TOWN COUNCIL /BUDGET MEETING April 01, 2013

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

PRESENT: Chairman, John Farrell; Vice Chairman Tom Dolan; Councilors: Jim Butler; Joe Green; Tom Freda; Acting Town Manager, LPD Chief William R. Hart; Finance Manager Sue Hickey; Executive Assistant Margo Lapietro.

Call to Order

Chairman Farrell opened the meeting at 7:00PM with the Pledge of Allegiance. This was followed by a moment of silence for the men and women in the service and for first responders.

Public Comment

<u>Town Council Liaison Appointments – Chairman Farrell had passed out the assignments at the meeting on 3/18/13 and the Councilors reviewed them and agreed to the assignments.</u>

Chairman Farrell said that Beautify Londonderry requested a banner be hung on Mammoth Road but after researching the issue it was found that the DOT does not allow this practice on state roads. Chairman Farrell said the wire hanging across the road for the banner should be removed. He explained the Town would have to assume the liability, and most insurance carriers won't insure for it.

<u>Londonderry Police Department Update on Overtime – Acting Town Manager/LPD Chief Bill</u> Hart said the Londonderry Police Department (LPD) is at the 75% level of expenditure for overtime. Capt. Gerry Dussault provided a PowerPoint presentation and explained they had reached that figure on week ending 3/16/13. They have expended \$355,730.00 out of a budgeted sum of \$423,445.00. Councilor Dolan asked if the numbers include the Manchester Airport overtime. Capt. Dussault responded they do not. Capt. Dussault pointed out that we are in better overtime shape this year than we have been at this point in the last 5 years. The Operations Division of overtime spending was slightly ahead of the departmental total. He proceeded to review the FY13 status vs. the FY12 status of overtime. \$510,000.00 is projected for overtime at the end of FY13 which would put us at \$38,555.00 over budget in overtime. Capt. Dussault provided the overtime figures from FY08 – FY12. He explained the department is tracking very well for the end of FY13 and should be comparable to the FY10 for a final figure. He listed the dates they reached the 75% expended mark in prior fiscal years and explained the last time that their overtime budget was in this good a shape late in the fiscal year was in FY07. Open for discussion. Councilor Dolan pointed out that the overtime is replacement pay for people out sick, injured or on vacation. Capt. Dussault said they formed a sick leave committee this year to look at the issue of sick leave. They found out by putting simple things in place they have reduced sick leave. Chairman Farrell asked if we have an extreme crime what happens to overtime. Capt. Dussault said the overtime will spike.

Councilor Green said the Senior Affairs Committee had questions on the Sanborn Road project. They are positive in committing to that site instead of the site being used for the future dog park. The question is if they can get an estimate on what it will cost to completely clean it up before they put the senior housing on the site. Councilor Butler asked if the site is located on the same side as North School, Chairman Farrell responded it is on the same side. Councilor Butler said he was under the impression the Committee was looking at the property on the opposite side of the road. Chairman Farrell directed the Town Manager to talk to the Director of the Senior Center to find out the exact piece of land they are talking about and see whoever it is in the town that they should be talking to about what the process will be and bring us back some answers. Councilor Dolan said he wants to understand the entire picture before we go forward. What is going to be there, who is going to own it, does the town turn over the property to a private developer, are we going to own the land and they are going to put a structure on town land, are we going to lease the property? He said he needs to understand the larger picture. If we take on this project and transfer property to a developer does that imply we have some environmental liability for that property and for how long? Councilor Green said the question that keeps coming up is, is the site legally able to house people and how much will it cost to clean it up. Councilor Dolan said the question that he has is who is helping whom. Are we helping a private developer develop the property or are they helping us. Is this some private/public partnership that we are about to engage in. Typically a developer will do their own environmental analysis before they acquire a piece of property to develop it. Chairman Farrell asked the Town Manager to have Senior Affairs Director Stacy Thrall come in and refresh our memory. Councilor Freda said it is going to cost someone some money.

Reed Clark, 79 Stonehenge Rd. talked about the wire hanging across the road for a banner. Acting Town Manager/LPD Chief of Police Bill Hart explained the DOT does not want anything across the road and the insurance issue was another matter. R. Clark said he will take care of it tomorrow. Acting Town Manager/LPD Chief of Police Hart told R. Clark that he would get all the information together and get back to him.

Joe Maggio, 17 Cortland St. talked about 2 unregistered motor vehicles consisting of an RV and a car located near his property. The town attorney is considering these vehicles unregistered. He passed out e-mails that have been going back and forth between him and Code Enforcement Officer Richard Canuel, Chairman Farrell and Acting Town Manager/LPD Chief Hart, (copies attached). He said the Code Enforcement Officer has done as much as he can do. The RV has been there about 6-7 years. The Town has had attorney Matt Serge involved in the issue. J. Maggio said the town attorney has said that the way our ordinance is written it doesn't specify unregistered as opposed to junk. Code Enforcement Officer Richard Canuel said that is correct and he approached it as a matter of aesthetics; there is a very thin line of what is legal when addressing aesthetics. He approached it as perhaps being a junk vehicle, and stretched the Ordinance by doing that. He contacted the town attorney and he advised him not to go ahead with legal action because of the way our Ordinance was written. Chairman Farrell clarified that someone is renting the home and it is owned by the abutter. The tenant is interested in disposing of the unit but can't afford it. R. Canuel said from a legal standpoint his hands are tied from taking any legal action against the tenant. The tenant has called junk yards but they are not interested in it unless someone pays them to take it away. J. Maggio said the tenant has added another junk vehicle to the property. He proceeded to read the state RSA 236; 112,1;a describing a junk yard. R. Canuel said if there is more than 1 unregistered vehicle on the property he can address it. Councilor Dolan suggested to the Acting Town Manager that he talk to the town

attorney to see what options we can do – maybe alter our ordinance. R. Canuel said he talked to the attorney about the town moving it and putting a lien on the property for the costs involved but the attorney didn't recommend that.

Councilor Dolan announced that the Drop Off Center opens this Saturday and will close 11/23/13. It is open only on Saturdays from 8-4.

Public Hearing

Councilor Dolan made a motion to go into a Public Hearing, second Councilor Green Councils vote 5-0-0.

Ordinance #2013-02 – An Amendment to the Municipal Code Relating to the Regulation of Secondhand Dealers and Pawnbrokers – Councilor Freda read the Ordinance and made a motion to adopt, second Councilor Green. Open for discussion. LPD Det. Sean Doyle addressed a question from the last meeting from Councilor Freda about the legality of having the pawnbrokers report the same way as the secondhand dealer would report. He explained under RSA 398:1 which is the Pawnbroker Ordinance it says "if a person shall engage in a business of a pawnbroker he shall keep tickets of the business". Under RSA 398:12 "every pawnbroker shall keep a book when making loans, legally written which shall include a verified photo identification by the governmental agency". Under RSA 398:13 "those books are to be made available for inspection by the police department". Councilor Green said he had text messages about the initial cost for each pawnbroker; does it come out of taxpayer money; are we providing it to each pawnbroker. Det. Doyle responded we are providing it to each pawnbroker. The start-up cost is roughly in the area of \$3K the total varies with the amount of stores. Councilor Green asked if that figure was for each pawnbroker or was it the total for all the stores. Det. Doyle listed all the business involved and said it totaled 12 businesses.

Patricia O'Neil, 3 Rockingham Rd. said she operates a consignment store they are not a pawnbroker or a money lenderer. She said Det, Doyle is putting them under RSA 398 which deals with moneylenders and pawnbrokers, and secondhand dealers. She explained that secondhand dealers is an old definition that has been on the books forever and in order to bring the definition in line they don't give cash for any items coming into their consignment store. She passed out her consignment agreement to the Councilors (copy attached), and pointed out that they don't take title of the goods. There is no cash that exchanges hands. A Consignment Store shouldn't be included in the Ordinance. Councilor Freda questioned her receiving money from the purchaser of the item. P. O'Neil explained after 60 days or if someone decides to purchase it before the 60 days they receive money. Councilor Freda brought up the example of his walking into her store; purchasing an item and handing her the cash. She will then give 50% of the cash to the consignee. She responded that is a cash transaction but they do not give cash to the individual who consigns the item which seems to be what the issue is. They don't have a system set up at Renewable Trading Company that is online to provide the information to the detective in 24 hours, everything is done by hand. It will cause a hardship to her company to conduct business in town; it will cost \$10K for a system to be put in place. She cannot accommodate the detective's needs within 24 hours of taking items, photographing the people and putting them online in 24 hours. She will have to shut down, she cannot accommodate the high tech equipment. Councilor Green asked Det. Doyle how much the town is paying, we talked about the total cost of \$3K which is about \$250.00 per business for the equipment. He clarified

that is what the town is providing to the business. Det. Doyle responded that is the cost for the system but we are collecting a licensing fee which covers the town cost. He proceeded to list the licensing fees that surrounding towns require. The \$1.00 transaction fee schedule is to cover all the costs of actually doing this work. Chairman Farrell said his understanding is that we are going thru this process in order to monitor stolen goods. Chairman Farrell asked Ms. O'Neil how are we going to find out if stolen goods are going through your store. Det. Doyle said he met with Ms. O'Neil, on a couple of occasions. They have kept this Ordinance narrowly tailored to things that apply to her; it is specific to her to only report jewelry, any watches, diamonds, precious stones, precious metals, or collectibles. Due to the time delay of her business it would be harder to fence stolen property but this applies to all secondhand dealers and it has to apply across the board to everyone. Ms. O'Neil said the jewelry includes costume jewelry, old vintage jewelry. Most people who come into consign are looking to recoup a few dollars as shown in the example she passed out with her copy of her standard agreement; it is a miniscule amount. To photograph them and their jewelry is an uncomfortable thing for an elderly person. She does not take diamonds or 14 carat gold, they don't handle that kind of goods. She proceeded to list surrounding towns that excluded pawnshops, antique shops, secondhand dealers, consignment shop and charitable stores from their Ordinances. She said she does not have a way to get the information to the police in 24 hours. She stated once again that Consignment Shops are not pawnbrokers. Councilor Freda said he can't understand a crook waiting 60 or 90 days to get their money on stolen goods. He said he is torn by this thing they are not paying them immediately. The purpose of the Ordinance is to detect people who are stealing things and return those stolen goods to their rightful owners. He said he doesn't see how that is going to be aided by going after a consignment store. Det. Doyle explained the process of a crook fencing stolen property. He quoted RSA 322:1 and said that specifically applied to a consignment shop. The only chance the police department has is to monitor. He said he spoke to our prosecutor as well as a County Attorney about the legalities of enacting this Ordinance and applying it to consignment shops and both agreed it fits well within the statutes. Councilor Green asked about putting a dollar amount on it. Det. Doyle responded he thought it would be easier to limit it to the item as opposed to a dollar amount. Councilor Dolan asked for a summary of the Ordinance. Det. Doyle reviewed the biggest changes.

Councilor Dolan brought up the fact that Section IV Compliance Required, Section D looks like someone walks into the consignment with an item to see if it will sell, does that exclude them from Section D because they are not purchasing the item. Det. Doyle responded no because there is no way to track whether that item will sell or not. No matter how many items are in a transaction it is still only a \$1.00 fee up front which can be passed onto the customer. Councilor Butler asked what is the difference between a secondhand dealer and a consignment shop. Det. Doyle said he didn't think there was any distinction. Councilor Butler said the police should go out and check with the store. He said he was there for 4 hours, it is going to be a burden for a small business. Chairman Farrell asked the police chief to find out what is going on, we can continue this to the next meeting. Ken Goduti, 3 Rockingham Road the other owner of The Renewable Trading Company said he had more questions. He wants to make sure that things can be done legally and that it is enforceable. He asked what is the amount of lost goods in this town. Chairman Farrell said the consensus is for the Chief of Police to work with the O'Neal's, to find out what the issues are and answer all their questions a then bring all this information back to the Council. He said he wants a clear figure on what it will cost a business to buy the system.

The consensus was to continue this hearing to 5/6/13, motion by Councilor Dolan, second Councilor Freda. Councils vote 5-0-0.

Councilor Dolan made a motion to exit the Public Hearing, second Councilor Butler. Councils vote 5-0-0.

Old Business

Order 2013-10-a — Expend Capital Vehicle Leases and Special Revenue Funds for the Londonderry Police Department — Acting Town Manager/LPD Chief Hart explained that this amended Ordinance was to clarify the Order for 10 Cen-Com radios purchased for the new interceptor vehicles. The original Order did not make it clear that the monies for 5 of the radios were coming from the FY13 budget of the Police Department Capital Vehicle Lease Budget for \$17,086.25 and 5 of the radios were coming from the Equitable Sharing Account for \$17,086.25. This is still the same total of \$34,172.50 as the original Order. Councilor Dolan made a motion to approve the amendment and waived the reading, second Councilor Butler. Councils vote 5-0-0.

NEW BUSINESS

Resolution #2013-05 - Authorization to Sign Memorandum of Understanding for Technology Services — Acting Town Manager/LPD Chief Hart explained we had signed a 3 year agreement with 2-1 year extensions. This is the second of those extensions, it is the same amount as last year, and we are very happy with them. Chairman Farrell waived the reading. Councilor Green made a motion to accept, second Councilor Freda. Councils vote 5-0-0.

Resolution #2013 -06 - Amend Municipal Code VI, Chapter 6 - Purchasing Policy -

Acting Town Manager/LPD Chief Hart explained the Resolution changes the amount of a purchase order from \$1K to \$2,500. The DPW and LFD have a number of routine purchases that are in excess of \$1K. During the investigation into this change it was decided to institute a quarterly presentation of where we are as a town financially with our returns/earnings. They are going to having the department heads come to the Council with updates. Councilor Green said he is opposed to this because we have been through a lot this year with the budget. The Purchase Orders create a paper trail. Chairman Farrell waived the reading of the Resolution. Councilor Dolan made a motion to adopt, second Councilor Butler. Councils vote 4-0-1.

Order #2013-13 – Expenditure of Maintenance Trust Funds for Various Projects – Chairman Farrell waived the reading. Councilor Green questioned if the passage of the above Resolution will make this order obsolete. Acting Town Manager/LPD Chief Hart responded no. This is from the Expendable Maintenance Trust Fund which requires Council approval. The other one comes from the operating expenses. Councilor Freda made a motion to adopt, second Councilor Green. Councils vote 5-0-0.

Councilor Dolan stated that one of our goals was to review Orders, Resolutions and Ordinances that are old. The former Town Manager was looking at them. As we approach budget season have the department heads look at them and see what Ordinances can be taken off the books. Consensus of the Council was to do that.

APPROVAL OF MINUTES

Council meeting minutes of 03/18/13 – Councilor Green made a motion to approve, second Councilor Green. Councils vote 5-0-0.

OTHER BUSINESS

<u>Liaison Reports</u> – Councilor Dolan said there is a Conservation Commission meeting on 4/9/13 and the subject of the meeting will be target shooting and the safety issues associated with that. They will prepare a presentation and hear discussion. Acting Town Manager/LPD Chief Hart said he will attend the meeting and will come back and report to the Council.

Councilor Butler said the Traffic Safety Committee tonight talked about traffic at the trailheads, there is no parking available there. That should be brought up. The Heritage Commission had the McDonalds franchisee for Exit 5 in at their last meeting. They still need more design reviews.

Councilor Freda suggested the Conservation Commission have their meeting televised due to the fact that there is a lot of interest in it.

Chairman Farrell met with Manchester Airport. JetBlue was discussed. It sounds like airlines are adding routes, air traffic is flat, and the airport is cooperating with us on Pettengill Rd.

<u>Town Manager Report</u> – None.

Board/Committee Appointments/Reappointments – None.

Chairman Farrell directed Margo to send last year's goals out to the Council to discuss at the Council meeting on 5/6/13.

ADJOURNMENT

Chairman Farrell announced they were adjourning the meeting at 8:36 PM and entering into a Non-Public Meeting per RSA 91-A: 3, II (a, c) and called for a Roll Call vote. Aye Joe Green, Aye, Tom Freda, Aye John Farrell, Aye Tom Dolan, Aye Jim Butler.

Notes and Tapes by: Margo Lapietro Date: 04/01/13

Minutes Typed by: Margo Lapietro Date: 04/03/13

Approved by: <u>Town Council</u> Date: <u>04/15/13</u>

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XFINITY Connect

joem70rt@comcast.ne

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RE: Junkyard in residential neighborhood

From: Richard Canuel <rcanuel@londonderrynh.org>

Wed, Nov 07, 2012 01:48 PM

Subject: RE: Junkyard in residential neighborhood

To: joem70rt@comcast.net

Cc: William Hart <whart@londonderrynh.org>, John Farrell <jwfarrelljr@hotmail.com>

The property owner is just as frustrated. I am working in conjunction with the owner now, and they are considering eviction if the tenant doesn't

Richard

From: joem70rt@comcast.net [mailto:joem70rt@comcast.net]

Sent: Tuesday, November 06, 2012 8:30 PM

To: Richard Canuel

Subject: Re: Junkyard in residential neighborhood

Thank you. I am also upset at the owner of the property who should be pushing for the tenant to comply with the law. Maybe them getting the legal action against them and if need be a lien on the property to ensure payment. Sorry to be a pain but most of us in this neighborhood take pride in our properties. Joe.

From: "Richard Canuel" <ranuel@londonderrynh.orq>

To: joem70rt@comcast.net

Cc: "John W. Farrell" < jfarrell@iondonderrynh.org>, "William Hart" < whart@londonderrynh.org>

Sent: Tuesday, November 6, 2012 11:27:20 AM Subject: RE: Junkyard in residential neighborhood

I've been trying to do what I can to work with the tenant at this property, but we don't seem to be getting anywhere. I am just about out of patience with this guy, and I think it's time to proceed with legal enforcement action.

In situations like this I attempt to resolve the matter without resorting to legal action because of the additional expense involved. But sometimes it's just unavoidable, and that's what it takes to get results. So, it's time to take it to that level. Hopefully, the threat of legal action will be enough to get him moving

Richard

From: joem70rt@comcast.net [mailto:joem70rt@comcast.net]
Sent: Monday, November 05, 2012 9:29 AM

To: Richard Canuel

Cc: John W. Farrell; William Hart

Subject: Re: Junkyard in residential neighborhood

Mr Canuel. I would call or come in to see you but I prefer to have written documentation for these type issues. All that has transpired since you directed these people to remove the JUNK vehicle from their property is they have attempted to charge the battery up (ridiculous after YEARS in this condition). They have placed more tarps on this motor home which tell me they plan on leaving it here despite your REQUEST to remove by August. I dont believe I am the only ab-utter to this junkyard that has complained. What is the next step? Do we all just pickup some junk car and place it in our front yards or do we take the neighborhood in consideration. The town should be proactive and get it moved out...3 years ago when you inspected my electrical work you told me that this was just an unregistered vehicle and was allowed. I think that you and I agree and apparently the State as well that this comes under the purview of JUNK. It could be leaking fluids etc after all these years. What is the next step to comply with the law. ? Joe Maggio 17 Cortland St.

From: "Richard Canuel" < rcanuel@londonderrynh.org>

To: joem70rt@comcast.net

Sent: Thursday, August 30, 2012 8:40:27 AM

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TOWN OF LONDONDERRY

Building, Health & Zoning Enforcement

268 Mammoth Road Londonderry, New Hampshire 03053 432-1100 ext. 115 Fax: 432-1128

Maria S. Cicenia Revocable Trust Maria S. Cicenia, Trustee 29 Devonshire Lane Londonderry, NH 03053 July 20, 2012

Re: Abandoned Motor Home, 29 Devonshire Lane Map 10 Lot 4-21

Dear Ms. Cicenia:

The purpose of this letter is to inform you that it has come to the attention of this office that there is concern regarding the existing condition of your property.

Primarily, there is an existing motor home that appears to be abandoned. Apparently this vehicle has been parked just off the driveway for a considerable time, and certainly in no condition for use on the roadway. In fact, it looks as though this vehicle is being used for nothing more than storage.

The condition of this motor home, along with the accumulation of miscellaneous debris inside and outside about the vehicle, has become rather unsightly to the neighborhood. This is a condition that is contrary to the intent of Londonderry Zoning Ordinance, which is to protect the general welfare of the community and preserve the character of the neighborhood.

Although there is no prohibition for someone parking a motor home on their property, it is the condition of this vehicle on your property that is the concern. The appearance of this motor home is in such a state that it can be considered a junk vehicle. According to the State Statute, RSA 236:112, junk vehicles are defined as, ..."Motor vehicles which are no longer intended or in condition for legal use according to their original purpose...". This "junk" motor home, along with the accumulation of other debris, can be considered solid waste. The deposit of solid waste on ones property is a matter most certainly regulated by the Zoning Ordinance.

Considering the length of time that the motor home has remained unmoved, it is apparent that this vehicle is inoperable. Therefore, action must be taken to remove this eyesore from the property.

You are hereby requested to remove the motor home from the property, and provide for the proper storage or disposal of the miscellaneous debris, and restore the property to a reasonable condition. You shall be allowed Thirty (30) Days from the date of this letter to comply.

If you have any questions, please do not delay in contacting my office. Your cooperation and understanding in addressing this matter is greatly appreciated.

Sincerely,

Richard G. Canuel Senior Building Inspector Code Enforcement Officer XFINITY Connect Page 1 of 1

XFINITY Connect

joem70rt@comcast.ne

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Re: Junkyard in residential neighborhood

om: John Farrell <jwfarrelljr@hotmail.com> Sat, Jul 14, 2012 09:59 PM Subject: Re: Junkyard in residential neighborhood To: joem70rt@comcast.net Joe I drove by yesterday and have sent your email to the acting town mer/ pd chief to look into the matter John John Farrell 603 289 2011 On Jul 13, 2012, at 1:27 PM, joem70rt@comcast.net wrote: > I have complained about this eyesore at 29 Devonshire which is owned by the slumlords at 27 Devonshire . I called for the second time early this week to inform you about an additional unregistered vehicle in the yard. I looked at Town Ordnance 303G from 2004 and it refers to junkyard and not residential neighborhood. This motorhome has been with flat tires and no hopes of ever getting registered for years now. I would hope that the spirit and intent of this ordnance was for temporary relief and not for years. If every house in this neighbor hood did what these individuals are doing the towns worth would be in dire straits. There are at least 3 cats and 3 dogs residing at this address. Look at the pictures, { and they do not even begin to tell the story}. The screens are sripped out of windows, cats come and go in and out of the house through these open windows. > Despite this house devaluating my property my assessed value continues to rise. I might inform the assessing department I have had 3 realtors out and I paid a Real Estate Appraiser a few months ago the Appraiser said \$248K and all 3 Realtors had it at \$250K. Which is guess what about what this dump is assessed for. > I have not filed for abatement and I have allowed this town assessor into my home. It will be different from now on,

> I expect this town to protect the homeowners from slums like this unless you plan on reassessing and reducing my TAXES. Joe Maggio

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What is a pawn shop?

Answer: A pawn is nothing more than a short term loan that is made to individuals based on the value of some personal item(s) given as security that we hold in our procession during the loan tem as 'collateral' for repayment of the loan; we do this without any applications, financial statements or credit checks. All information is held in the strictest confidence.

Loans are issued based on your personal needs and on the value of your personal property that is being put up as collateral. While you have your loan with us; your pledged merchandise that is held by us as collateral is safely stored in our safes or warehouse and is not for sale, or shown to the public. Your pledged merchandise will ONLY be sold if you choose not to repay the oan. Pawn issued for 30 days may be extended for as long as you wish as long as the interest due on the loan (pawn) is paid on time.

What types of merchandise do you accept as collateral?

Answer: We prefer gold jewelry, even scrap gold or diamonds as collateral. We will also accept flat-screen televisions, late model computers & lap-tops, digital cameras, and other quality electronics, tools, musical instruments, etc. We will consider any other item of value that you may wish to pledge as collateral on an individual basis.

Consignment differs from "selling outright", where a seller brings items in and receives immediate payment on review

"Consignment shop" is a term for those <u>second-hand shops</u> that sell <u>used goods</u> for owners (consignors), typically at a lower cost than new **Not all second hand stores are consignment shops.** In consignment shops, it is usually understood that the <u>consignee</u> (the seller) pays the <u>consignor</u> (the person who owns the item) a portion of the proceeds from the sale. Payment is not made until and unless the item sells. The consignor retains title to the item and can end the arrangement at any time by requesting its return. A specified time is commonly arranged after which, if the item does not sell, the owner can reclaim it (or, if not reclaimed within a period, the seller can dispose of the item at his or her discretion).

Merchandise often sold through consignment shops includes: vintage jewelry, household items, antiques, athletic equipment, books, clothing, furniture, music, musical instruments, tooks, toys.