

TOWN COUNCIL MEETING
June 15, 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: Paul DiMarco, Sean O’Keefe, Brian Farmer; Town Manager Dave Caron; Sue Hickey, ATM/Finance Dir.; Executive Assistant, Margo Lapietro.

CALL TO ORDER – PUBLIC SESSION

Chairman Brown opened the meeting at 7:01 PM with the Pledge of Allegiance. This was followed by a moment of silence for the men and women fighting for our country, firefighters and police officers serving this community and around the country. Chairman Brown also announced that ZBA member Barbara DiLorenzo had passed away and asked everyone to remember her as well.

Chairman Brown announced that Council had agreed to go out of order and hear Public Comment before the Public Hearing

PUBLIC COMMENT

Elder Affairs Committee: Stacy Thrall, Elder Affairs Dir. was in attendance to present their plan for a potential affordable elderly housing opportunity proposed for Sanborn Road, Map 15, Lot 83-2 on a town owned 12-acre lot. Potential size would be 60-96 units. Sewer, water and gas are accessible and she said this site was the better of two sites the committee was considering. Andre Garron, Community Development Director explained the locale is in conflict with the Master Plan that ID’d the property as a passive recreational site. He reviewed the site description and agreed it was the better of the two sites. Councilor Wagner said there is protection for the Town, allow the elderly to have the land at no cost to make sure it is affordable housing for seniors. She explained the developer is going to apply for federal grants. Sarah Landry, Elder Affairs Director explained that a federally subsidized housing project program is available, and a non-profit developer would have to apply for the grant to the federal government. Elders have to be 62 yrs old and there are income guidelines. Al Baldasaro, 41 Hall Rd. said it takes 2 yrs to complete the grant process; they need the land before they can go forward with the grant process. He said it would be no cost to the town; they can apply for grants for \$500K to extend the sewer. He explained they have 40-50 people ready to go forward to move in. Seniors have been interested in this idea since it was proposed by developer Joe DeCarolis. Chairman Brown said that Londonderry elders will not be guaranteed ownership because it has to follow federal guidelines; Councilor Wagner explained that because it is proposed to be federally funded, they cannot restrict it to Londonderry seniors. Sarah Landry, Senior Affairs Director said that when Greg Carson came in and spoke to seniors he explained the cost of the land was high, which would add to the cost, that is why they were looking to the Town to donate the land. She said there is a clear need for these structures. Town Manager Caron recommended not transferring ownership of the property to the Elder Affairs Committee because the project might not proceed and it may prove difficult to reclaim the land. Councilor Farmer explained that the Council does not have the authority to put anybody on the list; it is

first come first serve. Councilors DiMarco and O'Keefe were in agreement that it is a good idea. Town Manager Caron said he can return to the Council with a Resolution which would allow the Council to place a hold on the property in favor of the Committee. Any grant application would have to be submitted in the name of the Town as the applicant. Chairman Farmer asked A. Garron if there were any potential problems with not using the area as a recreation site as proposed by the Master Plan. A. Garron responded he could see no problems. Town Manager Caron was directed to present a Resolution on 7/13/09.

PUBLIC HEARING

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

Receipt and Expenditure of Unanticipated Revenues – FY09 Town Manager Caron explained this is the annual public hearing to formally accept unanticipated revenues and donations. The total amount received in FY09 is \$676,675.52. A large portion of this amount was FEMA money, which was obtained for the Public Works (PW), Londonderry Fire Department (LFD), and Londonderry Police Department (LPD). Councilor Farmer asked the Town Manager if these expenditures were for the FY09 budget only, he responded they are not associated with the FY10 budget. Chairman Brown asked Londonderry Police Chief Bill Hart to explain the large grant amount for the Scobie Pond/Stoneyfield area. Chief Hart said the NH Dept of Safety gave the grant and it was used to conduct a terrorist threat assessment against the PSNH unit at Scobie Pond and the Stoneyfield Yogurt factory. Town Manager Caron said the (LPD) was successful in receiving additional Byrne grants. He said he will have a public hearing to meet the notice requirements. Chief Hart explained the Department received another grant of \$14K. The LPD is pursuing the purchase of two laser radar units, a printer for the station, 2 computers, signage and target system for the new firing range which is anticipated to up and running on 7/1/09. Hearing no public input, **Councilor Farmer made a motion to accept the FY09 Grants and Donations, seconded by Councilor DiMarco, Council's vote 5-0-0.**

Ordinance 2009-02 – Relative to an Amendment to the Municipal Code, Title IV, Chapter V, Solid Waste/Recycling. Councilor Farmer made a motion to adopt the Ordinance, seconded by Councilor DiMarco. Chairman Brown explained the procedure for the public hearing. Councilor O'Keefe asked Public Works (PW) Director Janusz Czyzowski how he calculated the cost of the containers and the renewal cost. Janusz explained the first year the second container was calculated on the cost of the container which is \$50.00, annual service to pick-up container by Allied is \$60.00; annual disposal cost based on \$72.00/per ton, cost \$90. The cost would be \$200 for the first year, each year reduced to \$150 without the container cost. Councilor DiMarco asked if the \$3.00 bag had the same multiplier, Janusz explained if there are too many overflow bags it will slow down the operation and the Town will incur more costs. Councilor DiMarco asked if the bags were "critter proof". He responded they are 1.5ml, the heaviest available. Councilor Farmer asked if we are obtaining containers larger than 65 gallon container. Janusz recommended the 65 gallon be distributed to each house; if they want the 32 gallon they will be given out to whoever requests them. There is a 96 gal container but it is harder to handle. If there is a need for a second container he recommends getting an additional 65 gallon container. Councilor Farmer said according to the taxpayer white paper, a \$400K home was paying \$147.45 a year for solid waste pick up, a large family is going to more than double their solid waste if they need another container if we don't supply a 96 gal. container.

Janusz said based on data he received from other towns if people recycle then the second container is not needed. Town Manager Caron clarified that the white paper information is based on the cost of the service spread among all taxpayers; commercial/industrial taxpayers are paying a portion of the residential solid waste cost. If analyzed on a straight comparison with residential properties, the cost would be different. Councilor O'Keefe said some families will get by with a 32 gallon container and some are OK with a 65 gal but there are some people who will need the 96 gal. He said it is a good idea to have it as an option. Cost wise, it will even out therefore the Town shouldn't assess extra fees for the larger containers. Councilor DiMarco stated that the 96 gal. costs more than the 65 gal, it might be a cheaper alternative than a person getting a second barrel. Another alternative could be a second smaller container, Janusz said the savings in this proposal, will divert over 20% of solid waster recycling. Tonnage was 9,500 tons the 17% reduction was taken from that number. Tonnage will dissipate with the increase of volume without any charge. Janusz said the intent is to separate waste from recyclables. Councilor Wagner agreed with Councilor O'Keefe to allow a large family an option for a larger container. Councilor Farmer asked what is the determination for a larger container, and has PW done a means test. Town Manager Caron said they can explore a 96 gal container, it would result in an additional disposal cost of \$45/yr. It appears that a 96 gal. container would cost about \$65 the first year and \$45 every year thereafter. Chairman Brown stated the new contract was approved, it encourages recycling in Town; our recycling rate is below most of the communities in the state. The Town saves \$358K by bidding the contract out. He clarified that we have three options to look at tonight:

- 1 Stick with one barrel- no flexibility
- 2 Issue a second container with demonstrated need for free
- 3 Extra capacity pays for it.

Paul Margolin, Chairman of the Solid Waste Advisory Committee (SWAC) explained the process they used to examine the bids that were submitted. The committee recommended the limited waste trash collection and support the fee based system. John Whistler, 17 St. Andrews Way lives in an over 55 community. He is also a member of SWAC. He emphasized that everything that has been brought up tonight was listed in the literature that was passed out. Everything will work out as Councilor O'Keefe stated. Open for discussion. Carol Connolly, 18 So. Parrish Drive, said she lives in a senior community. She is happy there is a 32 gal. size. She asked what happens if the container is destroyed by a tree. Janusz stated it is guaranteed for 10 yrs., minor repairs will be done by Allied; if the unit is destroyed by "Mother Nature" the Town will pay for the replacement. Al Baldasaro, State Rep., read a letter from an anonymous person who had several suggestions. Have a "trash waiver day" maybe 4 times a year due to holiday trash; give taxpayers a break, have a tax exemption once a month; put dumpsters in town for taxpayers. Dan, Vecchione, 7 Rev. Parker Rd. questioned if the contract was signed Chairman Brown said the contract was signed, this public meeting was the final hearing for options on fees charged. Janusz stated that the month of July is the transition month. Jim Radzelovage, 34 Litchfield questioned the amount of tonnage in the signed contract. Janusz said the contract was based on the budget which was based on the amount of tonnage. It is \$72.00/ton and \$614K for collection and disposal each year. Recycling is based on \$408K/yr regardless of tonnage. The anticipated reduction of 17% is based on all data collected from other towns. J. Radzelovage questioned the accounting for additional fees on the additional containers. He asked why he does not own the second container if he is paying 100% for the container, why does the Town own it; why is he being charged for the full container weight if the second container is only partially filled; we should only pay the marginal cost for the driver to pick up

the second container, the fee structure should be adjusted. He said he liked the 96 gal option. Councilor Farmer said under the current system people put things into the trash that should not have been picked up which added to the tonnage. With the new system they will not be able to put those items in the trash. Gene Jastrem, 19 Anderson Circle said he will go over the 96 gal container, he said he is willing to pay an extra \$200 per year, he chooses not to recycle, he asked what does he do with the extra trash. Dan Small, 38 High Range Rd. said other towns offer overflow options to go to the transfer station, Goffstown has an option to dump 2 barrels of household trash in a dumpster. He suggested having three locations of dumpsters in Town, at the transfer station, at the PW location on High Range Road or at Town Hall. Councilor DiMarco said unsecured dumpsters will be used illegally. He also commented that the current trash pick-up was excellent. Tom Brown, 69 Forrest St. said he borders the South Road area and he was concerned that refuse that is routinely dumped in that area will have an increase due to the new system in place. He has 8 in his household and said the fee structure does not add up. Wants relief for large families, it should be free of charge. Sheri Radzelovage, 34 Litchfield Rd., said the drop-off center is closed half of the year, we don't have an option for extra trash the rest of they year. She stated she home schools her kids, (5 kids) thereby saves the town money by not sending them to public schools. She is concerned that a town representative would actually go through her trash to see how much is generated. She presently recycles and does believe the tonnage will even itself out. She asked if there could be a fourth option to request the size container that they need and get the larger one free of charge. Councilors and staff proceeded to discuss the availability, price and quantity to order of the 95 gallon containers. Councilor Wagner stated the first year will be difficult, there will be exceptions for extenuating circumstances. Janusz agreed.. Dan Anderson, 66 High Range Rd, said he needs more than a 65 gal container. He asked Council to not penalize large households. Tony, DiFrancisco, 1 Cheshire Court asked if they cut a secretarial position from PW and said they should hire someone back because the phones are going to be ringing. He asked Council to specify for the general public where the PW's department is located. He commended Town Council, Staff and PW on their flexibility with working with the public. He stated that he was confident that all issues will be addressed. Helen Conti, 27 So. Parrish Drive, said sizes were not compatible for her. She said she lives in a steep area. Janusz said he spoke to Allied about the elderly and disabled, he said that a small percentage in Town would not be able to maneuver the containers. They can use bags and since they are a small percentage the vendor will accommodate them. He suggested she come to the PW Department and they will find a solution. Bill Mahan, 27 Red Deer said the process was pushed through too fast, there was not enough time to discuss options. He asked if there was a savings to the taxpayer in FY10 to the trash budget and asked if he could expect a rebate. Town Manager Caron said that a proposed budget was presented at Town Meeting and that budget was cut by \$295K. The Solid Waste contract represents \$286K of those savings. B. Mahan then asked if these cuts were discussed at Town Meeting. Councilor Farmer explained that Council generated a list of potential areas where we could save from revenue cuts from the state, that was one of the reductions. B. Mahan questioned if the monies go back into the general fund why can't it be earmarked towards the trash contract in the future. Councilor Farmer said we have the ability to set up special revenue funds but in this case Town Meeting has not established a special revenue fund. B. Mahan suggested it goes to future trash fund. Councilor Farmer explained that this Council cannot establish a special revenue account, it has to be voted on at Town Meeting. B. Mahan suggested having the bags for sale at different locations in town that have easier access hours such as nights and weekends.. Bill Radzelovage, 57 Buckingham Drive asked what happens next. We are choosing between four options tonight suggested having a means testing and offered suggestions on how to do it. Deb Lievens, 105 Gilchrest Rd. asked about the holiday overload, she said they should have something in place to

handle the extra trash. Stan Gogle, 5 Terracewood, runs a medical practice in Salem and Derry and stated he is glad to push recycling. He said he has observed there is no attempt to recycle at the schools in town, school administrators in town need to recycle. Sandy Naitza, 76 Pendleton Lane, said people drive up to their containers and put their trash into their containers. She asked if each container will have a serial number with a bar code on the containers, Janusz responded yes. She is concerned about people using her containers for waste. Reed Page Clark, 79 Stonehenge Rd. expressed his concern about the 65 gallon container in the snow and the ability of a truck to pick up over snow banks. Chairman Brown asked the Council to consider continuing the meeting for Solid Waste/Recycling to 6/22 or 6/29. Jim Radzelovage, 34 Litchfield Rd said he wants a means test and offered his ideas of a system. He questioned why he needs a sticker on the old trash barrels to convert it to a recyclable container Janusz stated that the sticker denotes that the containers contain recyclables. Town Manager Caron said not assessing a fee for extra containers will be counterproductive to recycling and will not limit solid waste costs. If a larger container is made available some people will produce more trash. The Council can establish special circumstances. He suggested selling a bag for \$3.00/per bag and have them available in other areas in Town for sale. Free upgrade for a 96 gal. container for households with more than 7 occupants. Free down grades to a 32 gal. container to whoever wants one as opposed to a default 65 gal. container at no cost.. For all other who choose to upgrade to a 96 gal. container the cost will be \$65/yr which pays for the additional capacity, \$45 for waste and added cost of the container (\$20). Additional container fee for a 32 gal. container will be \$150 for year one and \$100 thereafter. A 65 gal. container would be \$200 for the first year and \$150 thereafter. If someone wanted a second 96 gal. container it would be \$265 for the first year and \$215 every year thereafter. No matter what system is developed any one can develop a scenario which cannot be completely addressed. Special needs with less than seven people would have to be left up to PW. Councilor Farmer asked if we have further posting issues if we continue this meeting to 6/22; Town Manager Caron responded there would be none. Councilor Farmer said he would like the options that Town Manager Caron listed along with the means test spelled out in the Ordinance. Councilor DiMarco asked if the needs test could be done as a separate ordinance at a separate meeting. Town Manager Caron stated that with proper recycling with less than 6 or less taxpayers they should get by with a 65 gal. container. Town Manager Caron suggested not adjourning the public meeting on this item, continue it next Monday. Consensus was to move the meeting to next Monday to continue the public hearing. Al Baldasaro 41 Hall Rd. said the taxpayers voted for a budget to cover trash why raise prices. Councilor Farmer said larger containers are needed by some families in town. He wants a means test in the Ordinance to handle larger families. A. Baldasaro questioned if Council had the authority to impose fees, Town Manager Caron responded we do according to RSA 41:9-a. **Councilor DiMarco made a motion to continue the public hearing to 6/22/09 at 7:00 PM for this Ordinance, seconded by Councilor Farmer; Council's vote 4-0-1 (Sean O'Keefe out of room).**

OLD BUSINESS

Dog Registration – Town Clerk/Tax Collector Meg Seymour reported that as of today she has 661 unregistered dogs. By signing the warrant this evening they will issue the civil forfeiture effective tomorrow. A certified letter will go out within the next two weeks. Cost is \$25/ea dog, plus the cost of license, \$1.00 for each month they are late and a \$5.00 service charge. Updated license is needed as well as proof of spay/neuter certificate. John Fitzpatrick, 6 Connor St. said he did not receive the two mailed notices; he had questions about the fees. M. Seymour asked him to call her tomorrow to discuss.

Economic Development Update - Andre Garron, Dir. of Community Development presented his monthly update. MRI began an audit of the review process, on 6/10 the Planning Board held a public meeting to adopt amendments to the subdivision site plan regulations. A public hearing will be held 7/1 for the Small Area Master Plan. Research is ongoing to adopt the Flexible Industrial District, research is ongoing to refine the ordinance. Upgrading website, hired a consultant who is meeting with the Economic Development. Taskforce. Consultant is actively marketing Londonderry's development area and they will be coming back with a recommendation. Rt 28/Page Road intersection has received feedback from the DOT which has given the green light to proceed. The funding proposals have been submitted to Congresswomen Shea-Porter and Senator Shaheen. The Planning Board is also working towards creating affordable housing in town, with a workshop hearing on 5/13/09; next workshop is 7/8/09. He said they do not have funds in the budget right now to engage the services of a Impact Fee Consultant, but they are moving forward with the traffic impact portion of the Pettingill area. The benchmark review process is complete. He passed out a form ERZ-1 for Pettingill Rd. Area zone tax credits. He said there are four criteria for this credit, and he is using the fourth one. It is for underutilized or a vacant area within town for commercial/industrial development. We can utilize a tax credit of up to \$40K per year \$220K for a five year maximum against the business profits tax. The application will be submitted to the state for approval; it costs the town nothing to participate. Councilor DiMarco asked if this is this a new type of zone, Andre responded it is not a zoning district. If this is voted for tonight, the meeting minutes will be sent along with the application to verify that the Council votes to approve this application. Councilor Farmer asked if we can look at this at next Monday's meeting, Town Manager Caron responded yes. Consensus was that Council wanted to have more time to review the application and make a decision at next Monday's meeting.

NEW BUSINESS

Order 2009-11 – Relative to the Distribution of Conservation Funds to Purchase a Conservation Easement – Councilor O'Keefe read the first reading and **made a motion to adopt. Second by Councilor Farmer.** Mike Speltz, from the Londonderry Conservation Commission spoke to a slide presentation describing the property. The property consists of a 24 acre lot on the corner of Gilcrest Rd & Pillsbury Rd. He said he has Purchase & Sales Agreement (P&S), the purchase price to be determined by a final appraisal to be completed closer to the time the easement is granted which is a federal requirement. Purchase price maximum is \$900K, half of the monies will come from the Farmland Program. The property has been appraised at \$925K, owner has reduced the easement price to \$900K. The deal won't go through until a year from now and the appraisal will have to be done again at that time. The property was appraised on 5/7/09, and can accommodate 17 house lots. The easement will allow the owner to take 1-2 lots out of the parcel for his family. The property that is located adjacent to Town Hall was withdrawn. M. Speltz said the Conservation Comm. recommends spending money from the conservation fund for this apple orchard. Councilor O'Keefe asked why each lot was \$58K per lot. He asked why so much when the Estey property was only \$13K per lot; M. Speltz responded it was prime land. Councilor DiMarco asked were the numbers in the appraisal adjusted to 15 lots instead of the 17, M. Speltz responded yes. Councilor Wagner asked on the priority list is this rated higher than the Mammoth Rd. area? M. Speltz responded the Mammoth Rd parcel is more important; he said the grant program is very competitive, available only a short time which is why it was worth while to proceed at this time. Andy Mack is not ready to sell the Mammoth Rd. property right now. Councilor Farmer said Andy Mack will only be able to sell it

to someone who will use it to farm because of the conservation easement. He asked who will own it. Mike Speltz responded Rockingham County Conservation District will hold the easement, they are the ones applying for the grant, we will help them purchase it. We will be granted an executory interest, we make sure that the easement is monitored and enforced by Rockingham County, if they defaulted then the Town would take it over. An easement is a perpetual responsibility. Chairman Brown said we have a recent appraisal, the deal has been in the works for at least a year, we have a willing seller. He said the property is still high on the preservation list, it met all the requirements he would ask for. Councilor DiMarco asked M. Speltz if Rockingham County Conservation holds any other easements in town. M. Speltz responded yes, they hold the Sunnycrest development rights. Councilor DiMarco said the funds are dwindling, his concern if we proceed with this purchase is that we will have less money, we might not be able to purchase the Mammoth Rd. property when and if it comes up for sale. Councilor Wagner asked if there was anyway we can re-negotiate the Mammoth Rd property with Andy Mack. M. Speltz said there is no time frame on when Mr. Mack would sell Mammoth Rd, the Town could apply for another farm land grant and raise the extra money when that property becomes available in the future. Councilor Farmer said it makes sense to purchase the parcel right now. Tom Freda, 30 Buckingham Dr. said the withdrawal of the two parcels did not reduce the price according to the P&S agreement. The P&S says he has the right to withdraw those lots. The only provision is if the appraisal comes in at under \$900K as of 7/1/2010. The appraisal is based on two Londonderry sales of 2006 when prices were higher. Town Assessor came to Council and told them that housing prices have gone down 15% and she was requesting a new re-evaluation be done. The appraisal is showing only a 3% decline in the past three years whereas the Town Assessor says that downturn is 15%. Withdrawing two prime lots should void the sale. He also pointed out that according to the P&S agreement if we don't get the federal grant we are contractually obligated to pay the \$900K. He thinks we are overpaying and don't have the protection. John Farrell asked Council to dig deeper and make the right decision, look at the parcel next to it. M. Speltz said when the appraiser does the final appraisal he will take into account the withdrawal of the two lots. They did not get the appraisal without the two lots because the owner might not take out the two lots. We are not going to pay for the two lots if the owner keeps them. Councilor Wagner said she does not see that the sale is conditional on receiving the grant in the contract. Town Manager Caron said the Town could incorporate wording into the contract if Council directs him to do so. Councilor Wagner asked if we could wait until July to make a decision. M. Speltz said the P&S agreement has to have the approval of Council to get the federal grant, so the sooner the better. Councilor Farmer said if the condition is not met then we don't get the grant. Councilor DiMarco said the only way he will approve this tonight is if the conditions are met on the final appraisal to be done after said lots are withdrawn and the successful attainment of the grant. She asked how much was in the Conservation Comm. account. ATM/Finance Director Sue Hickey responded \$900K currently. Councilor Wagner said we need a contingency plan. M. Speltz said the final appraisal will be done before grant funding. Councilor Farmer drew attention to page 6 of the Conservation Easement Deed under "Reserved Rights" where it sets the timeframe for withdrawing the lots and "inserting 2050 or an earlier date". He suggested putting an earlier date perhaps just 5 years but we would have to discuss it with Andy Mack. **Councilor DiMarco made a motion to amend the order to make the purchase contingent upon receiving the grant. Second Councilor Farmer. Council's vote to approve the amendment, 4-1-0. Council's vote on the amendment order, 3-2-0.**

Resolution 2009-10 – Relative to the Elderly Exemption Policy Councilor DiMarco made a motion to schedule a public hearing for 7/13/09, seconded by Councilor Farmer. Council’s vote 5-0-0.

Resolution 2009-11 – Relative to the Award of Contracts for Road Reconstruction Materials - Councilor Farmer read the first reading and made a motion to adopt. Seconded by Councilor O’Keefe, Council’s vote was 5-0-0.

Order 2009-10 – Relative to the Expenditure of Maintenance Trust Funds for Various Projects Councilor O’Keefe read the first reading and made a motion to adopt. Seconded by Councilor Farmer, Council’s vote was 5-0-0.

APPROVAL OF MINUTES

Minutes of Council’s Public Meeting of 6/01/09. Councilor DiMarco made a motion to accept the meeting minutes of 06/01/09. Seconded by Councilor Farmer, Council’s vote was 5-0-0.

OTHER BUSINESS

Councilor Brown made a motion to waive the liaison reports due to the late hour. Seconded by Councilor O’Keefe, Council’s vote was 5-0-0.

Liaison Reports –

Town Manager Reports – Deferred to 6/22/09.

Board/Committee Appointments/Reappointments -

ADJOURNMENT

Councilor O’Keefe made a motion to adjourn at 11:25 PM. Seconded by Councilor DiMarco, Council’s vote was 5-0-0.

Notes and Tapes by: **Margo Lapietro** Date: **06/15/09**

Minutes Typed by: **Margo Lapietro** Date: **06/18 09**

Approved; **Town Council** Date: **06/21/09**