

TOWN COUNCIL MEETING
September 21, 2009

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

PRESENT: Town Council: Chairman Mike Brown; Vice Chairperson, Kathy Wagner; Councilors: Sean O’Keefe, Brian Farmer; Paul DiMarco; Town Manager Dave Caron; Executive Assistant, Margo Lapietro.

CALL TO ORDER – PUBLIC SESSION

Chairman Brown opened the meeting at 7:04 PM with the Pledge of Allegiance. This was followed by a moment of silence for the men and women fighting for our country.

PUBLIC COMMENT

Joshua Kahn – Fee Waiver - Itinerant Vendors, Hawkers, Peddlers Ordinance. Joshua Kahn, a student at Londonderry High School is using the Town Common to have a free concert with performances by his friends. He would like to sell pizza and soda to the attendees. He told the Council that he just wants to recoup his expenses by charging for the food, there will be no profit to him. The total fee charged by the Building Department is \$85.00 and he is here tonight to have the fee waived. Councilor Farmer said the ordinance is not aimed at people hosting an event, it is aimed at people coming through for an event in town. Councilor DiMarco and Councilor O’Keefe agreed. **Councilor O’Keefe made a motion to waive the fee, seconded by Councilor DiMarco, Council’s vote 5-0-0.** Joshua was directed to apply for the permit at the Building Department and notify them that the fee was waived.

Chairman Brown said that a statement was made in one of the local newspapers that John Michels was the town attorney; he stressed that Atty. Michels is not the town attorney, and was attending a DOT hearing on his own behalf. Councilor Wagner notified the public if anybody was worried about disposing of their old trash cans they can bring them any Saturday to the drop-off center at no charge.

PUBLIC HEARING

Councilor DiMarco made a motion to open the public hearing, seconded by Councilor O’Keefe, Council’s vote 5-0-0.

Order 2009-14 – Relative to Establishing a Charter Commission to Establish Official Ballot Voting. Councilor Farmer read the second reading at the public hearing and **made a motion to adopt the Order, seconded by Councilor O’Keefe.** Chairman Brown explained the Councilors had discussed this item at a previous meeting and the first reading was held at the 8/31/09 Council meeting. The consensus was to request input from the public at this meeting. Chris Navarro, 11 East Woodbine Dr. said she was disappointed that there were not more people in attendance tonight. She said she that when she was running for Council she did not meet one person who was interested in keeping the town meeting on Saturday. She stated she is in favor of having the Charter Commission. She commented that she wished more people would vote,

the vast majority vote on Tuesday, we should eliminate the town meeting on Saturday Al Baldasaro, 41 Hall Rd stated that everyone has done what they could to encourage more voters on Saturday. He said weekend time is family time. Years ago the town meeting was democracy at its best. Now the only ones showing up on Saturday are the people with their own agendas. He also said that the voters would be educated about the items listed on the ballot via the deliberative session with the SB2 form of government. He supports the ballot voting. Stephen Young, 7 Fiddlers Ridge Rd said Rt 93 got the go ahead to widen the road which will result in incredible growth at Exits 4, 4A & 5. He also mentioned the opening of the Access Rd which would result in growth on the 1,000 acres. Developers are looking at this town. He mentioned that companies do not like to see government making changes, if the government changes developers will not be interested in the area. He said when we are finally in a situation whereby we can get appropriate commercial and industrial growth in this town and we can grow the tax base to reduce taxes that is what we should be focusing on. He said that is what he will be focusing on, and asked the Councilors not to go ahead with this change. Tom Dolan, 19 Isabella Dr., said if we could get 1,200 to 1,500 people to vote on Tuesday on the town budget it would be great. It would be better to get them to come to town meeting on Saturday. He mentioned that there are some consequences to the changes and he proceeded to list them. He stated in that form of government (SB2) the councilors will have a majority of three to decide what the budget will be. It will go before the voters on Tuesday and the voters will have a decision to make, which is to agree with the three or disagree and vote for a higher budget. There will be no opportunity on that Tuesday to reduce, increase, change, modify, or ask questions about the budget. You don't have 1,200 to 1,500 people making the decision on what the budget should be, you have three people making that decision. Chris Melcher, 4 Bancroft Rd. agreed with Tom Dolan. He said the power of consolidation is the biggest problem with this idea. The Saturday town meeting is still direct democracy, the voters have the opportunity to decrease the budget. The town meeting is the one day that the taxpayers are asked to give back to the community, SB2 is taking the power away from the people. The three councilors who want this are taking the power away from the people. Glen Douglas, 6 Overlook Ave said no one can do anything at the School Board because they need 500 people, he said he does not think that SB2 requires a number be set at 500, you can have 0 if you want. He said you can do pretty much everything you do at town meeting at the deliberative session. In 2004, 500 people signed a petition to get a SB2 form of government on the ballot but it was not done due to a legal technicality. Every council from then has done nothing about it. Move it forward see what the people want. Tom Freda, 30 Buckingham Dr. said last year 46 voted via absentee ballot, they did not get a vote on a \$30M town budget because they have to be present to vote. He questioned why should voters be required to get a petition? More people show up on Tuesday to make budget decisions than on Saturday. The voters have shown they do not want a Saturday town meeting, allow them to express their opinions. He said we are not changing the government, it is an improvement. Changes that can be made at the last minute at the Saturday session will scare developers. Put it on the ballot, let the voters decide. Al Baldasaro said he is co-sponsoring legislature for the veterans on absentee ballots in Concord. The Saturday vote is just as important as the Tuesday vote. Reed Clark, 79 Stonehenge Rd mentioned the reasons why people come to NH and Londonderry and asked why change after 295 years. He questioned Town Manager Caron if the Charter Commission can only address this one issue, and no other aspect of the Charter. Town Manager Caron responded that is correct. Chris Navarro said everybody in town has the opportunity to talk about the budget throughout the year, all the budget meetings are posted. The voters have every opportunity to come in and discuss any changes. Eliminating Saturday town meeting will not change it, most people who come to the town meeting on Saturday are typically the same people who come to the budget meetings. 2,000 voters are better than 300 voters.

She said to put it on the ballot and see if people want it. Reed Clark said it still comes down to the best out of 5. John Farrell, 4 Hancock Dr. said the first town meeting he attended had about 3,000 people. He said people knew what they were doing and understood the process. People come out about what they are passionate about. Educate people first make sure they understand the process, don't have a commission. Let the people go for the whole thing, teach them what NH government is all about, don't limit them on what they can decide on. Tom Dolan said as soon as the school switched to SB2 the democracy ended. The only people coming to deliberative session will be town employees, school board members and town elected officials. The system we have now does gather the most amount of opinion and power for those who choose to come. The town budget last year was reduced dramatically, the new system will make that go away. With the budget higher, taxes will be higher because we will have no opportunity to change it, voters will either vote for it or vote for a higher budget. Chairman Brown said the town is separate from the school, the voters of Londonderry made the change in the School District not the school board members. The voters give the power to the board. T. Dolan said the voters get a choice to vote on the budget. The power consolidation only takes 3 out of the 5 councilors to make a change. Voters left town meeting last spring with the knowledge that they had an input in reducing the budget. That power will be gone and people will leave the ballot box on Tuesday and by voting the budget down will vote to raise taxes even higher. He said they should have more choices than that. S. Young said the decisions made on Saturday at town meeting are pretty reasonable. There are three people who make the decision to start eliminating town meeting. Al Baldasaro 41 Hall Rd, said the Councilors have the opportunity to give the people the opportunity to move forward to SB2. He asked what is the difference between a town meeting and a deliberative session. Councilor Wagner responded a quorum makes the difference. A. Baldasaro asked if a quorum is needed at town meeting, A. Baldasaro said you can still have people come forward to get educated at the budget meetings. A deliberative session is the same as a town meeting. Chris Melcher said everybody can come to budget meetings, but the people have no power. It is still up to the Council. R. Clark talked about attracting businesses development in town, he said it might not be the time for change. Councilor O'Keefe said he talked to a lot of people about town meeting, he disagreed that it is a "power grab" as stated tonight. It is a Council that is bringing a question forward that 500 voters tried a few years ago. It is the opportunity to bring the question to the voters. The voters have the power to change things, the deliberative session will replace the town meeting. He said he is for allowing the voters to make the change. Councilor DiMarco said he took some good points from everyone who spoke tonight. He said something of this magnitude should originate from the townspeople not the Council. He will not support bringing this forward. Councilor Wagner said not a lot of people are here tonight, it is the same people all the time. She stated that we are doing a disservice to the voters with the quorum situation at the school and now the Council is talking about going to an SB2 form of government. People are completely confused, there is too much being done at once. She said her concern is it is 3 people who have the quorum. She said she would rather have the people tell the Councilors what to do. She said that her fear is that there will be division in town, people who run for the commission will either be for or against SB2. She stated that she thinks that the charter change on the school side was a disservice to the town when she looks back at it. The town meeting is needed, one person can come in and change the town budget, that can't be done if we go to SB2. Councilor Farmer said three people can make the decision; that is the form of government that the voters have put in place. We have the power vested in us by the voters in Londonderry. He said the people who show up on Saturday make their choices. He explained that the prior petition was faulty. He clarified that the stability of the town is rated on the town's bond rating. He noted that Londonderry has the best rating for a municipality. Changing our form of government will not change business

coming to town. Nothing suggests that by changing to an SB2 form of government will change that. The budgets have been under control for the past several years. He said he can't be convinced that this is a bad thing, give the people a chance to vote on it. Chairman Brown asked if this moves forward and the question is on the ballot and gets approved on March 9th the form of government does not change that day. Town Manager replied that is correct. Chairman Brown proceeded to say the Charter Commission is elected that day with nine members as described by the state he then asked the Town Manager to explain what happens next. Town Manager Caron said the Committee then studies the issue, takes testimony and develops both a preliminary report and a final report which is presented at the next town meeting in 2011. It will be voted on by ballot during the Tuesday session. Chairman Brown stated that process gives the people the second opportunity to vote on what the elected Charter Commission recommends, Town Manager Caron stated that is correct. He asked if at that point based on what the Commission came back with could the form of government change, Town Manager Caron responded yes. Chairman Brown asked Town Manager Caron if it is possible that the form of government won't change based on that vote. He responded he believed it still requires a 60% affirmative vote to be enacted; less affirmative votes received and the proposal is not enacted. Chairman Brown stated we are at a minimum of two years away from any change in government. Chairman Brown said the input received tonight was great. He said he has been a fan of town meeting for quite some time but he is not happy with the attendance. He said he has asked the Town Manager if we could keep the current form of town meeting on Saturday but move the labor agreements to Tuesday like the School District, he said we couldn't do it. He continued to say that as Councilors they get involved with the labor agreements and know the significant impact they have on the budget. If we could move the labor agreements to Tuesday to be voted on by the larger number he said he would feel comfortable but it can't be done. He explained that this conversation started back in April of this year. Councilors Farmer and O'Keefe wanted to discuss this item as a goal item. They followed through with an action item which is why we are discussing it tonight. He said there are informed and un-informed people on both days. The decision is ultimately made in a democratic fashion on the Tuesday meeting. The majority position is what the voters want. The petition from 2004 had 500 and some signatures, the petition was not legal. The Council did not make a mistake by not bringing that petition forward. He recommends bringing the commission forward to see if the people are interested in changing the charter. Chris Melcher, asked if we have to do it the same day or do we need a special election. Town Manager Caron responded the statute states that the charter commission question and election of charter members occurs simultaneously. **Council's vote 3-2-0.**

Councilor Farmer made a motion to close the public hearing, seconded by Councilor DiMarco, Council's vote 5-0-0.

OLD BUSINESS

Economic Development Update – Community Development Director Andre Garron and Gary O'Neil from O2 Creative Energy were in attendance. A. Garron provided Council with his monthly update of the Economic Development Plan. Items "A & B" are completed. He reported that Item "C" dealing with the Small Area Plan was adopted on 9/9/09 at the Planning Board meeting. The project was completed it was accepted as an amendment to the 2004 Master Plan

Item “D” deals with the adoption of the Flexible Intestinal District within Pettengill Rd. A public hearing was held on 9/9/09 with the Planning Board to discuss the ordinance. It was re-named “The Gateway District” Ordinance. Another public hearing will be held on 11/14/09.

Item “E” deals with updating the website, it is progressing with Silver Tech. Chairman Brown asked if the grant has been received. A. Garron said we have been successful in obtaining a grant from DRED in the amount of \$2,500.00. The funding was split between Manchester & Londonderry. Councilor Farmer asked if the site overall was being updates. A. Garron responded Carolyn O’Connor and Guy Blanchette were working on updating the town website. Councilor Farmer asked the Town Manager if Council was going to see a plan come forward. He responded he will present a plan when it is ready, there will not be a lot of costs associated because the project will be completed with mostly in-house resources.

Item “F” is complete, a site selector search tool will be integrated into the overall Economic Development website when that is completed.

Item” H” is the Rt. 28/Page Road Intersection upgrade; no new information on that just waiting to hear from DOT when they are ready to go forward with the project.

Item “I” is a future goal to invest in Mass Transit. Councilor Wagner asked what is the future goal, 2015? A. Garron responded the So. NH Planning Commission is looking at it, and he would like to keep it on the horizon.

Item “J” for funding the upgrade of Pettengill Road is continuing to proceed. Staff is still waiting to see if the funds they are waiting for from Congresswomen Porter will come through. Councilor Farmer asked him to continue to work with Sen. Shaheen and Congresswomen Porter for other opportunities.

Item “K” deals with actively working towards creating affordable housing and at the 9/9/09 Planning Board meeting they had another revision to the proposed ordinance for affordable housing. They are re-presenting it at the public meeting on 10/14/09. The items deal with engaging the services of the Town’s Impact Fee Consultant. They are waiting to get the results of the traffic study from Stantec which is due mid to late Oct.

Item “O” deals with a development plan for Exit 4-A, he stated he has no new information on that project. There was to be a state 10 yr highway plan meeting in Derry along with additional meetings planned throughout the year. He said Councilor DiMarco at the last meeting asked him about informing the business community in the airport area of the new ERZ zone. He said they will collect all the data for the businesses that will be affected and will organize a distribution and mailing list. Next they will contact area business to see if they will be willing to host an event then move forward to update them on Pettengill and the airport access road, the ERZ zone as well as the marketing tools being developed by the town. John Farrell, Planning Board Vice-Chair said at the last Planning Board meeting they had questions about how to improve workforce housing, they encouraged everyone to send their questions to the Planning Board. They have received no input, no questions. He appealed again to the public to send their questions to Tim Thompson about workforce housing.

Gary O'Neil had a slide show presentation dealing with actively marketing Londonderry's development areas. The topics discussed were:

- The Project
- Goals
- Listening
- Research & References
- Key Comments
- Deliverables
- Creative Recommendation
- Next Steps

He explained the website is being developed to reach specific businesses. Councilor Farmer asked G. O'Neil if the FAA itself is taking any kind of stance towards regional airports. He said the reality is there is less discussion today of regional airports there are fewer planes and fewer seats. He stated we should be serious about providing business seats. Councilor Farmer asked what economic impact is going on at Ft. Devens, are they tracking it. He responded that DRED is tracking it but if the atmosphere is right in NH we will be very attractive to businesses that want to make a change. Councilor O'Keefe said in his experience there seems to be a shift to use Manchester/Boston Airport. Chairman Brown said he liked the logo and the key comments page. He asked if the "Next Step" slide could explain each item on the list and provide projected dates for the listed items. G. O'Neil said it will all come together by mid Oct when the website prototype will be available. Councilor Farmer verified that the proposal goes back to the Economic Development Committee then it comes back to Council for approval.

NEW BUSINESS

Order #2009-15 – Relative to the Expenditure of Maintenance Trust Funds for Various Projects Councilor O'Keefe made a motion to adopt, seconded by Councilor Farmer, Council's vote 5-0-0.

APPROVAL OF MINUTES

Minutes of Council's Public Meeting of 8/31/09. Councilor DiMarco made a motion to accept the meeting minutes of 8/31/09, seconded by Councilor O'Keefe, Council's vote 5-0-0.

OTHER BUSINESS

Liaison Reports – Councilor DiMarco attended the Planning Board meeting and the topic was covered by Andre tonight. The NW Area Master Plan was adopted by the Planning Board. Councilor Farmer asked if the Planning Board could have a presentation for the Council. Town Manager Caron responded he will schedule it. The Workforce Housing Taskforce will have a public hearing on 10/15/09. The CIP workshop is scheduled for 10/14 it will be a public hearing. He attended a workshop on the airport area zoning it is called a "Gateway Business District" and has a concept in it as well called a "Planned Unit Development". It allows developers of very large parcels to suggest ways to develop that land. It will go for further discussion on 10/14. On 9/17 there was a So. NH Hazemat meeting and he was unable to attend it. Manchester Airport Authority is planning a meeting on 9/24 and he plans to attend it.

Councilor Wagner attended the Elder Affairs meeting. They are working with the developer who has hired an attorney and engineering firm for the affordable senior housing. They are working on securing HUD funding. The committee wanted to make it clear that they are not building a senior center; it is a wish list item.

Chairman Brown attended the 9/10 Solid Waste Advisory Commission meeting where they talked about recycling at Old Home Day, how the limited waste collection is going, school district recycling, drop-off center and the goals for the new year. The new limited waste collection is going well according to the data that was provided. His next meeting is the Heritage Commission which is this Thursday.

Town Manager Reports – Town Manager Caron reported that the construction equipment at Jake Rd. has been relocated, there are still two unregistered vehicles on the property and staff will follow-up on that. The grant application for the fire station will be announced in the next couple of weeks. If the Town is successful in obtaining the grant he will engage our architecture to finalize plans and bid documents. The town may have to pay for a small percentage of the project cost, with the worst case scenario at about 25% for the project. He said with the competitive bid market that number might shrink considerably. There may be an outside chance that we have a special town meeting in January or February, however we are trying to work authorization for any undesignated fund balance we will try to schedule it for the March 10, 2010 Town Meeting, with construction beginning immediately after that. Councilor Farmer verified the possibility of a special town meeting is all based on timing. Town Manager Caron responded you have to complete the project within a year of grant acceptance; and have to accept the grant within 30 days of the offer. The timing of town meeting allows a 7 ½ month construction period which should be OK. Councilor DiMarco inquired as to how much the grant is and do we get it in a percentage amount or a dollar amount. Town Manager Caron responded it is a 100% federal grant but they have different parameters and criteria. He said he is still working through some issues. Councilor O’Keefe asked where the money will come from. Town Manager Caron responded there are three sources. There is about \$159K remaining from the fire bond, currently about \$50K - \$60K in fire impact fees and the rest from undesignated fund balance. They will attempt to build the structure within the federal budget however the main objective is to build it correctly and only once. He suspects bids will be well below current estimates. It has to be a competitive bid, with code changes involved. Councilor Wagner questioned if we can start the bid process right away. Town Manager Caron responded it will take about 60 days to update drawings and have the bid package completed.

Board/Committee Appointments/Reappointments -

SNHPC Regional Economic Development Steering Committee – Town Manager Caron explained that this committee is an Ad Hoc Committee being established by the So. N. H. Planning Committee (SNHPC). The Planning Board submitted a recommendation for Don Moskowitz and Steve Young, as members and Deb Paul as an alternate position. Councilor Wagner asked if this was a special taskforce, Town Manager Caron confirmed it was. Councilor Farmer asked Town Manager Caron if the positions were advertised. A. Garron responded they were not advertised. He received an e-mail from SNHPC looking for appointed members. He said he then sent an e-mail out to the Planning Board. The Committee has already started and the SNHPC appointed him as the staff liaison. He further stated that our representatives will provide input to the workforce which is why it is in front of the Council tonight. Councilor

O'Keefe said Deb Paul contacted him via e-mail and asked why she wasn't given the opportunity to speak on her behalf to be selected for a voting position. Councilor Farmer said he is asking about the process and asked if the Planning Board voted on it. A. Garron said the recommendation came from the Chair of the Planning Board. Councilors Farmer, O'Keefe and DiMarco agreed it should have come through the Planning Board. A. Garron said we could delay the appointments, that would result in no representatives at the next meeting other than himself. The consensus was to ask the Planning Board to vote on the representatives at their next meeting and there was no need to place an advertisement in the newspapers. The recommendations will be brought back to the Council at their next meeting

ADJOURNMENT

Councilor Farmer made a motion to adjourn at 9:50 P. M, seconded by Councilor O'Keefe, Council's vote 5-0-0.

Notes and Tapes by: Margo Lapietro Date: 09/21/09

Minutes Typed by: Margo Lapietro Date: 09/23 /09

Approved; Town Council Date: 10/05/09