLICANT  
 COLLEEN ANDREW  
 3464 RIVER ROAD  
 WINDYHILL, NH 03093

OWNER  
 STEVE RICHMOND/OWNER  
 675 RIVER PARKWAY, SUITE 400  
 WINDYHILL, NH 03093

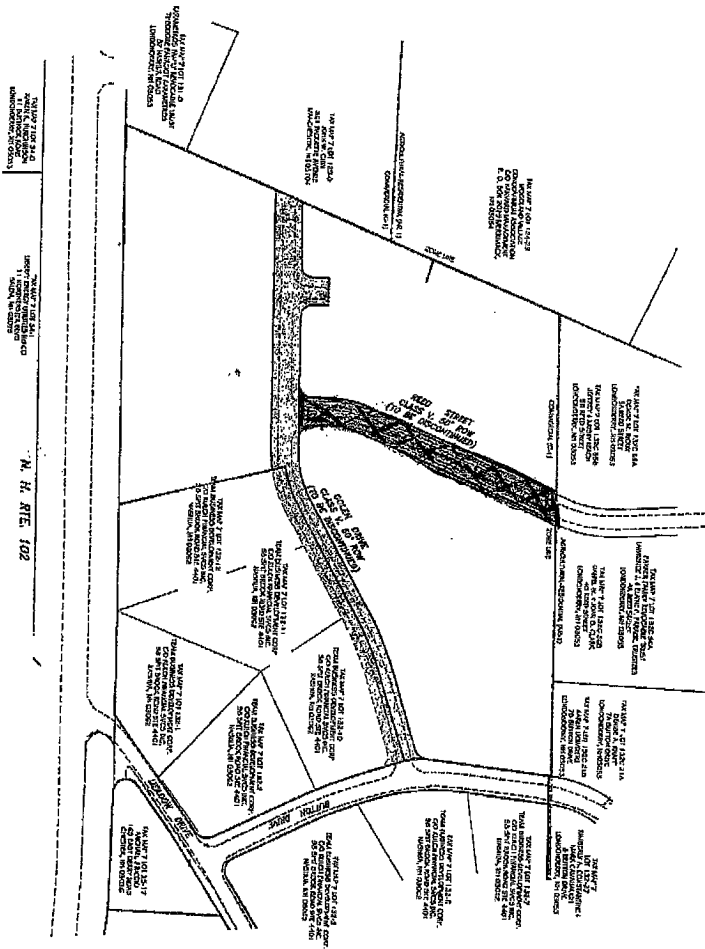
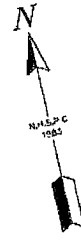
SCALE 1"=400'

DATE: 12/10/11

SHEET 1 OF 1

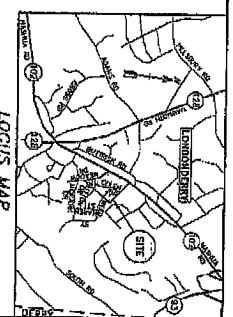
**Bedford Design Consultants**  
 571 Main Street, Suite 100  
 Windy Hill, NH 03093  
 Tel: 603.888.1111

# EXHIBIT A

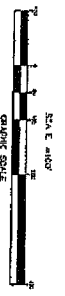


## NOTES

1. THIS MAP IS FOR THE PURPOSE OF SHOWING THE PROPOSED LOTS AND EASEMENTS AND IS NOT TO BE USED AS A BASIS FOR THE DETERMINATION OF THE RIGHTS OF THE SEVERAL PARTIES TO THE SAME.
2. THE MAP IS NOT TO BE USED AS A BASIS FOR THE DETERMINATION OF THE RIGHTS OF THE SEVERAL PARTIES TO THE SAME.
3. THE MAP IS NOT TO BE USED AS A BASIS FOR THE DETERMINATION OF THE RIGHTS OF THE SEVERAL PARTIES TO THE SAME.
4. THE MAP IS NOT TO BE USED AS A BASIS FOR THE DETERMINATION OF THE RIGHTS OF THE SEVERAL PARTIES TO THE SAME.



NO.	DATE	DESCRIPTION



**THE GRAND ESTATE AT LONDONDERY**  
**REED STREET & GOLEN DRIVE**  
**DISCONTINUANCE PLAN**  
 LOCATED AT  
**BUTTON DRIVE**  
**LONDONDERY, NEW HAMPSHIRE**

PREPARED FOR: **BARBARA L. LINDEN**  
 3849 COLLIER BLVD.  
 WESTFIELD, MASSACHUSETTS 01095

OWNER:  
**THE BUSINESS ANTIQUARIAN SOCIETY**  
 20 SOUTH MAIN ST.  
 MIDDLEBURY, VERMONT 05750

DATE: JULY 22, 2014

SCALE: 1"=100'

SHEET 1 OF 1

CALL STATE 301-341

**Bedford Design Consultants**  
 411 HUNTERS GREEN RD.  
 BEDFORD, MASSACHUSETTS 01730  
 TEL: 978-875-1111 FAX: 978-875-1112  
 WWW.BEDFORDDESIGNCONSULTANTS.COM



## **LEGAL NOTICE**

The Londonderry Town Council will hold a PUBLIC HEARING on the following item:

- 1.) Resolution #2014-04 – Discontinuance of a Portion of Class VI Highway (Pettengill Road from approximately the intersection with Industrial Drive to the Easterly Side of Map 28 Lot 17-2 and Map 14 Lot 49)

The Public Hearing is scheduled for Monday, October 20, 2014 at 7:00 PM at the Londonderry Town Hall, 268B Mammoth Road, Londonderry, NH 03053. Copies of the proposed resolution may be viewed at the Town Manager's office during regular business hours and online at [www.londonderrynh.org](http://www.londonderrynh.org).

Londonderry Town Council

## RESOLUTION 2014-04

A Resolution Relative to the

***DISCONTINUANCE OF HIGHWAY  
(Portion of Class VI Pettengill Road from  
Industrial Drive to the Easterly Edge of Map 28  
Lot 17-2 & Map 14 Lot 49)***

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First Reading: 09/22/14

Second Reading/Public Hearing: 10/20/14

Adopted: 10/20/14

***WHEREAS*** the Town Council, in accordance with RSA 231:43 seeks to completely discontinue and relinquish all public interest in the portion of a Class VI highway known as Pettengill Road for approximately 2,300 feet from the approximate intersection with Industrial Drive to the west, convey by deed without covenants, whatever interest the Town may have in that portion of Class VI Pettengill Road from Industrial Drive to the easterly edge of Map 28 Lot 17-2 and Map 14 Lot 49 to the abutters, with each abutter being given that portion of Pettengill Road abutting their property to the center-line of Pettengill Road; and

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

***WHEREAS*** the discontinuance of that portion of Class VI Pettengill Road from Industrial Drive to the easterly edge of Map 28 Lot 17-2 and Map 14 Lot 49 would enable the beneficial industrial development of the adjacent parcels,

***NOW THEREFORE BE IT RESOLVED*** by the Londonderry Town Council that the discontinuance of that portion of Class VI Pettengill Road from approximately the intersection with Industrial Drive to the easterly edge of Map 28 Lot 17-2 and Map 14 Lot 49 as shown on the Town of Londonderry Tax Maps 14 and 28 (Tax Map 14 Lot 45-2 and Map 28 Lots 17, 17-4 & 18-3) that the discontinuance is hereby approved subject to the condition that Ballinger Properties and Five-N-Associates General Partnership shall indemnify and hold harmless the Town of Londonderry from any claims arising from the Town Council's decision to discontinue said portion of Class VI Pettengill Road from approximately the intersection with Industrial Drive to the easterly edge of Map 28 Lot 17-2 and Map 14 Lot 49.

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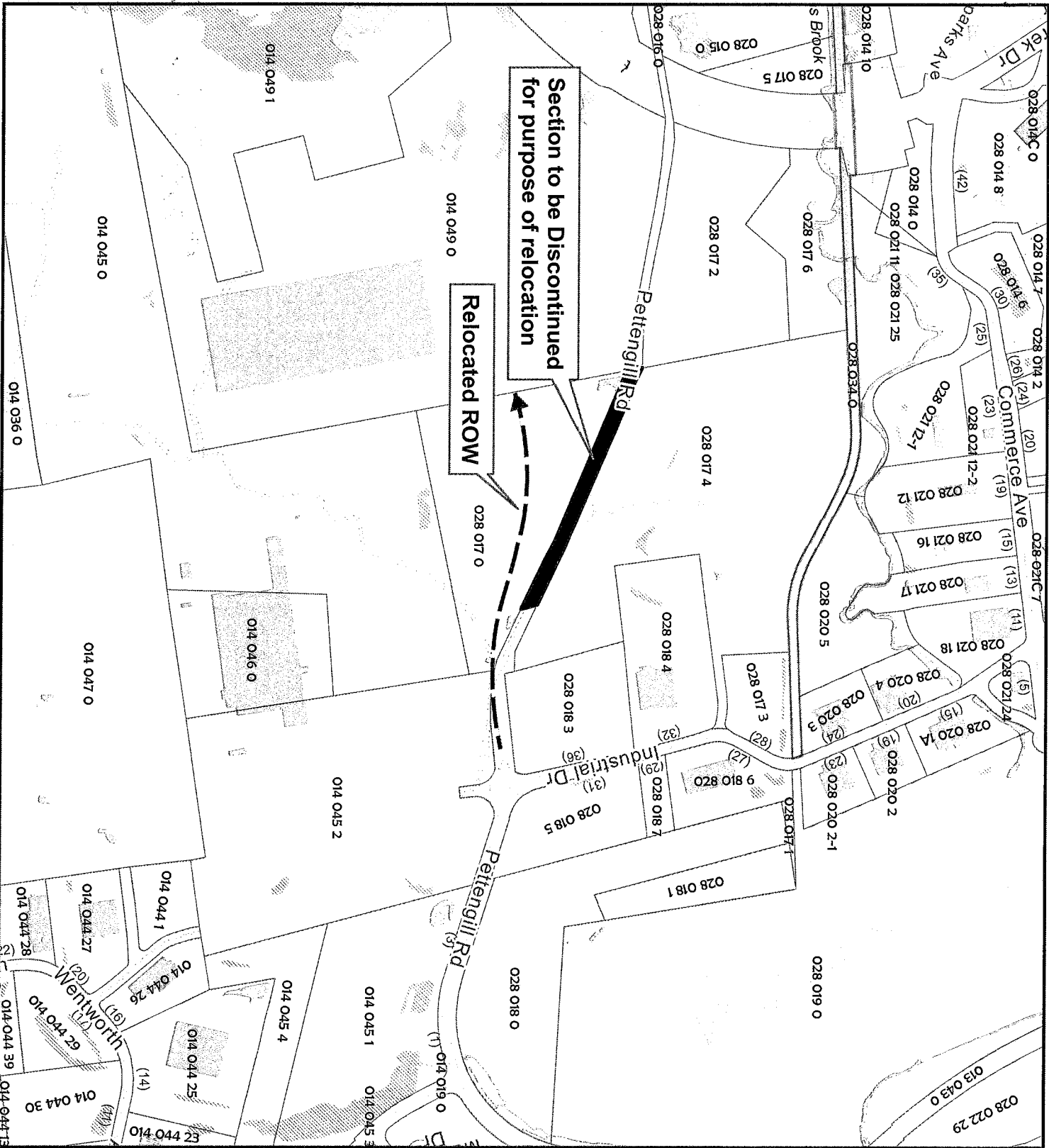
Tom Dolan, Chairman  
Town Council

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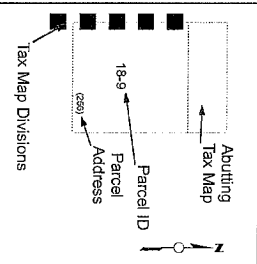
Sherry Farrell  
Town Clerk/Tax Collector

(Town Seal)

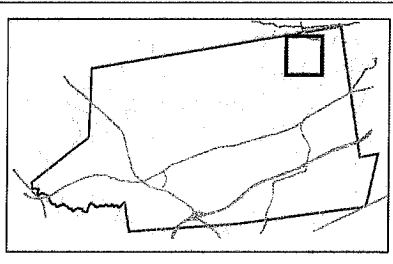
***A TRUE COPY ATTEST:  
Adopted 10/20/2014***



**Location of  
Discontinuance  
of Highway  
(Portion of Class VI  
Pettengill Road)**



- Utility Easements
- Cross Country Power lines
- Buildings or other Structures
- Ponds
- Wetlands



Source:  
Parcel lines are current as of April 1, 2014 and were mapped using aerial photo interpretation, AutoCAD engineering files or recorded deeds for reference. Base features were mapped by Intotech from aerial photography captured in Spring, 2010. Regular updates to both parcels and landbase features are performed as new development or lot adjustments are approved.

These maps have been prepared for assessment purposes only and are not intended for legal description or conveyance.

Introduced/1<sup>st</sup> Reading: 08/11/14  
Second Read/Public Hrg.: 10/20/14  
Adopted: 10/20/14

**ORDINANCE 2006-08 (A)**  
***AN AMENDMENT TO THE MUNICIPAL CODE, TITLE I, CHAPTER***  
***XXIII, RELATING TO APPROVAL OF SANCTIONED RECREATION***  
***GROUPS***

---

***WHEREAS*** the Town of Londonderry owns and manages many recreation facilities; and,

***WHEREAS*** the Londonderry Recreation Commission does not directly manage many recreation programs and consequently receives numerous requests from youth and adult groups to utilize Town recreation facilities; and,

***WHEREAS*** a policy is necessary to ensure that facilities are utilized in a safe and efficient manner;

***NOW THEREFORE BE IT ORDAINED*** by the Town Council of the Town of Londonderry that the Municipal Code of the Town of Londonderry, Title I, Chapter XXIII, Approval of Sanctioned Recreation Groups, is hereby adopted as attached, effective six months from the adoption date.

Tom Dolan - Chairman  
Town Council

---

Sherry Farrell  
Town Clerk

(TOWN SEAL)

***A TRUE COPY ATTEST:***  
***10/20/2014***



**Chapter XXIII - APPROVAL OF SANCTIONED RECREATION GROUPS**

**SECTION I PURPOSE**

- A. The Town of Londonderry owns and manages many recreational facilities, however, the Town does not operate many recreation programs. Youth and Adult programs are organized and managed by various non-profit groups. To ensure that town facilities are utilized in a safe manner for the benefit of town residents, the Town Council has adopted the following guidelines when recognizing Sanctioned groups.

**SECTION II AUTHORITY**

- A. This policy is authorized under Article 3, Section 3.12 of the Town of Londonderry Charter.

**SECTION III APPLICATION**

- A. All groups looking to be sanctioned must apply with the Recreation Commission. All applications and recommendations of the Committee will be forwarded to the Town Council for consideration.
- B. Recognition by the Recreation Commission does not guarantee exclusivity to times or locations of any facility.
- C. Upon approval of an Sanctioned Group by the Town Council, that Group is eligible to utilize town recreation facilities pursuant to the use and scheduling policies and practices as promulgated by the Recreation Commission.

**SECTION IV ELIGIBILITY CRITERIA**

- A. In order to be considered eligible for approval as an Sanctioned Recreation Group, the following guidelines shall be met:
  - 1. A minimum 80% of the participants are residents of Londonderry and the program is available to all age-appropriate Londonderry residents. The participation ratio applies to all teams in an organization.
  - 2. A majority of the coaches/supervisors are residents of Londonderry.
  - 3. The governing body consists of Londonderry residents
  - 4. In recognition of the limited availability of facilities and the desire to avoid

scheduling conflicts, all groups must demonstrate that the program offering is new or unique to the Town, and if not, justification for starting a similar program.

5. All groups must demonstrate that the program is not temporary, but is designed to continue to provide recreational opportunities for an indefinite period.
  6. All groups must demonstrate that the program has been well planned and will be properly supervised, as set forth in the group's Articles of Agreement (if a fund-raising group), By-Laws and Code of Conduct. The charters of each organization should clearly reflect the goals of the group and should mirror the charter granted by the Town Council. Each organization must adhere to the guidelines of the resolutions approved by the town council.
  7. All groups must demonstrate that they have the proper framework for leadership, and that the coaches/supervisors will provide this leadership.
  8. All groups must demonstrate that the group is non-profit and does not have any outstanding obligations to the Town and has the ability to financially support the group's activities.
  9. All Sanctioned groups must comply with all the rules set forth by the Recreation Commission regarding the usage of facilities. No changes can be made to the use of fields without the prior approval of the Recreation Commission.
  10. The facilities exist to accommodate the new activity.
  11. Once sanctioned, all groups must comply with all of the rules set forth within this eligibility criteria section.
  12. Sanctioned groups may not enter into any contracts with, or give permission to, any other unsanctioned group for use any of the fields. All field use will be arranged through the recreation commission to sanctioned groups only.
- B. Fund-Raising Groups – In addition to meeting the Eligibility Requirements as set forth in Section IV. A, Recreational Groups which seek donations and/or financial assistance to support their activities shall be required to meet the following requirements:
1. Any fund-raising recreational group has been registered as a Volunteer Corporation with the New Hampshire Secretary of State, in accordance with RSA 292, and remains in good standing.
  2. Once sanctioned by the Town Council, all Fund-Raising Groups must maintain the following documents with the Commission (documents must be current to demonstrate a group's good standing with the appropriate agencies):
    - Articles of Agreement

- By-Laws
  - Code of Conduct
  - IRS Filings (if applicable)
  - State of New Hampshire Filings with Secretary of State and/or Attorney General's Office, Charitable Trust Division
  - Current board of directors with contact information (title, name, address, phone number and e-mail)
  - Proof of Insurance
  - Membership/enrollment total broken down by town
- C. Other Independent Groups - Once sanctioned by the Town Council, all non-fund raising, independent groups must maintain the following documents with the Commission (documents must be current to demonstrate a group's good standing with the appropriate agencies):
- By-Laws
  - Code of Conduct
  - IRS Filings (if applicable)
  - State of New Hampshire Filings with Secretary of State and/or Attorney General's Office, Charitable Trust Division (if applicable)
  - Current board of directors with contact information (title, name, address, phone number and e-mail)
  - Proof of Insurance
  - Membership/enrollment total broken down by town
- D. Exemptions to the Sanctioning Process – It is hereby recognized that the Recreation Commission may organize, sponsor and/or coordinate a number of recreational activities, with said activities not falling within the definition of Section IV. B or C. These activities shall be exempt from the Sanctioning process. Examples, for illustrative purposes only, may include:
- Youth Camps
  - Skills Training
  - Coaches' Training
  - Open pick up type adult activities (e.g.. free play basketball, coed volleyball, line dancing, ballroom dancing)
- E. Effective Date shall be six months after the adoption date.

*~~End of Chapter~~*

# **ORDER #2014-23**

An Order Relative to

## ***EXPENDITURE OF***

## ***MAINTENANCE TRUST FUNDS FOR VARIOUS PROJECTS***

---

Reading: 10/20/2014

Adopted: 10/20/2014

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

***WHEREAS*** by the Town Council of the Town of Londonderry that the Town Treasurer is hereby ordered to expend \$1,100.00 from the Expendable Maintenance Trust Fund for the aforementioned repairs and improvements.

***NOW THEREFORE BE IT ORDERED*** by the Town Council of the Town of Londonderry that the Town Treasurer is hereby ordered to expend \$1,100.00 from the Expendable Maintenance Trust Fund for the aforementioned repairs and improvements.

---

Tom Dolan, Chairman  
Town Council

---

Sharon Farrell  
Town Clerk

***A TRUE COPY ATTEST:***  
10/20/2014



# LONDONDERRY TOWN COUNCIL MEETING MINUTES

---

1  
2 **October 6, 2014**  
3

4 The Town Council meeting was held in the Moose Hill Council Chambers, Town Hall, 268B Mammoth Road, Londonderry,  
5 NH.  
6

7 Present: Chairman Tom Dolan; Vice Chairman Jim Butler; Councilors Tom Freda and Joe Green; Town Manager Kevin  
8 Smith; Executive Assistant Kirby Wade; Absent: Councilor John Farrell  
9

## 10 **CALL TO ORDER**

11  
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 Chairman Dolan stated that it is not a full; board tonight. Chairman Dolan stated that with that in mind, there is a matter  
16 under New Business that should be heard by all five councilors so Chairman Dolan asked the Council if they would mind if  
17 the matter was postponed. Chairman Dolan stated that it is the Doyle Easement presentation. Councilors Green and Freda  
18 stated that they do not have a problem with that.  
19

## 20 **PUBLIC COMMENT**

21  
22 Chairman Dolan opened up the floor to general public comment.  
23

24 Roger Faucher, 39 Kimball Rd, stated that he has been in town for sixty-nine years. Faucher stated that he owns a rental  
25 property at 33 Kimball Rd. Faucher stated that the reason he is here is a rebuttal to an editorial. Faucher read in Article 10 of  
26 the Constitution of New Hampshire, which states, the Government is not for anyone, man, family or class of men. Faucher  
27 stated that in other words, there should be all kinds of housing for all people, not just for the people that can own a house.  
28 Faucher stated that he has owned his rental property for about forty years. Most of his tenants have been kids from  
29 Londonderry. Faucher stated that when his tenants were ready, they would move out and buy their own homes. Faucher  
30 stated that according to the editorial, people are stating that that shouldn't happen. Faucher stated that he wanted to build  
31 more apartments but they were already zoned out. Faucher stated that there needs to be more apartments for rent in  
32 Londonderry. Faucher stated that for a while after apartments were zoned out of Londonderry, you had to go by petition.  
33 Faucher stated that the editorial mentioned Derry. The editorial is from the Londonderry Times. Faucher stated that Derry  
34 doesn't have a problem with apartments because they met the needs. Faucher thanked the Council for their time. Town  
35 Manager Smith stated that after the last Council meeting, he gave an update on the inventory of workforce housing that is  
36 currently already been approved or in the pipeline, and in addition to that, Smith stated that he has asked the Planning staff to  
37 look at reports from the Southern New Hampshire Planning Commission as to what Londonderry's fair share of workforce  
38 housing is in the region. Smith stated that he has asked the Planning staff to give an update to the Planning Board. Smith  
39 stated that Londonderry's current Ordinance provides that seventy-five percent of any development using workforce housing,  
40 seventy-five percent of it needs to be workforce, whereas in surrounding communities, the number is closer to twenty-five  
41 percent. Right now the Ordinance also says you can have sixteen units per building, and if they meet the criteria for a  
42 conditional use permit, they can ask for twenty. Smith stated that the developers have been going to the ZBA asking for  
43 twenty-four because they like to do them in units of twelve. Smith stated that give the fact that so many of them have gone  
44 through to the ZBA, is it the Council's inclination to have the Planning Board review the current Ordinance and see whether  
45 or not it needs any tweaking. The Council agreed to as the Planning Board to take a fresh look at the Ordinance to see if it  
46 needs to be updated.  
47  
48

# LONDONDERRY TOWN COUNCIL MEETING MINUTES

## PUBLIC HEARING

49  
50  
51 Motion to enter Public Hearing made by Councilor Green and second by Councilor Freda. Chair votes 4-0-0.  
52

53 Chairman Dolan stated that the first two items have to do with the discontinuance of a few roads. Chairman Dolan stated that  
54 discussion will be postponed until October 20th to get greater assurance that all of the appropriate abutters have been notified.  
55

56 Chairman Dolan introduced Ordinance #2014-05, an amendment to the Town's Municipal Code with regard to the possession  
57 and display of fireworks. Councilor Freda read the Ordinance into the record. Motion to accept the second reading and adopt  
58 made by Councilor Freda and second by Councilor Green. Chairman Dolan directed Town Manager Smith to discuss the  
59 changes made to the Ordinance. Smith stated that the main changes come under the definitions. Smith stated that the sensitive  
60 changes come under section three, under permits, safety regulations and fees. Smith stated under section three letter 'b',  
61 permits should be issued to the extent authorized under the RSA's included but not limited to number one, any person seeking  
62 to display consumer permissible fireworks, shall obtain a permit from the Londonderry Fire Department. Smith stated that  
63 before the Ordinance was that if you were lighting off more than one thousand dollars' worth of fireworks you had to obtain a  
64 permit. Smith stated now everyone has to obtain a permit. They will be free of charge. Permits shall be capped at a maximum  
65 of twelve per calendar year, per household. Smith stated that this limits the frequency of which a household can be lighting off  
66 fireworks. Smith stated that number three, a permit to display consumer permissible fireworks shall not be required on July 4<sup>th</sup>  
67 and three days before and after that. Smith stated that letter 'c', the following safety regulations shall be follows. Smith stated  
68 that these regulations existed when a permit was given out by the fire department. Smith stated that they will now be put into  
69 the Municipal Code so that it will be enforceable by the Police Department. Smith stated that number one; fireworks cannot be  
70 discharged any closer than seventy-five feet from any combustible structure or no closer than the clearances listed by the  
71 fireworks manufacturer. Number two, fireworks cannot be discharged any closer than fifty feet from any overhead wiring and  
72 number three, spectators must be positioned no closer than seventy five feet from the discharged fireworks or no closer than  
73 the clearances recommended by the manufacturer. Smith stated that the language was clarified under the penalty section, in  
74 addition to any penalties provided in RSA 160B and 160C, and person who or any entity that violates any of the terms of the  
75 Ordinance shall be guilty of violation and subject to a fine in the amount of one thousand dollars.

76  
77 Chairman Dolan opened it up to the public.  
78

79 Ann Chiampa, 28 Wedge Wood, asked if there was any timeframe during the day and evening that fireworks are not allowed.  
80 Smith stated that you cannot light of fireworks between the hours of 10 PM and 8 AM, or it would violate the noise  
81 Ordinance.  
82

83 No other public comment. Councilor Green proposed an amendment to the Ordinance to add the time you will not be allowed  
84 to set off fireworks. Smith suggested referencing the noise Ordinance that folks who are going to use fireworks need to  
85 follow the Town's noise Ordinance. Councilor Green stated that he changes his amendment to referencing the Town's noise  
86 Ordinance. Chairman Dolan asked Town Manager Smith if they should also limit the number of permits per year for a  
87 business as well. Smith suggested rephrasing it to say 'per household or any other entity'. Councilor Green motioned to make  
88 the amendments stated. Smith asked if it can be changed that the fee schedule be under 'b' and put the noise Ordinance under  
89 'd' just to have more uniform. Councilor Green stated that is ok. Second by Vice-Chairman Butler. Chair votes 4-0-0.  
90

91 Chairman Dolan introduced Order #2014-12, the licensing of a junkyard pursuant to RSA 236 for Murray's Auto Recycling  
92 Inc. Chairman Dolan stated that the Council is only given the authority that the State has entitled the Council to have.  
93 Chairman Dolan stated that the Town Attorney, Attorney Ramsdell, is present at the meeting. Councilor Green read in Order  
94 #2014-12. Vice Chairman Butler stated that in the first paragraph where it says 36 Strafford Lane in Londonderry, Butler  
95 stated that it needs to be changed to Bedford. Councilor Green motioned to make the amendment. Second by Councilor  
96 Freda. Chair votes 4-0-0 for the amendment and the Order.  
97

98 Chairman Dolan invited Building Inspector Richard Canuel to bring the Council up to date as to where the Council left off

# LONDONDERRY TOWN COUNCIL MEETING MINUTES

99 and what is before the Council tonight. Canuel stated that there isn't anything new that hasn't been previously discussed.  
100 Canuel stated that during his yearend visit to the property doing an inspection, he observed that there were two flatbed tow  
101 trucks parked in that front lot, again that was an issue of dispute and it is part of what the Council will address tonight.  
102 Canuel addressed some of the issues that have been addressed over the past few meetings. Canuel stated that his office has  
103 taken enforcement action on a couple different instances. Canuel stated that at the present time it is borderline whether he is  
104 in compliance or not. Canuel presented photo's to the Council showing different views of the junkyard showing that parts of  
105 the junkyard have been cleaned up. Chairman Dolan asked Attorney Ramsdell if he could help advise the Council as to what  
106 consideration they can give to those matters DES has presented as it contributes to the licensing of the Junkyard. Attorney  
107 Ramsdell stated that the Statute regarding junkyards does not expressly give the Town any authority to consider whether  
108 there are environmental permits that are in violation or are missing. Attorney Ramsdell stated that that's not to say that if  
109 there was evidence that there was environmental contamination that was creating a health or safety issue for the Town, that  
110 the Town Council could not consider that under its general health and welfare enforcement authority. Attorney Ramsdell  
111 stated that is not the same as saying that the junkyard statute itself provides that express authority to the Town. Attorney  
112 Ramsdell stated that in practical terms, DES needs to get out there if there is a violation of a Federal or State permit. It is  
113 really a matter of the Environmental Services Bureau to take up and not the Town itself.

114 Attorney Pat Panciocco introduced herself and stated that she is here on behalf of Ed Dudek. Panciocco thanked the Council  
115 for the extra time they provided her so that she could study the files in the Code Enforcement Office. Panciocco stated that  
116 this property has been a junkyard for fifty plus years. Panciocco presented exhibits to the Council to give them an overview  
117 of the property. Panciocco stated that the junkyard is a preexisting nonconforming use. Panciocco introduced Peter Frank  
118 from GO Insite who is here to answer any questions about contamination. Panciocco continued to discuss some of the other  
119 issues. Panciocco stated that there is nothing in the Court Order that talks about hours of operation. Panciocco discussed  
120 some of the specifics of the Court Order. Panciocco stated that the lot was used as a junkyard before there were lots across  
121 the street. Panciocco stated that as far as she can tell from reviewing the Court Orders, in the 1997 Order it says business  
122 operations take place behind the fence, no disabled vehicles in the front lot and no signs on the property. Panciocco stated  
123 most of the other conditions imposed by the Court over time have been remedied by her client or enforcement. Panciocco  
124 discussed the changes Ed Dudek has made to the property since purchasing it. Panciocco stated that Dudek has added  
125 additional fencing and there has been a gate added to the front. Panciocco stated that a nonconforming use is not something  
126 that allows additional regulation because it is no longer allowed as a new use in that particular district. Councilor Freda asked  
127 why Dudek is violating his conditions. Panciocco stated that last year Dudek never signed the conditions but his license still  
128 issues. Panciocco stated that in previous years he did sign off on the conditions but last year he did not. Panciocco stated that  
129 the reason Dudek objects is not because he wants to be open longer, he objects because it gives a basis for people to complain  
130 to the Town about him. Councilor Green asked if the trucks that the junkyard uses commercially plated. Panciocco stated that  
131 they have junk plates on them.  
132

133 Ed Dudek, 36 Strafford Lane, Bedford, stated that they are dealer plates but they are gas engines. Dudek stated that they  
134 come into the yard, open the gate, and drive into the yard and close the gate and then they leave. Councilor Green clarified  
135 that dealer plates mean they are a part of a business. Dudek stated yes but bringing the trucks back and parking them is not a  
136 part of business operations. Councilor Green stated that he is just trying to establish if it is a business. Attorney Ramsdell  
137 stated that Dudek was found guilty in Derry District Court due to the fact that one of his employees, after the truck returned,  
138 the employee was loading it up for the next day. Chairman Dolan asked that if a truck came back inside the fence after hours  
139 and they started unloading a vehicle that would be operations? Attorney Ramsdell stated yes. Attorney Ramsdell stated that if  
140 you look at the existing license, it has the hours of operation in there and it states that the hours of operation shall be limited  
141 to Monday through Friday. Eight to five and Saturday eight to five. The junkyard can only perform operations during this  
142 time and there have not been violations. There were some violations and they were withdrawn. Councilor Green asked that as  
143 vehicles that have dealer plates on them are parked in front of the fencing is that allowed by the Court Orders and by the State  
144 Statutes. Attorney Ramsdell stated that his opinion, the Courts Order should have been read to say that those vehicles could  
145 not be parked there. There was a motion for reconsideration that was filed. The Court reconsidered its option and Attorney  
146 Ramsdell stated based on the Court Orders that are out there now that as long as those vehicles are operable and there are  
147 plates on them, they can be parked there.  
148

149 Peter Frank, Senior Hydra-geologist GO Insite, stated that he was hired by Murray's Auto to make sure that they comply with  
150 all environmental regulations that have been put upon him under the groundwater management permit that he has through the  
151 State. Frank stated that Dudek does have a current Groundwater Management Permit, which is set by the State. Frank stated  
152 that he monitors water within that zone as well as outside of it. Frank stated that he samples all of Dudek's supply wells as



## LONDONDERRY TOWN COUNCIL MEETING MINUTES

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153 well. Frank stated that his wells have tested clean. Frank stated that Mr. Dudek's supply well for the trailed is located  
154 between the most contaminated of the groundwater and the Adams property across the street. Frank stated that groundwater  
155 doesn't flow in that direction anyway. There is no evidence to suggest that the contaminated groundwater from historical  
156 practices, is posing a threat moving in that direction. Councilor Freda asked if DES has any authority regarding revoking the  
157 five year permit. Frank stated that there would be no purpose to revoke a permit ever. Groundwater is owned by the people  
158 of New Hampshire, not by the landowner. Any water under your property is owned by all of us. The permit protects the  
159 groundwater supply and it must meet a certain drinking water standard. All water in New Hampshire does. Frank stated that  
160 sample Murray's twice a year. Frank stated for a property this side, there are numerous monitoring points, wells, service  
161 water location and they have recommended continuing monitoring those points. Vice Chairman Butler asked with the most  
162 current permit expires. Frank stated it will expire shortly. The next permit issued will be issued for a period of five years.  
163 Vice Chairman Butler asked Frank if he feels comfortable that there will be another permit. Frank stated that he is very  
164 confident another permit will be issued.

165  
166 Richard Innis, 72 Hall Rd, stated that under RSA 91, he would like to know what the Town has spent for a lawyer on fighting  
167 the junkyard. Chairman Dolan stated that it will be referred to the Town Manager. Town Manager Smith stated that in the last  
168 six months the Town has spent approximately \$20,000 in legal bills, a little over ten percent of the legal budget on this one  
169 issue.

170  
171 Claudet Adams, 54 Hall Rd, asked if the August report GO Insite submitted, was it supplied to the Town or does the Town  
172 have to go after it. Town Manager Smith stated that they are supplied to the Town. Frank stated that every report that is  
173 prepared and submitted to DES is public record and is available on the One Stop Database. Adams addressed contamination  
174 levels and how high they are. Frank stated that if you could have a place, surrounded by a wetland is probably one of the best  
175 places where you can have contamination. Frank stated that his phone number that he can be reached at if anyone has any  
176 questions is 603-314-0820. Chairman Dolan stated that contamination is not a matter the Council can consider as part of  
177 issuing license. Adams addressed the fencing issue. Adams stated that the fencing needs to be restored in front of the office  
178 trailer. Adams also discussed the parking of vehicles in front of the fence. Adams stated that if you look at the Court  
179 Stipulation, paragraph three specifically says the front lot will be used only for the parking of motor vehicles of the  
180 defendants and the employees. It doesn't say anything about parking his trucks. Attorney Ramsdell stated that when you have  
181 a building that is at least as high as the fence is, that building serves as the fence. Adams stated that the laws need to be  
182 followed and if the trailer had been moved where it should have been they wouldn't be here. For some reason, the fence that  
183 use to be in front of the trailer back in 2000 was taken down. Adams stated that at the June 16<sup>th</sup> hearing, Attorney  
184 Panciooco's request for the sixty day extension was granted provided the junkyard owner complies with all conditions.  
185 Adams stated that it is a violation of condition five. Adams stated that it is also stated on the renewal application under  
186 section 'b'. Adams stated that there are trucks bringing in inventory that come back with a vehicle on the flatbed, that's  
187 inventory and they are coming back after hours. Chairman Dolan stated that if the Council were to revoke the applicants  
188 license for returning a vehicle at 6 PM, not doing any work on it but just opening the gate and driving it and leaving it, the  
189 Council has been advised that that action would not be defensible in Superior Court. Chairman Dolan stated to consider  
190 noncompliance's from years ago to be applied to this year's license renewal is noteworthy but it is not as relevant as  
191 noncompliance's if they had happened in 2014. The Council cannot regulate hours of operation. Adams asked the Council  
192 what the deadline for appealing is. Councilor Freda stated that he believes it starts whenever the Council issues the license.

193  
194 Richard Belinski, 89 Hall Rd, stated that the fencing has to go back in front of the office. It is in the Court Order. The Court  
195 Order specifically says access to the office shall be through a thirty-six inch opening in the fence. Belinski stated that the  
196 trucks returning is junkyard operations and that he spent many years as a general motors parts manager and part of his  
197 operation was the flatbeds. Belinski stated that the driver is also being paid so if he is working, he is doing operation.  
198 Belinski stated that it should not be left up to the citizens of the Town to watch and make sure the Court Orders and Order get  
199 enforced.

200  
201 Keith Gugne, 84 Hall Rd, stated that he has been sitting in the back listening to everything. Gagne stated that he remembers  
202 hearing attorney Ramsdell state that if a truck shows up five minutes past five that the Court will laugh trying to enforce the  
203 hours. Chairman Dolans stated that the difference is whether or not it is considered junkyard operations. If they start doing  
204 work inside the fence after hours it is considered operations but if they just drop off a vehicle it is not considered operations.  
205 Chairman Dolan stated that it would be a waste of taxpayers' money to go to Court.

# LONDONDERRY TOWN COUNCIL MEETING MINUTES

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206 Chairman Dolan stated that he would like to hear the stipulations the Council would like to see placed on the license. Vice  
207 Chairman Butler stated that the fence should be put back in front of the trailer like the Court Order says; it needs to be a  
208 stipulation. Chairman Dolan asked about fencing along the side and Vice-Chairman Butler stated that it can't be determined  
209 until the leaves fall. Town Manager Smith went through the proposed stipulations. Chairman Dolan stated that no later than  
210 the end of November, install an additional one hundred feet of six foot tall stockade fence along the westerly boundary of the  
211 property and attach the same double fabric layer across the top of that fence to increase the length and height of the screening  
212 along the boundary. Chairman Dolan stated that one of the stipulations that talks about operation, one could be that  
213 operations shall include the applicant and his employees conducting business with the public, or the applicant and his  
214 employee's engaging in physical activity or labor inside the fence. Operations shall not include the applicator his employees  
215 working before or after the applicants hours of operation behind the fence or in the office providing that such work does not  
216 create loud noise or a breach of the peace pursuant to the RSA or the departure or arrival of the applicants motor vehicles at  
217 the property before or after the applicants hour of operation without further activity, provided that such work does not create  
218 sufficient noise to create a breach of peace as mentioned before. Chairman Dolan stated that the applicants motor vehicles  
219 shall not be allowed to return to the facility after 8 PM. Councilor Green state that it should be added that the applicant  
220 continue to work with properly licensed engineers to meet all State of New Hampshire Department of Environmental  
221 Services for water safety. Councilor Green stated that it should also be added that the applicant's hours of operation shall be  
222 limited to Monday to Friday 8 AM to 5 Pm and Saturday 8 AM to 5 PM. Chairman Dolan stated that the stipulations he just  
223 mentioned were in addition to the current stipulations already in place. Councilor Green stated that he would like it to be  
224 clear that the Council will be giving him notice and it will clearly be stated in his new licensing that he needs to follow all  
225 stipulations. If he does not meet the requirements the Council can shut down his license. Chairman Dolan stated that he is not  
226 in favor of putting additional fencing in front of the trailer. It would not serve any purpose and would make the junkyard look  
227 worse. Councilor Green stated that he agrees. Town Manager smith stated that there is one more issue should read adding  
228 four feet to the top of the existing fence to increase its height immediately to the right.

229  
230 Chairman Dolan invited the applicant to come forward with his Attorney. Chairman Dolan asked Dudek if he would agree to  
231 the stipulations. Chairman Dolan stated that the Council will take a violation seriously when it comes time for the 2015  
232 license renewal. Dudek stated that he is glad there are stipulations and he will follow them. Councilor Green asked if the  
233 stipulations have to be read into the record or can they just be submitted. Chairman Dolan stated that it has been captured so  
234 they do not need to be read in. Chair votes 4-0-0 and the license is renewed.

235  
236 Motion to exit public hearing made by Councilor Green and second by Councilor Freda. Chair votes 4-0-0.

## NEW BUSINESS

237  
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240 Chairman Dolan introduced Order #2014-22, an expendable maintenance trust fund for various projects. Motion to waive the  
241 reading and approve the Order made by Councilor Green and second by Councilor Freda. Town Manager smith stated two  
242 items are included. One is a Town Hall edition of lighting in the attic. The second is the dry system pipe replacement at Town  
243 Hall. Chair votes 4-0-0.

## APPROVAL OF MINUTES

244  
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247 Motion to approve minutes from September 22, 2014 made by Councilor Green and second by Councilor Freda.

## LIAISON REPORTS

248  
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251 NONE

# LONDONDERRY TOWN COUNCIL MEETING MINUTES

## BOARD COMMITTEE APPOINTMENTS/REAPPOINTMENTS

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Motion to appoint Karen Boone as an Alternate Member to the Elder Affairs Committee made by Councilor Freda and second by Councilor Green. Chair votes 4-0-0.

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Chairman Dolan invited up the candidate to be interviewed for the Zoning Board of Adjustment. William Beradino, 3 First Street, stated that he has lived in Londonderry for eight years. He works for the T in Boston as a bus driver and he is a Union official for Boston Carmen Union, Local 589. Beradino stated that he has an issue with the Zoning Board now that having that issue he is learning a lot of rules and regulations about the Town. Chairman Dolan asked Beradino what his current concern with the ZBA is. Beradino stated that there is a gentleman running a business behind him in a residential area. Beradino stated that it will not create a problem for him and he would excuse himself when the issue comes up. Beradino stated that he has been to ZBA for the past three months. Chairman Dolan asked Beradino if he has any conflicts of interest and Beradino stated beside his issue now, no.

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## ADJOURNMENT

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Vice Chairman Butler stated that at Kendall Pond there has been camping and there has been another complaint about a homeless person camping there. Vice Chairman Butler stated that he was pleased with the performance of the Police Officer who responded. Butler stated that he looked at the new recreation guide and there seems to be some discrepancy on the guide. It says prohibited uses in Kendall Pond is camping and then you look at the guide and it says camping, Kendall Pond, permit only. Butler asked which one it is. Butler stated that it is also not posted at Kendall Pond. Town Manager Smith stated that he has been speaking to someone on the Conservation Commission and there are a number of rules that need to be codify into the Municipal Code. Smith stated that once he has received all of the rules he will be bringing them forward to do it one time.

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Motion to adjourn made by Councilor Freda and second by Vice Chairman Butler. Chair votes 4-0-0.

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Notes and Tapes by:

Kirby Wade

Date: 10/06/14

283

Minutes Typed by:

Kirby Wade

Date: 10/10/14

284

Approved by:

Town Council

Date: 10/20/14

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