

TOWN COUNCIL MEETING
April 18, 2011

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

PRESENT: Town Council: Chairman Sean O'Keefe; Vice Chairman Joe Green; Councilors: John Farrell, Tom Dolan, Tom Freda; Town Manager Dave Caron; Executive Assistant Margo Lapietro.

CALL TO ORDER

Chairman O'Keefe 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.

PUBLIC COMMENT

Town Clerk/Tax Collector Meg Seymour reminded everyone that April is dog registration month.

Chuck DeRossi, 52 Old Derry Rd. asked about the zoning change for Scobie Pond Road involving a large size cluster housing development for 128 units. He said a decision was made by the ZBA to use wells not public wells at the location as originally proposed. He explained that the water table is low in that area. The information given at the Planning Board meeting was that the development would have public water but when this was presented to the Town Council there was no mention of public water. He asked the Council to decline the zoning change. Councilor Farrell said when the plan was presented to Council it was based on public water and sewer. He said he asked the Town Manager to contact Town Counsel and he is waiting for a response. Councilor Freda said the Planning Board had a concern over the water table issue which resulted in the Planning Department getting an expert opinion as to whether or not the development will support the water and will it give an effect on the abutters. He said to the best of his recollection, Tim Thompson said that the proposed plan as it is now even without town water and sewer, the 50 homes could be permitted under the old zoning. DeRossi said the trust has been broken at this point and we should send a message to other developers that they can't come in and say one thing and do another thing. Andre Garron said the Planning Board asked for an independent hydrologist study for their opinion of the water table. Tonight's agenda item is for the discontinuance of the road; it is not a zoning change. Chairman O'Keefe said what was told and what was voted on was very different than what they are presenting now to the Planning Board. Town Manager Caron said the zoning change approved by the Council was contingent on the Planning Board approving a plan which was reasonably similar to the one which was reviewed conceptually by the Board last spring. He sent that Resolution to the town attorney along with the original conception plan; the new plan and the minutes of the Council meeting and is under review by counsel. Chairman O'Keefe said he believed it included town sewage and water not wells. Councilor Dolan suggested the Town Manager give copies of the meeting minutes to Councilors to refresh their memories. Councilor Freda asked the Town Manager if we can proceed with the Resolution tonight? Town Manager Caron responded the Council may proceed; it is a separate issue involving a road abandonment of 400 ft of the

discontinuance of a road, and does not impact zoning. C. DeRossi said that according to Town Planer Tim Thompson the first 50 homes won't be affected by the proposed re-zoning. Councilor Dolan stated we have to be cautious to not contaminate the issue here tonight with the water issue. There is a provision in the Charter to delay an issue by one meeting, we can still proceed with just the road issue and allow the Town Manager and Town Attorney time to research the issue. Councilor O'Keefe stated that one thing does not have anything to do with the other. Chairman O'Keefe said this will be brought back up in the public hearing section of tonight's meeting.

Senior Affairs Housing Project – Sarah Landry, Senior Center Director; Phil Grandmaison, SNH Housing Services and Rob Schaffer from David White Architects, Goffstown, NH were in attendance. P. Grandmaison said they have submitted the application to the HUD 202 program which is due no later than June 1, 2011. It is for 60 one bedroom apartments for low income seniors 62 and older. They are all rental units with a maximum income for a single person of approximately \$38K; for couples it is approximately \$38K maximum annual income on a first come first served basis. Probably 85-90% of the occupants will have previously resided in the host community. He said their attorney is working on an option agreement to be submitted to the Town Manager to demonstrate site control. They also submitted a draft letter of support for the application to Council for their signatures. They will make a payment in lieu of taxes per Chapter 72 the "PILOT Law". That payment is either 30% of gross rents or the non school portion of the tax bill, whichever is less. He stated they will never ask the town for money to operate the senior residences. He said they will effectively pay \$15K per unit for land acquisition with the understanding that the town will apply for a Community Development Block Grant should their application be successful. This will be used along with their contributions to provide utilities to the site. Councilor Dolan asked if he had met with the Town Manager to work out some type of agreement for the PILOT to make it something we can invoice from an accounting standpoint. He said he wanted to have it as a receivable for our revenues. Town Manager Caron said traditionally it's been the town portion of the tax rate multiplied by the actual assessed evaluation; that is how communities throughout the state handle the payment of taxes. Councilor Dolan said he wants an accountable source of revenue we can count on, he wants an agreement in place, P. Grandmaison agreed. Town Manager Caron suggested Council voice support for the continuing development of the project and authorize him to begin negotiations with SNH Housing Services regarding the transfer of the land, recognizing it will come back to Council for final approval. **Council Farrell so moved, second Councilor Green.** Councilor Dolan asked Councilor Farrell to **include in the motion to "Authorize the Town Manager to enter into an agreement for the PILOT"**. **Councilor Farrell amended his motion to add the above wording, Councilor Green amended his second. Council's vote was 5-0-0.**

Boards/Committees/Commission Updates

Elder Affairs Committee Update – Stacy Thrall the Chair of the Committee presented her update. The Senior Housing is of importance as expressed tonight. She reported that the expansion of the Senior Center is beginning with the demolition of the old N/W Fire Station. It will be used for much needed parking spaces at the center. She said her group also supported and advocated for the ALERT Community Fall Prevention Program. They worked with the fire department on that project. They also supported Disaster Preparedness for seniors and their pets which is still ongoing. Councilor Farrell said the Londonderry Fire Department is making provisions for

kennels per Chief MacCaffrie. S. Thrall said they hope to develop an elder services guide, tax exemption for seniors are being looked at. She said they will be looking for new committee members this year. They have a goal to keep abreast of elder legislation at the state level. The Councilors thanked her for the update.

Conservation Commission – Deb Lievens, Chair of the Conservation Commission was in attendance. She explained that the Commission reviews all dredge and fill applications for NHDES Wetlands bureau, which have been down this year. They work on the Design Review Process with the Planning Board and process all the Conditional Use Permits for the Conservation Overlay District. They are working on a draft forest plan which should be completed this year resulting in a selective cut in Musquash. They have been working with the Londonderry Trailways and they have a new map completed by John Vogl. She said signage is also being worked on and there have been a number of Eagle Scout projects that have been working on that project. She explained that there have been a lot of volunteer hours invested into this. They have recently been approached by Fish & Wildlife to create a habitat for cottontails at the Musquash. They are working on the beginnings of a DES grant project on a large wetland on the east side of the Sunnycrest property to upgrade that wetland. The management of properties was discussed. In addition, they are working on updating their website and expanding their community outreach. She explained they will be closing on the Merrill easement this summer. Councilor Farrell told D. Lievens that he has asked about the dollars that go into the Conservation Fund and explained his main concern is town safety. He said that we have revenue issues and he wanted to explain directly to her why he was looking into their funding. Councilor Dolan is the liaison and said the work they do is hard and fun; they do a good job. Councilor Freda said listing the town owned properties on the website is a good idea, but he also suggested telling people what they can and cannot do on those properties. Councilors Green and O’Keefe thanked her and her committee for all the work they do. Chairman O’Keefe said we are struggling with budgets right now and we have to consider everything. Chuck DeRossi suggested taking the old Auburn Rd. site and using it for walking trails and questioned why can’t we do it? Town Manager Caron explained it is a superfund site, it has been remediated but most of the land is off limits to the general public until the monitoring period ends, which is quite some time in the future. There is a small section which runs parallel to Old Derry Rd that is usable which is not subject to that restriction.

Londonderry Arts Council – Elaine Farmer, Chair of the Londonderry Arts Council and Steven Lee, the Vice Chair was in attendance. E. Farmer talked about the upcoming artist exhibits at Mack’s Apple Orchards. Art on the Common is planned in September. She talked about hosting art exhibits in the Library. Steve Lee talked about the concerts and explained this is their 9th year. He explained they do a lot of fundraising work for the program. He said they were involved in the improvements to the bandstand and this year they were going to hopefully address the lighting issues. Council thanked them for their hard work. E. Farmer said they are always looking for new members.

PUBLIC HEARING

Councilor Farrell made a motion to open the public meeting, second Councilor Freda. Council’s vote was 5-0-0.

Resolution #2011-04 – Relative to the Discontinuance of a Portion of Scobie Pond Road (continued from April 4, 2011 meeting).

Chairman O’Keefe explained this was a continuation from the April 4, 2011 meeting and asked if an agreement had been reached with an abutter and with PSNH. Jonathan Ring from Beach and Jones Engineering and Anne Crotty the attorney for Chinberg Builders were in attendance. J. Ring said he has a waiver and release from Mr. Weigler, of 74 Page Rd. supporting the discontinuance of a portion of Scobie Pond Road, (copy attached). He said he had discussion with PSNH to provide a 20 ft. access easement. They have reduced their request to abandon the entire road to only 400 feet of road on the NW side to Woods Ave. The rest of the road will remain a Class VI road. Eugenie Snyder from PSNH is in agreement with this as long as she had the easement; they are waiting for the draft relief to be signed. She said if she has the easement she is satisfied that they can get in to do their work. That section of Brewster Rd. will not be discontinued. Chairman O’Keefe asked if there was anyone in the public that objected to what was presented, no one responded. Town Manager Caron clarified that Attorney Bart Mayer has completed additional work on the Resolution and there are two changes: the conveyance would be a deed without conveyance and the second change allows the Trustees to withdraw their petition anytime if they are challenged regarding the right of way because under the law if abutters feel aggrieved they can petition for damages. The Trustees will be responsible for town legal fees up until the time they request this Resolution be abandoned. Councilor Dolan asked for clarification on what the delay is for PSNH. J. Ring said they are waiting for a legal grantor from PSNH to sign the release but E. Snyder is agreeable to that release if they would provide the easement. Technically they don’t have the legal right to go on the property. In exchange for the legal right they will agree to the closing of the road. Councilor Green said he requested that all documentation be in line for this meeting today and that has not happened so he will not support the Resolution today. Anne Crotty said when they originally came here they were discontinuing the whole road, so when you are abandoning the whole road all the abutters have a right to object, since we are down to 400ft. PSNH and the Weiglers do not have a legal argument against the abandonment because they have access to the property. Under the statute if your property is becoming landlocked because of the discontinuance then you have a right to say that you can’t get to the property because it is landlocked. Now that we are down to 400ft. PSNH and the Weiglers do not have any rights under this statute. Councilor Freda clarified that they are only asking for the 400ft to be discontinued not the entire road, A. Crotty said just the 400ft. Town Manager Caron said if approved we will ask the surveyors for the exact measurements to attach to the Resolution to keep the records in the town clerk’s office. Councilor O’Keefe asked the Town Manager if we needed a PSNH sign-off. He said he will have to check with our Legal Counsel. His presumption is that PSNH has access from one end and not the other; he is presuming they are OK because they will have access to their right of way. Councilor Dolan said the actual Resolution itself in its current form isn’t correct it needs to be adjusted. He suggested getting the final plan, have our attorney check with PSNH to see that it is OK and have a new Resolution to support the 400ft. supported by a drawing. He said he is uncomfortable that we don’t have a survey of what exactly the piece is, the drawing needs to be updated, we need acceptance with PSNH. We need an administrative clean up continue the public hearing so everything is finalized. Councilor Green said he is having trouble with the word “portion” it is not specific and he wants written documentation from PSNH. Councilor Freda asked A. Crotty if this Resolution was approved tonight wouldn’t it have to be recorded at the Registry of Deeds, she responded no. Councilor Freda asked how she was going to put on the record that PSNH has the location, rights of abandonment, rights of way or access. A. Crotty responded she would have to draft an easement to PSNH. Councilor Freda said he would like to see the metes and bounds

described in addition to the drawing. J Ring said that would be done. Councilor Green said all that should be prepared and ready before the next meeting. He asked if the agreement with PSNH will be done and J. Ring said they will continue to communicate with PSNH and get the waiver and release. **Councilor Dolan made a motion to continue the public hearing until the 5/16/11 meeting, second Councilor Freda. Council's vote was 5-0-0.**

Councilor Dolan made a motion to close the Public Hearing, second Councilor Freda. Council's vote was 5-0-0.

Jonathan Ring asked to address the water issue brought up earlier in the meeting by Mr. DeRossi. He reviewed his records to verify if Manchester Water Works (MWW) or wells were listed on the plans distributed to the Planning Board. They went to the Planning Board on 5/12/10 for a preliminary hearing to discuss the conservation subdivision. At that time they had 159 lots and indicated that they were talking to MWW and looking for municipal sewer. On 6/9/10 they had a Planning Board meeting to discuss the rezoning because the Lordon property had split zoning. He explained they were exploring changing it all to an AR I zone. He said at that meeting they indicated they were looking at municipal sewer and reduced it to 132 lots and were still waiting for MWW to confirm the pressure issue. At the 7/15/10 Town Council meeting regarding the rezoning the plan that was issued at that meeting on Note #1 it stated that they had municipal sewer and on-site wells. In the middle of June MWW said it could only guarantee pressure to elevation 390' and some lots are above that. They decided in the middle or end of June not to go with MWW but with on-site wells. Councilor Farrell clarified that in June you were still talking about MWW and sewer to the Planning Board, J. Ring confirmed that was correct. Then the same plan was presented to the Council meeting on 7/15/10, J. Ring confirmed that was correct. Councilor Farrell said his perception at that meeting was that they were still discussing town water and sewer at that time, he said the Town Manager will check the minutes and with the town attorney. Chuck DeRossi, 53 Old Derry Rd said if the full understanding was that they were having wells, he would have said something at the meeting about his problem with silt. To the best of his knowledge they verbally said water and sewer was municipal. The question arose what date the Council meeting was held and it was listed as 7/15/10, Conservation Commission meeting was 5/25/10, 5/12/10 was the preliminary Planning Board meeting, 6/19/10 was the date listed as reviewed. Councilor O'Keefe said they are building very close to a Superfund site why would you drill wells there. As a citizen he has concerns about that. J. Ring explained they are having a hydro geologist developing a report; they are higher in elevation of the superfund, and their water is flowing towards the superfund. MWW can't supply water pressure due to the elevation of the site. Eric Chinburg, Chinburg Builders said they haven't tried to hide anything; it is not in his make-up to say that they want to do city water and sewer and then knowing they are then going to go to wells. He explained they hoped they could do city water but when it became a physical impossibility they talked to the Planner in the June timeframe. Councilor Dolan said he reviewed the Town Council minutes of 7/15/10 and they do not indicate that we captured any discussion of municipal water.

OLD BUSINESS

None

NEW BUSINESS

FY12 Goals and Objectives -

Chairman O'Keefe said the Woodmont development is the single largest proposed development this Council will see. He suggested having an on-going forum for residents to come to Council to express their concerns/suggestions. They could work with Councilor Freda and staff to make sure as the elected body that we are involved in the process. Councilor Freda asked the Town Manager if the Master Plan can override the zoning rules that are in effect on a parcel of land. The Planning Board will allow the zoning to change. Town Manager Caron responded under that the Planned Unit Development (PUD) has a list of allowable uses; if a use is not listed then the applicant has to come back for a zoning change to the Town Council through the Planning Board. Discussion ensued about how the PUD came about and how it works. Councilor Freda asked Community Development Director Andre Garron if he saw any unallowable uses of the PUD in the Woodmont development, he responded no. Councilor Dolan suggested the Council have a meeting to understand our various authorities and to be clear on land use board authority. Councilor Green asked the Town Manager why the zoning changes for Woodmont was taken away from Council and given to the Planning Board. Councilor Farrell said it was given away. Town Manager Caron clarified that process for zoning changes is that the Planning Board will make a recommendation to the Town Council to amend the zoning ordinance for whatever it might be. Every zoning amendment that comes to Council for final approval has a list of criteria that the Planning Board has to operate within and which the developers/property owners have to meet. The PUD operates in the same fashion however the authority given to the Planning Board is much wider in scope. The zoning amendment was the PUD ordinance. It is proper planning for the town to look at a large track of land and allow the Planning Board and the property owner/developer to complete Master Plan in order to develop a comprehensive strategy to develop those large pieces of land. The Town Council did review an allowable list of criteria and uses. Councilor Green said we have a governing body that is elected and they are supposed to be in charge of zoning. The point is that you have a parcel over 100 acres that can have the zoning completely changed; the underlying zoning is still there. He said people are coming to him questioning why the Council is not in charge of the zoning. Councilor Dolan said we are in charge of zoning, we created the PUD, that is the way Town Council created it. He stated that people can come to the Town Council with ideas and their concerns which we can bring to the Planning Board. He stated that the PUD gives the Planning Board a strong arm of authority. A lengthy discussion ensued about the authority of the PUD and the Planning Board. Chairman O'Keefe said when the decision was made it was due to the size and scope; it made sense that the Planning Board would have the ability to deal with the developer. The Council is still not giving up their authority. Councilor Green said he is just concerned about the non-conformance of it. Councilor Dolan asked the Town Manager to work with the town attorney and have a refresher on what are the various authorities among the land use boards and the Town Council. Councilor Freda said he would like to see a narrative of each sub-section of the Woodmont development. It should be on the web site so people can look at it. Andre Garron said the Woodmont development is comparable with the Pettengill Rd. area but it has more diversity. He said his office has been communicating the same thing to the developer. Councilor Freda responded the applicant might be making the changes but no one can see them; they need to be identified.

Councilor Dolan's goals were to ensure that the Town's public safety budget/staffing levels met public expectations/needs and to review the post incident analysis report completed for the

Hemlock St. fire. Councilor Dolan said his personal assessment and the feedback from town meeting was that the FY12 budget might have cut too deeply into public safety. He wants to make sure from a budgetary standpoint our safety needs are met. He said he wants the Council to go into detail on the post incident analysis report to see if we need changes and reinforce the correct things that were done. Councilor O'Keefe asked Captain Darren O'Brian from the Londonderry Fire Department if they have any feedback about the grant for 4 more firefighters; he said he has heard nothing yet. Councilor Farrell asked Captain O'Brian if he was OK with Councilor Dolan's proposal to review the incident report in detail, he responded he was OK with that. Captain O'Brian said it meant a lot to the firefighters' that Councilor Dolan visited Central Fire Station. He also thanked Councilor Farrell for visiting the fire scene.

Councilor Green talked about combining town and school duties. He stated that the police and fire are two areas we have to stay away from with budget cuts. He is suggesting providing goal measurements to the Economic Development Departments.

Councilor O'Keefe said this year we might approach the budget process differently.

Councilor Farrell said we need to focus on driving revenue. He suggested re-establishing the Economic Development Committee. Councilor Green asked Community Development Director Andre Garron how he will continue to work on that. He said the idea he had last year of either reestablishing the Economic Development Committee or an advisory committee was to get more help. Councilor Green asked what we can do to help. Councilor Freda asked A. Garron if he will have the same people that were on it before or a smaller group. A. Garron responded five people are more than he has now. Councilor Green asked for something to be drawn up about having this committee.

Town Manager Caron said individually Councilors have submitted 13 goals which comprise 6 distinct groups:

- Revenue Enhancement/Land Use Change Tax Policy
- Woodmont Development
- Economic Development
- Service Delivery
- Communication Regarding the Website
- Open Space Policy Direction

He suggested refining the goals into these categories, with sub-goals for review at the 5/2/11 meeting; the Council concurred.

Staffing Levels – Town Clerk/Tax Collector's Office – Town Clerk/Tax Collector Meg Seymour was in attendance. She explained all the duties that are completed in her office and asked the Council to maintain her 4.5 staffing level. Her department is losing a full time position per the FY12 budget and has received a retirement notice from Jane Hicks, Deputy TC/TC. She reviewed staffing levels in surrounding communities along with their duties. Town Manager Caron recommended filling the position. Councilor Green stated that based on the criteria provided to the Councilors it appears her office is understaffed with the amount of work that they do. **Councilor Farrell made a motion to replace the Deputy TC-TC position, second**

Councilor Green. Council's vote was 5-0-0. Council sent out their best wishes to Jane Hicks for her 27 years of service to the community.

Resolution #2011-06 – Relative to Renaming North Perimeter Road, South Perimeter Road, and East Perimeter Road. Councilor Green read the first reading, with a Public Hearing scheduled for 5/2/11, made a motion to adopt, second by Councilor Dolan. Council's vote was 5-0-0.

Order #2011-07 – Relative to Expenditures from the Reclamation Trust Fund - Councilor Freda made a motion to adopt, second by Councilor Dolan. Council's vote was 5-0-0.

APPROVAL OF MINUTES

Councilor Farrell made a motion to approve the Public Meeting Minutes of 04/04/11, second by Councilor Dolan. Council's vote was 5-0-0.

OTHER BUSINESS

Liaison Reports – Councilor Dolan said he attended the Conservation Commission meeting and distributed a copy of what the proposed signs for the Musquash area would look like and also the maps to the Councilors. Councilor Farrell attended the Elder Affairs Committee which was reported earlier in the meeting, and the Old Home Day meeting. He is on the fireworks committee.

Town Manager Report – Town Manager Caron had nothing additional to report.

Board/Committee Appointments/Reappointments – None

Councilor Dolan made a motion to enter into a Non Public Meeting according to RSA 91-A: 3 (a) at 9:48 PM. Aye Councilor Dolan, Aye Councilor Farrell, Aye Councilor O'Keefe, Aye Councilor Freda, Aye Councilor Green. The Council discussed a personnel matter in Non-Public Session. John Farrell motioned to exit Non-Public Session at 10:18 PM, seconded by Joe Green, motion carried, 5-0. John Farrell motioned to adjourn at 10:18 PM, seconded by Tom Dolan, motion carried, 5-0.

Notes and Tapes by: Margo Lapietro Date: 04/18/11

Minutes Typed by: Margo Lapietro Date: 04/20/11

Approved; Town Council Date: 05/02/11

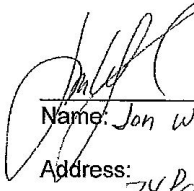
**SUPPORT OF PETITION
FOR DISCONTINUANCE OF SCOBIE POND ROAD
WAIVER AND RELEASE**

The below-listed citizen and/or taxpayer hereby supports the petition of Thomas E. Lorden, Trustee of the Kenneth A. Lorden Trust, to discontinue and relinquish all public interest in a portion of the highway (approximately 400 linear feet as depicted on the plan attached) known as Scobie Pond Road between Woods Avenue and Brewster Road pursuant to NH RSA 231:43.

The undersigned waives any claims for damages with respect to the discontinuance.

Further, the undersigned waives and releases any private easement rights it may have in the portion of Scobie Pond Road to be permanently abandoned.

Date: April 15, 2011



Name: Jon Weigler
Address: 74 Page Rd

Londonderry NH 03053

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