

TOWN COUNCIL MEETING
December 05, 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 Chairperson, Joe Green; Councilors: Tom Dolan, John Farrell, Tom Freda; Town Manager Dave Caron; Assistant Town Manager – Finance & Administration, Sue Hickey; Executive Assistant, Margo Lapietro.

CALL TO ORDER

Chairman O’Keefe opened the meeting at 7: 13PM with the Pledge of Allegiance. This was followed by a moment of silence for the men and women fighting for our country.

PUBLIC COMMENT

Bryan Christiansen - Comcast – and Cable Access Center Director, Dottie Grover were in attendance. D. Grover explained B. Christiansen was here to talk about the transition to digital networking enhancement. B. Christiansen explained they were adding 70-80 channels on the Londonderry Channel site – they started the process during the summer. Customers need a piece of equipment on their TV’s unless they have a qualm tuner on their TV to get digital signals. He stated that Comcast has a process in place whereby they notified customers 10 times prior to the change. They are the last entity to require a cable box to pick up signals. When the network is digitized it will offer up to 100 high definition channels. Councilor Farrell explained a customer gets 2 free boxes and they are charged for additional ones. When you have an HD ready TV with the equipment in it that is supposed to do the digital conversion why don’t you get all the same channels you get from the cable box? B. Christiansen said a defined signal is attached to the cable box. Some channels are attached to the digital TV and are not necessarily channels that Comcast carries. So he is getting both HD and digital network signals. Councilor Farrell gave an example and said if you have a regular digital TV without the cable box you don’t get ESPN, if you have the cable box you get ESPN. B. Christiansen responded that is correct and said the cable box is also descrambling or unscripting channels. They used to allow that signal to come through straight from the wall to your TV, now the signal is 100% digital and unscrambled. They need to ensure that the customer will get the service they are paying for. Councilor Farrell said people who are used to paying for services they got will no longer get those services unless they pay more for it. B. Christiansen said you will continue to get the services you had previously; the only change that has happened is that the signal is now digital. In order to receive that digital signal you need the equipment that descrambles that signal. The service is the same cost, you are paying an equipment charge, and people can pay the same or more for the additional 3rd or more box. You will be getting more channels. Councilor Dolan asked him to take back to corporate the policy about pro-rated credit. When he talked to the call center after the recent snow storm they quoted their policy that he had to call back between 24-36 hours of the start of the outage. They would not give a pro-rated credit they would give a flat \$20.00 credit. Councilor Dolan said if a customer has a bundled package with no power they

can't make outgoing calls in the hours stipulated in the policy – it is overly restrictive. He proceeded to relay his experience with Comcast. D. Grover said she will follow up on it and check the contract but also pointed out the fact that the cable could still be in working condition despite the fact of not having electricity. Chairman O'Keefe said he does not like leasing the boxes, he said he is paying about \$300 a year for lease fees for the two boxes. We are overpaying for the boxes and that should be looked at. Richard Belinski, Hall Rd. commented that in the next 2 years the technology will be changing again, there is a federal law coming out in 2012 that will require Comcast to let you buy your own equipment. You lose some quality in the digital box, and you lose some stations, you shouldn't be tied into having to get HD stations that you can pick-up without getting a HD box. The remote controls don't work properly. He said that customer service is polite but you don't get straight answers. He said he wants a local number to call for customer service. He said there is no clear indication of a card in the system to update Londonderry. D. Grover said she and B. Christenson have talked about customer service a lot, they are coming a long way but they need to do a better job of communicating. Keith Gagne, 84 Hall Rd. said he got a new TV and paid extra to get a cable card in it. He asked the question does the cable card do the same thing as the cable box. He was told yes but it costs \$10 extra a month for a card, now he is back to extra remotes. Why can't he get the card as opposed to the box? B. Christenson said the cable card is supposed to be free, he will check into it and get back to him. K. Gagne confirmed that he can take the cable box to Comcast and ask for a card and they won't charge me for the card. B Christenson said there was a change in August on the cards pricing and it should be free now. Councilor Dolan said Xfinity has been advertising that some of the Ipad tablets are compatible with Xfinity equipment and you can use the tablet as a remote. Does Londonderry have equipment with Ipads? B. Christenson responded there is some, the remote TV function and recording will be available later. "Any Room DVR" will require the customer to get a different DVR which is an exchange. When the upgrades become available they will do direct mailing as well as ads on TV. Councilor Dolan requested he communicate with D. Grover so she can come before Council and let them know about the changes.

Richard Belinski – Hall Rd. said he was here tonight in regards to the Deputy Treasurer position. He referred to the Town Council meeting minutes of 9/12/11 (typo error, minutes are dated 2012 on website) where there was talk about the Deputy Treasurer who was sworn in on 4/07. He said in 2001 when he was the Treasurer he looked into why we didn't have a Deputy Treasurer. He didn't think the date of 4/07 was correct and researched it. He contacted the Town Manager who got an opinion from Counsel that what was done is legal; he said he wholeheartedly disagreed. The term of the Deputy Treasurer runs concurrently with the term of the Treasurer. He wasn't the Deputy Treasurer in 2010 because he was not sworn in again so he couldn't be bumped up to Treasurer. If there is no one in the position according to the Town Charter you can put someone in the position until the next election. He commented that the town does not have anyone legally signing the checks. He said if we received a legal opinion from Counsel he would like to see it. Chairman O'Keefe said the basic question was that okay to do. Town Manager Caron said the guidance he received from Counsel was RSA 41:2-a that says, "a Deputy Treasurer should be appointed by the Town Treasurer with the approval of the Board of Selectman" which is the Town Council of Londonderry. The Deputy Treasurer is an appointed official. RSA 41 57-a states, "Term of Office states that otherwise provided, a term of office of any appointed town office shall begin upon his or her appointment in qualification of office and should end upon the appointment and qualification of his or her successor." According to Counsel since Treasurer Bob Lincoln did not nominate and the Council did not confirm another person, John Conley is the Deputy Treasurer until someone else is appointed and qualified. R. Belinski said that is true if

they were sworn in for each term. It runs concurrent with the term of the Treasurer. He said J. Conley has never been sworn in and that is what he was told. Chairman O'Keefe said if he wasn't sworn in, can you ask Counsel if legally that changes anything. Councilor Dolan asked if there is an RSA that requires the Deputy Treasurer to be sworn in. Town Manager Caron responded there is an RSA that requires that you have to be sworn in within six days if you receive a notice; John Conley never received a notice from the Town Clerk. If he had, he would have been sworn in. The Counsel said the best way to correct the oversight is to have John Conley sworn in; he had been nominated by the Treasurer, he was confirmed by the Town Council under the statute, there has not been another person who has been nominated or confirmed after him so he is still the Deputy Town Treasurer so he should be sworn in before he performs any more duties, so he was. According to the advice of Town Counsel he will serve until the next town meeting at which time whoever is elected will serve out the remainder of Bob Lincoln's unexpired term. Councilor Farrell verified that he was appointed in 2007, he was never sworn in, he was sworn in on 9/11. He never took the oath but he was the appointed person and he was sworn in when Bob Lincoln resigned and moved out of town. If he was never sworn in there was no term for him to follow, he's only sworn in until March. The Town Manager said the law is very clear in that the person appointed to an elected position serves until the next annual election then you have a shorter term to get back on the shorter cycle. R. Belinski asked if there were any checks that were signed between March and September of this month signed by J. Conley; the Town Manager responded he didn't know he would have to check. R. Belinski asked when did B. Lincoln officially resign. Chairman O'Keefe asked R. Belinski what he is looking for – R. Belinski responded it is procedural, he has nothing against him. This is a major issue if you have someone signing checks when they don't have the authority to sign checks. Councilor Freda said he had this question to. He referred to RSA 42:4 that says you have to get sworn in within six days of being appointed. It also says you have to receive notice; we have been advised that J. Conley wasn't given notification and that being the pre-requisite for the six days to start it was Counsel's opinion that we could swear him in. Counsel is basing it on his reading of the statute. Council Freda asked who is objecting – R. Belinski said he is, he doesn't want unauthorized people signing checks. Councilor Freda responded there is no law that says he is unauthorized. At one point he was sworn in and the statute stipulates he has to be sworn in six days after receiving notification. He received notification and has been sworn in as acting Treasurer. Councilor Freda said the fall back is if there is no Treasurer and Deputy Treasurer then by statute one of the Selectmen or Town Councilors is authorized to sign. It was a concern and he asked about it but it doesn't say anything in the statutes that if he doesn't receive notice his appointment is void.

Lisa Drabik - Lisa was here about a month ago asking the Council to put a Warrant Article on the March ballot pursuant to RSA 662-A:3 to ask if the voters of Londonderry would like to put a commission into place to investigate the possibilities of voting by wards. The question was about how one seat in Auburn would be affected and how we would proceed. The Town Manager communicated with the Secretary of State and they said it was okay to go ahead with that process and put it on the ballot, and the Town should inform the State Legislature as it is currently redistricting. The number of representatives is a completely separate issue. That number will be decided in Concord based on a result of the census using a particular formula. It has no impact if we eventually go into a ward system. She said she is here just to start the process and the Council is empowered by the statute to put the question on the ballot. It will read: "Shall the town establish a re-districting commission to divide the town into two or more districts for the purpose of electing representatives to the General Court." Councilor Farrell

asked the Town Manager how the Commission would be elected, is it like the Charter Commission. Town Manager Caron responded the only difference between this process and the Charter Commission is that the Council by statute appoints the Redistricting Commission, which follows the same exact timeline as a Charter Commission. Councilor Farrell asked how many signatures were needed to put that on the ballot. Town Manager Caron responded he wasn't sure but under RSA 662-A, there has to be 25 or more registered voters for the redistricting question. Councilor Dolan said there have been a number of citizen's petitions over the past years. While the Council has the prerogative to put these issues on the ballot what inevitably happens is that the Council is viewed as either supporting or not supporting by our lack of support of these issues when they come forward. He recommends on this petition and others that when the citizens come forward it is our responsibility to help them with the legal language of their petition; give them advice on how to proceed. We ought to be taking a hands off approach; this is an initiative by citizens and they should get the signatures rather than us using our prerogative to put it on the warrant. When we do that it indicates to some people our support of the petition, we should be neutral. We can make sure it is legal and let the voters follow through. Citizen petitions are decided by the citizens. Councilor Freda said if this passes the Council will appoint the members, it is not an election. Town Manager Caron said that is correct. Councilor Freda said he has a problem with it; we should have a hands off approach. Councilor Green said he agreed with Councilor Dolan it is more of a state issue and it should be decided by the citizens instead of the Council as far as whether or not it should go on the ballot. Chairman O'Keefe said he has a couple of thoughts on why he is not for it. He agreed with Councilors Dolan, Freda and Green. If the voters want to do it they should push for it, Council should not take a position on it. Councilor Farrell said he agreed with Councilor Dolan – take a hands off approach and ask the people. Councilor Freda asked when is the petition due. Town Manager Caron responded the petition is due 1/10/12 but hopefully earlier to verify the language and the correct number of signatures.

Pauline Caron, 369 Mammoth Rd said under RSA 91A when you have a Non-Public meeting it should be listed in the agenda and she said she believed they had a Non-Public meeting tonight and it was not listed in the agenda. Chairman O'Keefe responded it was a non-meeting with legal counsel, which means is the meeting that they had is not covered under the provision of 91A, there are no minutes that are required to be kept; no notice is needed. They had a meeting that is not under the jurisdiction of RSA 91A.

PUBLIC HEARING

Councilor Dolan made a motion to enter public hearing, second Councilor Freda. Council's vote was 5-0-0.

Ordinance #2011-11 – Relative to Revisions to the Municipal Code, Title IV, Chapter IV Junk Yards/Dealers; Title IV, Chapter IX-A, Individual Sewage Disposal Systems; Title II, Chapter III, Special Regulations; and Title VI, Chapter IV, Safety Regulations. Councilor Green made a motion to accept, second Councilor Freda. Town Manager Caron reviewed the changes. The first deals with changes to local regulations to align the license renewal date with state law to July 1. The second item establishes regulations for on-site septic systems. Richard Canuel will be looking at fee structures for RSA 41: 9-a and will present them to Council at a later date. The third item allows the Londonderry Police Department (LPD) to establish temporary traffic and parking regulations during special events or emergencies. The

fourth item deals with safety regulations which is a complete re-write of the Town's Safety Manuel. This was developed with assistance from our insurance carriers to ensure we are complying with best management practices and are in compliance with state law for joint loss prevention. Hearing no public input, **Council's vote was 5-0-0.**

Ordinance #2011-12 – Relative to an Amendment to the Zoning Ordinance Regarding the Demolition Delay Ordinance – Councilor Freda made a motion to accept, second Councilor Farrell. Open for discussion. Councilor's vote was 5-0-0.

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

OLD BUSINESS

Councilor Green said he was surprised about the additions to the default budget that totaled 27. He said he thought we had talked about staying with the actual expenditures. He discussed overtime and fuel. Councilor Farrell said it was his understanding that we were going to look at trying to fund things for what the right amounts should be and we have given that job to the Town Manager who was going to come back with his best recommendation. If we don't agree with it on the 19th then we were going to challenge it. Hopefully we will not make the decision to underfund it again. He understood that we would take that information to the Deliberative Session and let the voters decide. Councilor Green suggested doing that before the 19th so Council can get a good idea of what is going to be done before the 19th. Town Manager Caron said it was his understanding that he was told by Council that on a preliminary level they wanted to present a budget for citizen input at the level of \$300K above default and then it was up to him to recommend where it should go. On the 19th the Council is going to make its own decisions, once the Council makes a policy decision that is going to be what it is. He said he did not receive specific directions as to which line items they recommended for increases. Councilor Green said he does not want to fund additional items when we have such a stringent \$300K, we should stick to what we know was previously underfunded and under budgeted. He said he brought it up today to see how everyone felt. Councilor Dolan told Councilor Green he was using a good thinking process. The reality is we can't change a new number at the public hearing or else the notices are not valid. The town operating budget which is what we are talking about is a bottom line budget. The Town Manager has a bottom line budget to run the town. We will continue to give him advice to reduce the budget but when it is finally approved by the voters he will have around \$25M – \$26M at the bottom line. Councilor Green asked can't we tell the Town Manager that we don't want to fund the extras. Councilor Dolan said we can't interfere with the day-to-day running of the town, the way the Charter is written it stipulates that. We give a notional guidance to the Town Manager. Councilor Green asked if the budget is over balanced what happens. Councilor Dolan responded when the Town Manager gets close to that line he will put various freezes in place until the budget refreshes. In the final quarter of the year the Town Manager is watching expenditures very closely. Councilor Dolan said in years past we have told the Town Manager we want an "X" budget and he has brought that to us. Town Manager Caron explained that at Town Meeting they approved a \$25M budget; out of that \$7M is the LPD budget and he follows that unless there are extraordinary circumstances which has happened a number times. He said he manages what is approved by Council and Town Meeting – he follows the approved budget as best as he can. Chairman O'Keefe said the initial presentation is just a starting point to put a public notice out. This year it has been more difficult to get a flat budget, the default might be a fair number.

NEW BUSINESS

Proposed Collective Bargaining Agreement with AFSCME-LAEA Public Safety – Town Manager Caron reported that staff is currently negotiating with 3 different units and have reached a tentative agreement with 2 of those units. He said he hopes to have the 3rd unit before the Council at 12/19 meeting. All 3 are aware of the current economic conditions and all the discussions were cooperative. This union is comprised of mid-level managers, their membership voted to separate into 2 separate units. One is Public Safety with police and fire. The other unit is town administrative personnel. He proceeded to review a summary of the agreement. The only cost in this proposal is an agreement with the employees to increase their life insurance maximum to \$100K. He recommended the Council accept this agreement. All the Councilors thanked staff for recognizing the economic conditions and for reaching a fair and amicable agreement. **Councilor Farrell made a motion to accept the agreement for recommendation to Town Meeting, second Councilor Freda. Council's vote was 5-0-0.**

Proposed Collective Bargaining Agreement with AFSCME 1801 - Town Manager Caron said this unit is comprised of Public Works and town hall support staff consisting of 19 full-time and 2 part-time employees. It is essentially the same arrangement as LAEA and he proceeded to review a summary of the agreement. There is a cost associated with this contract of \$6,764.00 which is programmed step increases for the contract which we cannot award if the contract expires. There are only 5 employees eligible for step increases which are about 2.5% between steps. All the Councilors thanked staff for their cooperation. **Councilor Farrell made a motion to accept the agreement for recommendation to Town Meeting, second Councilor Green. Council's vote was 5-0-0.**

Library Technology Plan – Library Director, Barbara Ostertag-Holtkamp and Library Trustee Chair, Vicki Stachowske were in attendance. They talked about their vision of incorporating technology and electronic offerings to the town. B. Holtkamp informed Council that they were a member of the NH Downloadable Books Consortium which has a membership of 169. Londonderry was ranked #4 in the top circulating libraries of downloadable audios and e-books in the consortium. They had almost as many videos being checked out as downloadable audios and e-books. Self-check would require buying a new library system to implement that. B. Holtkamp explained they pay \$600 a year for a basic library system. B. Holtkamp explained they tried to implement an upgrade to that system and the cost was \$4K with an annual fee of \$495.00. They looked at a new system and the cost was \$63, 800.00 with an annual fee of \$10K. The \$4K upgrade did not work. Due to the economy they stayed with the old system; Vickie Stachowske said they have not put that new system in their budget costs. Councilor Dolan questioned if the costs were not that prohibited would you want a new ILS, B. Holtkamp responded they would like it but they would have to weigh it out, the community would like it. V. Stachowske said the new system is an awful lot of money for what we get for it. We can get the same thing with the NH Library website with “NPAC”. Councilor Dolan said we have a fund balance at the Cable Center which is typically reserved for technology. He asked the Town Manager if we could tap into that source for the library. Town Manager Caron responded not directly, the statute requires that if you draw from those special revenue funds the surplus has to be for cable related issues. The indirect method it is to redirect a greater portion of cable franchise fees for the fiscal years going forward to other projects that do not restrict you by law and then rely upon the undesignated fund balance to pay for the cable operating expenses.

Councilor Dolan stated he was just looking at ways to help the library by not building it into their operating budget. V. Stachowske said they could use another router at the library and Town Manager Caron said they could use the Moose Hill Council Chambers for internet access. Trustee of the Leach Library, Pauline Caron said the figures of \$63K and the annual fee of \$10K are not current prices; those are figures from about 6 years ago. B Holtkamp said there is a group of about 40 libraries that are looking at possibly doing a joint purchase for a library system. Councilor Farrell said the intent in the Resolution was to try to figure where we are going versus of where we have been. He said he attended a school budget presentation and talked to people at the school and their basic philosophy was about 3-5 years ago they started putting together a 6 page vision of digital changes before their current systems become obsolete. They produced a 30 page plan vision for the under 40 crowd. He said the library has given us the past and present plan Council is looking for a future plan. V Stachowske said to compare a public library to a school library is difficult. The library is going in the direction of most libraries at the present time with technology; we don't know what the future will bring. Councilor Farrell responded that is why we need a plan for the future. B. Holtkamp said part of the public function of the library is to offer a mix of traditional library services and technology. We track services on a monthly basis so they can look at trends. Councilor Farrell said you are asking for \$100K more, he said he wants to know what the future plan is as the world goes digital. B. Holtkamp said she didn't know where he got that figure. The budget increases they are asking for included contractual agreements for staff. The Town Manager cut the book material budget by \$30K it eliminated all their data bases, electronic offerings, down loadable audio books and all our magazines. If we could keep our existing hours she will be happy. Councilor Dolan explained the town puts together a capital plan every year – and projects out 10 years. He said the Council is looking for a 5-10 year plan focusing on technology. We need to know the plan and when to plan it out for funding. Look at what the community needs in technology over the next 5-10 years. Don't let the funding perils of the past cramp your future vision. V. Stachowske said that makes sense, the Trustees have probably been lax going in that direction as well. At this particular time she does not have an answer. Councilor Dolan suggested having the trustees come to Council and say in the next so many years they should look ahead and give us an idea of what is needed. V. Stachowske said they will work on a plan.

Pauline Caron asked about the procedures of the Deliberative Session, are they going to be explained to the public. Are the rules of the Moderator going to be made public before the session? Town Manager Caron responded he can recommend it to the Moderator but ultimately it is the Moderator's decision how she runs the meeting and what rules she is going to make. P. Caron asked if it is going to be run like the School Deliberative Session – Town Manager Caron responded he does not know. He suspected it would probably be the same as a Saturday budgetary town meeting; the only difference is that decisions will not be final. Decisions will be on the ballot for people to vote on in March.

State Representative Betsy McKinney said county employees have not had any raises in 2 years – the situation is bad. The County budget is going up. Medicaid has cut back on nursing home funds on both the state and federal level. She said she predicts an increase in the county budget of 5-10 cents.

APPROVAL OF MINUTES

Minutes of Council's Public Meeting of 11/19/11 and 11/21/11 - Councilor Dolan made a motion to approve the public meeting minutes of 11/19/11 and 11/21/11, second Councilor Green. Council's vote was 5-0-0.

OTHER BUSINESS

Liaison Reports - Councilor Dolan said that the Londonderry International Exchange Committee met tonight so he was not able to attend. Councilor Farrell said he attended the Manchester Airport Authority meeting and they announced that Southwest Airlines will be stopping their flights to Philadelphia in January. Providence and Boston will be stopping theirs in February so the only provider will be US Airways. They did announce they will have a new non-stop flight to Denver. The Las Vegas flight will be suspended from January to April. They will substitute a Ft. Lauderdale direct flight. The new screening technology employed at MHT will show a generic figure. He said he talked to Airport Director Mark Brewer at great length about Pettengill Rd. Councilor Dolan asked if there were any increases in the Philadelphia route. Councilor Farrell said not at this time but maybe in the future. Councilor O'Keefe said it looks like MHT is continually losing flights. Councilor Dolan said Southwest is their biggest carrier; passenger service is down to half. Boston has captured more passengers because of Jet Blue. A lot of non-stop service has stopped; the industry is going through a change. There was a lot of talk about Ray Wiczoreck Drive and trying to reach the 5-10 mile radius. The Safety Dispatch Committee visited Derry Dispatch.

Town Manager Report – Nothing at this time.

Board/Committee Appointments/Reappointments

- 1) Resignation of Mike Gallagher from an Alternate position on the ZBA
- 2) Resignation of Vicki Keenan from a Full Member position on the ZBA
- 3) Resignation of Rosemary Dann from the International Exchange Committee.
- 4) Appointment of Neil Jackson-Smith as an Alternate Member to the Solid Waste Advisory Committee, term expiration 12/31/12
- 5) Appointment of Martin Srugis as an Alternate to the Southern NH Planning Commission, term to expire 12/31/12.
- 6) Re-appointment of Gail Moretti as a Full Member on the Solid Waste Advisory Committee, term expiration 12/31/12
- 7) Re-Appointment of Deborah Nowicki to the Londonderry International Exchange Committee, tem expiration 12/31/14.

Councilor Dolan made a motion to accept all the above, second Council Farrell. Council's vote was 5-0-0.

Town Manager Caron mentioned that the membership on the ZBA had diminished so if there were any volunteers interested in the board to contact Margo. Chairman O'Keefe asked how many are needed and Margo responded 3. The openings involved long term member Vicki Keenan, Alternate Mike Gallagher and another Alternate vacancy that has remained unfilled for a few months. Margo said she will be posting an ad in the paper.

Chairman O'Keefe announced that the next Town Council /Budget Hearing will be 12/19, and then on 12/28.

ADJOURNMENT

Councilor Farrell made a motion to adjourn at 9:43 PM, second Councilor Green. Council's vote was 5-0-0.

Notes and Tapes by: Margo Lapietro Date: 12/05/11

Minutes Typed by: Margo Lapietro Date: 12/15/11

Approved by: Town Council Date: 12/19/11