

**TOWN COUNCIL MEETING**  
**February 8, 2010**

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; Paul DiMarco; Brian Farmer. Town Manager Dave Caron; Executive Assistant, Margo Lapietro.**

**CALL TO ORDER – PUBLIC SESSION**

**Chairman Brown opened the meeting at 7:05 PM with the Pledge of Allegiance. This was followed by a moment of silence for the men and women fighting for our country**

**Referendum Petition** - Town Manager Caron said a petition was dropped off at the Town Council Chairman’s home at 8:35 PM Saturday evening. The Town Clerk and Supervisor of the Checklist begin verifying the petitions at about 10 PM and by the 2/6/10 deadline of midnight they verified 271 signatures. The Supervisors and Town Clerk continued the verification process up to about a half an hour ago. Out of the 923 submitted, 759 were valid, 164 were either non-voters or the same voters had signed multiple petitions. Their names could only be counted once. The 5% threshold as set forth in the Charter is now 848. The Town Charter is silent on whether the petitions need to be submitted all at once. Since it is silent then the petitioners have until 3/3/10 to submit the required number of valid signatures. If the current rejection rate of 17.7% is applied, the petitioners only need 60 more petition signatures; 45 more were submitted yesterday and have yet to be validated. Between now and 3/3/10 the petitioners will most probably be successful in meeting the Charter provisions by presenting enough valid signatures to present this issue to the voters of the community. Once received and validated, the Council’s only role is to schedule a special election; an alternative is to place the issue before the voters on the 3/9/10 Town Meeting ballot under Section 7.4 of the Town Charter which is his recommendation. The Council cannot use Section 7.4 unless the imitative petition process has begun, which has occurred in this case. He recommends putting it on the ballot on 3/9/10 to avoid the expense of about \$3,200 for a Special Election. There is no further need for the Town Clerk to verify the remaining 45 signatures nor is there a need for the submission of additional signatures if the Council votes to place the petition on the ballot. The wording on the ballot will be exactly as it appears on the petition. Councilor Farmer said it has been clear that Council would not be infringing on anyone’s rights. He commented that it was disappointing that 164 signatures were invalidated, there were unregistered voters and people who signed the petition 3 times; it is fraud. He said the unsigned letters, e-mails, threats, and innuendos that the Councilors received tainted the whole process. Town Manager Caron said that the Town Clerk told him in order to validate 923 petitions took about 30 ½ person/hours. Chairman Brown clarified that if the Council votes to put this article on the warrant as recommended it becomes ours versus it becoming a referendum and subsequent signatures do not have to be validated. The referendum deadline is 3/3/10. Town Manager Caron clarified that the ultimate deadline is 3/3/10. Chairman Brown said he prefers having 5% of the registered voters and asked what stops the Council from waiting until the petitioners submit the required signatures. Town Manager Caron stated time to post the town meeting warrant and to print the ballots requires the Council to make a decision on this matter immediately. Town Clerk/Tax Collector Meg

Seymour said that includes absentee ballots. M. Seymour explained the \$3,200 would pay for a hand count, no machines; the figure is based on time only. It does not include cost for the SAU to set up and break down. Councilor O'Keefe said what it comes down to is what to do, a general or special election. He said we should consider putting it on the town warrant to avoid the cost of special election. He said some of the e-mails he got surprised him, people need to be more respectful of everybody and that did not happen at all. Doing the right thing and following the process is what it is all about. Councilor DiMarco said he concurred with Councilors Farmer and O'Keefe about the bad things being said. He stated the only reason he would vote for this petition is to spare the extra costs and time. It is a non-binding referendum so Londonderry citizens could voice their opinion to Concord. He proceeded to describe the process needed to amend the state constitution. Councilor Wagner asked the public to not let this divide us as a community, remain civil. She said she will support it because the balance of signatures will be submitted by 3/3 and does not want to incur the expense of a special election. Chairman Brown said he was pleased with the meeting we had on 3/1/10, people were respectful and civil. The recent lack of civility was amazing. He said the comments he and other Councilors received stated the Council deliberately chose to deceive; they deliberately attempted to hinder the process and the law, we were biased, we were told that 800 petitions were thrown away and they were told that they lied and cheated. He said he will support the consensus of the Council. **Councilor O'Keefe made a motion to put the question before the voters under Section 7.4 of the Charter at the March 9, 2010 Town Meeting; Article: To see if the Town will vote to approve the following resolution to be forwarded to our State Representatives (s), our State Senator, the Speaker of the House, and the Senate President. Resolved: The citizens of New Hampshire should be allowed to vote on an amendment to the New Hampshire Constitution that defines "marriage", second Councilor Farmer.** Chairman Farmer stated that he is only voting on it to end the strife that has been created over this article. Open for discussion. **Council's vote 5-0-0.**

### **PUBLIC COMMENT**

Al Baldasaro, 41 Hall Rd said he wanted to apologize for all the strife that was caused to the Councilors. He said that there was confusion with the process; signing the petition for 1% and 5% the process made it hard with such a short time frame. He commended the Councilors on working with the process. He agreed that it was not right having to put up with the rudeness. Lisa, Drabik, 21 King Arthur Dr. wanted the Councilors to amend the language of the petition. She said it was clear that the deadline was Saturday and asked the Councilors to protect the process going forward. Reed Clark, Stonehenge Rd. said there were 159 double votes, he said he had experienced the same problem with double votes because he had 14 different people going to different places in town with petitions signed by multiple people.

Town Clerk/Tax Collector Meg Seymour announced the next session of the Supervisors of the Checklist is 2/27/10 from 11:00 AM to 11:30 AM to register to vote. She explained that if your name is not currently on the checklist, then the names on the petitions are not approved prior to 2/27. You are not legally a registered voter until the Supervisors update the checklist after having a session. She proceeded to explain the registration process.

**On-Line Dog Registration – Meg Seymour, Town Clerk-Tax Collector - M. Seymour is in attendance tonight to seek approval for fees associated with on-line dog licensing. She explained the fees. Councilor DiMarco made a motion to approve fees for On-Line Dog Licensing for Renewals only, second Councilor Wagner. Council's vote 5-0-0.**

## OLD BUSINESS

**Strategic Plan on Public Safety and Public Works Service Delivery** – Capt James Rogers & Capt. Darren O'Brien from the Londonderry Fire Department (LFD); Chief Bill Hart and Capt Gerry Dussault from Londonderry Police Department (LPD) and Public Works Director Janusz Czyzowski (DPW) were in attendance. Town Manager Caron stated the Council wanted an overview of how staffing levels may look like for these three departments over the next ten years. The report was originally submitted in December and brought back for closer review after the budget process concluded.

DPW Director Janusz Czyzowski said he anticipates 20 more miles of roads which will be about a 20% increase in the budget. He anticipates the need for more equipment and manpower to keep his department at the current level of service. He stated that currently we are not providing the correct level of service and he would need 15-20 people in the highway division to staff two crews. In the administration side the Department manages a budget of \$7.8M; we have seen a decrease in providing service to the residents. He stated that he needs to fill the vacant secretarial position. Solid Waste will not increase because the contract is already in place and they do not supply commercial/industrial services. The sewer department has EPA demands that need more than a part-time person. He said the additional staff will be covered by the increased payments to Manchester sewer rates. The commercial and industrial areas will increase for sewer usage. He said he is looking at increasing staff to 10%. Councilor DiMarco said that Janusz had said in his report that employees can snow plow 16 miles per employee; he asked if there was anyway to improve that; Janusz replied no, we would need additional employees for increased routes. Councilor DiMarco questioned the use of temporary plow drivers during peak times. Janusz said they looked at that already, and found it was cost beneficial to hire a person. Chairman Brown summarized that the preference in the short term is to go up one employee from 11 to 12; long term to go to 14 – 15 people to create two crews. Janusz said to stay at the same level of service it would just be 1 person. Councilor Wagner clarified that the most important hiring would be to hire a secretary – Janusz responded yes to help immediately with the sewer division and the EPA requirements.

Capt. O'Brien said their 10 year plans require additional personnel and more apparatus. Currently we have three stations manned with 10 personnel; 3 at Station 1 (North), 2 at South and the rest at headquarters. He proceeded to review all calls and mutual aid calls and said they estimated the town lost about \$35K in revenues from mutual aid. Capt. Rogers stated that they completed an analysis of where the calls were coming from for one year. He said they have had 102 responses to date and they will expect more due to the expansion of I93 that has 15 miles of highway. Also, with the development of 55 and over housing the calls will increase as well as industrial calls. Capt. Rogers stated they received 1,500 simultaneous calls with 10 members on shift. They are requesting an increase in staff by 4 people per shift over the next ten years. He stated depending on what the occupancy is depends on their staffing needs. Councilor Wagner asked Planning Director Andre Garron if Planning works with the LPD & LFD to let them know who is building in town and if it would effect emergency staffing. He responded that they work together on the build-out in town. Councilor DiMarco asked if they had statistics on what the requirements are for a town of this size; Capt. Rogers said they do have guidelines that provide them with statistics. Capt. Rogers stated that they have a labor intensive job that requires trained personnel. Councilor DiMarco talked about equipment and Capt. O'Brien said that in the future they will need replacements for an ambulance, a tanker, an engine, and a support

vehicle. Councilor DiMarco also asked about staffing the airport fire department with Londonderry personnel. Capt. Rogers said they are training so they can put in a successful bid if the opportunity arises. Councilor O'Keefe asked about Manchester paying for Londonderry going to some of the fires. Capt. O'Brien said they have automatic aid with Derry. Councilor Farmer thanked them for putting the report together for future needs. He suggested it might be good to look at future development to determine how many calls might be generated from the new building. Chairman Brown clarified that LFD is looking for 16 additional employees; he said it looks like you need 12 in place for the first five years. Capt. O'Brien said it is a phasing process. Chairman Brown said based on the current state of a town our size do we have adequate coverage. He questioned if we could add 1-2 people per year or should we see how the development cycle is because we have not added those numbers in the past. Capt. O'Brien said the SAFER grants are out there and the town can save money by applying for them. Councilor Wagner said the future Council should pursue the SAFER grant in July. Town Manager Caron said they need Council approval for the grant application. Chairman Brown asked if the department could increase the call fire fighters. Capt. O'Brien said they do draw from the call fire fighter staff as well as interns.

LPD Chief Bill Hart said for guidance only they use National Accreditation levels as guidance for staffing levels. Londonderry is lower than the regional averages both in terms of sworn officers and civilian personnel. Civilian personnel levels are very low and they are constantly dealing with shifting responsibilities. The paperless process is working well. If the continued growth in the community continues he does foresee growth in civilian and uniformed personnel. He said if we do not think 18-24 months ahead you are behind the curve in policing. He talked about the anticipated increase in traffic, and density and the fact that they might consider the allocation of personnel across the 54 sq. miles of the community. He spoke about the attrition in his department. Councilor Wagner suggested getting together with the LPD, LFD and Planning Dept. A. Garron said they could get together quarterly to see what impact building would have on public safety. Councilor O'Keefe complimented the LPD on their work in the community. Chief Hart said the allocation in personnel has not gone up very much. Staffing is an issue, 23 officers respond to 27K plus calls a year. Councilor Farmer said now we are about to see explosive growth we have to start addressing these needs. Councilor Brown said if we move forward with an increased personnel line it will impact taxes. We have to have a balance and have the revenues to offset the costs. A. Garron said the Town has been "walking the fine line" for many years. The revenues that were brought in have attended to our needs. You will see an expanded level of the tax basis so you can absorb some of the growth related measures that the community does in a fiscally responsible fashion. Councilor Wagner said most of our infrastructure has been done. She asked the Town Manager if any debt has been retired this past year, he responded some debt has been retired but it has been comparatively small. Councilor DiMarco said rather than investing in more infrastructure it could be invested in public safety or increasing staff.

**FY11 Budget – Sign Town Meeting Warrant** – Copies were signed and will be posted tomorrow.

**Charter Commission Project** Town Manager Caron said the plan is to send a letter to all the applicants so they understand their authority and flexibility if they should be elected to the Charter Commission and if the question is passed by the voters. Under RSA 49-B:3 VI it is very specific that if the town approves consideration of the official ballot voting that is the only issue which the Charter Commission can look at. There are a number of steps involved in this process.

The Town Clerk calls a meeting within 1 week, and at the first meeting the Charter Commission will elect officers; the Commission may adopt rules and regulations. He said he will recommend that the town attorney be present at the first meeting so he can outline the scope of the Commission's charge. Currently the attorney is reviewing the Charter to determine which specific provisions will be within the Commissions' purview for recommended changes. When that information is received from the town attorney he will go forward with the letter. By the end of March we have to credit the commission with the sum of \$100.00 for their expenses. The commission may also receive donations and any persons making donations in excess of \$5.00 shall be recorded and filed with the Town Clerk. Some of the critical issues are that within 14 days of the first meeting the commissioners are required to hold a public hearing; the commission will issue a preliminary report no later than August 26, 2010; their final report will be publicized prior to October 26, 2010. Minority reports are allowed but they cannot exceed 1,000 words. There is a very specific process under state law as to how the commission will set about doing their business. It is critically important to know that there is a very narrow scope of responsibility before this particular commission should the question pass on 3/9/10 and that is if the Town should consider a proposal to move to the official ballot voting which will replace our budgetary Town Meeting. Chairman Brown verified that the town attorney is reviewing our Charter and he is laying out specifics areas that are going to be in the purviews of the Commission if this question is passed. When those specifics are outlined anything other than that will be addressed by the Commission. Town Manager Caron referred all to RSA 49-B:3, VI. The question and the election are on the same ballot, no other issues can be addressed beyond the official ballot question. Chairman Brown confirmed that the attorney will attend the first meeting with the Commission. Councilor DiMarco asked what happens after the change to the Charter is voted on and the Commission is appointed, Town Manager Caron responded it automatically goes on the ballot in 2011 and the citizens will vote on the proposal. Reed Clark questioned the wording of the ballot. He said it doesn't make sense to have the commissioners along with changing the Charter on the same ballot, it is two questions.

### NEW BUSINESS

**Citizen's Petition on the Definition of Marriage. (2<sup>nd</sup>. Petition)** – Town Manager Caron said the Town received a second petition on the marriage issue that requested the first petition be amended. He said that he sent a letter to the petitioners stating that under state law that action was not allowable. He said he received a letter today stating that they want to withdraw their petition. He said he sent them an e-mail informing them that unless the number of signatures drops below 25 the petition needs to go forward. The petitioners have a few options: do nothing, and if the Council does accept the recommendation to schedule a public hearing on this issue. The second option is to have the original signers of the petition withdraw support of the petition until the number of petitioners drop below 25. The third option is to do nothing and appear at the 3/1/10 Council meeting and make their position known. Under state law even though actions sought under the petition cannot be taken, it must be presented to the voters and explained why it is illegal. He suggested scheduling this non-budgetary petition for a public hearing on 3/1. **Councilor DiMarco made a motion to move the second petition to a public hearing on 3/1/10, second Councilor Wagner.** Open for discussion. **Council's vote 5-0-0.**

### APPROVAL OF MINUTES

None.

## OTHER BUSINESS

**Liaison Reports** – Councilor DiMarco meet with the Planning Board on 2/3. The Town Council had given direction that they wanted the Planning Board to consider the reduction of 24 units to 16 units for all multi-family. He read the draft meeting minutes. At the Planning Board meeting Tim Thompson asked the Board how, when and where did they want to follow up on it. Art Rugg said historically the number of 24 units went back to 2000 when the Town revised the multi-family R3 District. He feels that changing the number of units will cause legal problems. Councilor DiMarco said that the legal counsel was consulted on this issue and he said he was comfortable with the changes as long as it was reduced consistently across the board. T. Thompson said after reading the e-mail from counsel he feels that is where he limited his examination of the issue. You could lower it to 16 but it had to be done consistently across the board. T. Thompson further stated that he does not feel that counsel went beyond that in any way regarding the implications. He said the Workforce Ordinance was adopted by the Town Council for multi-family Inclusionary to allow up to 10 units per acre but that limits the number of units in a building to 24 which was reduced from the original 36. Staff is concerned that by reducing the units the costs would be passed onto the buyer resulting in higher costs. Planning Board consensus was to direct staff to ask the Town Manager to ask Town Council what rational prompts them to ask for 16 units and also to consult with legal council. John Farrell said the Board should ask the Town Manager for clarification in regards to the e-mail from counsel. Town Manager Caron said they have posed additional questions to counsel, Tim and Andre will get additional information and bring it back to the Planning Board. Councilor Farmer said Councils rationale was managing the growth and responding to citizens who expressed their opinions. He said we asked and received legal opinion from the town attorney. Councilor Wagner said she agrees with what we are doing and suggested that we have another sit-down so everyone is on the same page. Town Manager Caron said there are 3 different provisions in the ordinances so coordinating amendments will not be problematic. Essentially the Council would be approving a policy statement. Councilor Farmer said there are some already pre-approved plans and they should be grandfathered. Town Manager Caron said he will follow-up on this issue.

**Town Manager Reports** – Town Manager Caron said the web site IP Address was subject to an intrusion; the Town's network remains secure, staff is looking into different options. The Councilors proceeded to give suggestions.

Chairman Brown said he got requests to put the Council packet on-line. Town Manager Caron said what he currently does is post anything with respect to Resolutions, Ordinances or Orders on-line. Now we are getting more requests for more detailed information which is all public information. We can do accomplish this by making that information available to the Councilors a day before we make it public. Some information in the packet is confidential and exempt from the Right-To-Know Law and it will be e-mailed in a separate e-mail to the Councilors. Councilor Wagner said she loved the paperless packets and that was the consensus from the rest of Council.

### **Board/Committee Appointments/Reappointments -**

None

**ADJOURNMENT**

**Councilor Farmer made a motion to adjourn at 9:50 PM, second, Councilor O’Keefe. Council’s vote -5-0-0.**

**Notes and Tapes by: Margo Lapietro Date: 02/08/10**

**Minutes Typed by: Margo Lapietro Date: 02/18/10**

**Approved; Town Council Date: 03/01/10**