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<p style="text-align: center;"><b>TOWN COUNCIL MEETING September 23, 2013</b></p>
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7 The Town Council meeting was held in the Moose Hill Council Chambers, Town Hall, 268B  
8 Mammoth Road, Londonderry, NH.

9  
10 Present: Chairman John Farrell; Vice Chairman Tom Dolan; Councilors Joe Green, Jim Butler, Tom  
11 Freda; Town Manager Kevin Smith; Executive Assistant Kirby Wade

12  
13 **CALL TO ORDER**

14  
15 Chairman Farrell opened the meeting with the Pledge of Allegiance. This was followed by a moment  
16 of silence for the Washington D.C. Navy Yard, for those that lost their lives and the first responders  
17 who are heroes for saving many other lives.

18  
19 **PUBLIC COMMENT**

20  
21 Chairman Farrell stated that if anyone from the public is on the agenda tonight that now would not be  
22 the time to get up to talk, but if anyone has anything else now would be the time.

23  
24 Reed Clark, Stonehedge Rd stated that this was the most people he has seen in this Council room at a  
25 Council meeting since hunting was about to be banned here. He ended his comment with thank you.

26  
27 [Laughter]

28  
29 Chairman Farrell stated that he has two things for public comment. Chairman Farrell stated that with  
30 the consensus of the council he would like the Council to direct the Town Manager to check into the  
31 clear cutting of trees on Adams Rd. Chairman Farrell stated that Adams Rd. is the only historic Rd. in  
32 town and he noticed today trees were cut and cleared to the Rd. Chairman Farrell stated he's not sure  
33 what the site plans call for in that area, although one citizen had brought to his attention that most of  
34 the other homes in the area needed to leave a buffer to the road. Chairman Farrell again asked Kevin  
35 Smith to check into it and let the Council know what is happening.

36  
37 Chairman Farrell stated that the second issue is someone of a personal nature. Farrell stated that we  
38 have a 911 system in New Hampshire and when you call it, it goes into the State 911 system. Once  
39 it's received in the State 911 system it is transferred to the local authority. In the case of fire you  
40 would be transferred to 432-1124 and in the case of a Police Department it is transferred to 432-1111.  
41 Chairman Farrell stated that someone who he knew passed away in February. The call had gone in to  
42 911 and there was a delay getting everywhere and that person did pass. Chairman Farrell shared that  
43 the people in the neighborhood of this man came to ask for the name of the street to be changed and

44 that is something you do bring to the Council. The name of the street was called Justin Drive and they  
45 wanted to change it to Slay Drive. It is a pass-through street with no houses on it. The Council  
46 received feedback from the 911 committee based on the protocols that are passed down from the  
47 State. They don't like street names that have personal names. It is Justin Drive today and they want to  
48 change it to Slay Drive, which is not a name. They don't like to split streets into different names. It is  
49 located between Anthony and Perimeter. Chairman Farrell stated a couple street names named after  
50 people's names and how we are a Country of names and a community of people who do things.  
51 Chairman Farrell stated that it is at the purview of the Council that we can change the name and we  
52 don't need anyone's permission to do it. Chairman Farrell shared that the thing he wanted to make  
53 clear is that if you're calling 911 in New Hampshire the phone number here locally for the Police  
54 Department 432-1111. Farrell stated the average response time here in Londonderry is 7 minutes.  
55 Chairman Farrell stated that the Council talked about it and they would like to put something out for  
56 the election of the deliberative session that may give more common knowledge here in town of how  
57 to call into our dispatch centers directly. Farrell stated that in the recent development agreement  
58 approved by the Council for the Woodmont development, one of the pieces is for a 24 hour dispatch  
59 center. Chairman Farrell stated 432-1124 brings you right into central dispatch at the Hicks Fire  
60 Station.

61  
62 Chairman Farrell stated we now have further public comment. Farrell introduced our Senior Building  
63 Inspector, Richard Canuel. Richard Canuel stated that he has an announcement to make regarding the  
64 Building Department staff. Canuel stated Dan Kramer, who's the assistant building inspector (Kramer  
65 is not present) has complete examination and received his certification as a commercial building  
66 inspector through the International Code Council. Canuel stated that it was a prerequisite for  
67 employment with the town and Kramer took the necessary steps to meeting that obligation. Canuel  
68 acknowledge Kramer for his accomplishment and wanted to present him with a Certificate of  
69 Achievement, which Canuel accepted on behalf of Kramer.

70  
71 **PUBLIC COMMENT Contin.**

Canuel introduced Libby, the department secretary completed a course of study and examination and has achieved certification as a Building Department Permit Technician. Also through the International Code Council. Canuel stated that in order to achieve such a certification the candidate is required to be knowledgeable in a number of codes and standards that apply to that position. Among those is the International Building Code, International Zoning Code and the International Residential Code. This certification provides credibility not only to the Building Department but to the Town of Londonderry. Libby has become a member of the NH Building Officials support staff association, which is a state wide pier organization and she will be attending training seminars on a regular basis. Canuel stated that Libby should be recognized for the level of service that she provides for the Town of Londonderry. Canuel stated Libby is one of only 4 certified Permit Technicians in the entire State of New Hampshire. Canuel presented Libby with her official International Code Certification and Certificate of Achievement for her accomplishment.

72  
73 Chairman Farrell introduces Public Comment as presentation of HealthTrust and Property Liability  
74 Trust by Peter Bragdon. Chairman Farrell stated HealthTrust is a new name and the former name was  
75 the LGC and that they provide insurance for the town. Mr. Bragdon is newly appointed in the  
76 position. Chairman Farrell reminded Bragdon to add any explanation or questions to the letters he

77 sent out.

78  
79 Peter Bragdon introduced himself and thanked the Council and Town Manager Kevin Smith who  
80 invited him to come speak to the board base on all the changes at HealthTrust. Bragdon stated that  
81 LGC stands for Local Government Center. It has now been broken apart into different organizations  
82 to reflect the different operations of the overall organization. Bragdon stated that there are three  
83 separate components. One is the New Hampshire Municipal Association, which keeps town officials  
84 and selectman informed of issues at the State House that would affect their jobs. Bragdon went on to  
85 mention there are two insurance components, the HealthTrust, which provides health insurance for  
86 approximately seventy five thousand municipal employees around New Hampshire. There's the  
87 Property and Liability Trust which provide property and casualty insurance as well as workers comp  
88 and unemployment compensation. Bragdon stated over the past ten years the company has been in the  
89 news in part because of some regulatory actions taken by the Secretary of State's office through its  
90 Bureau Security regulations. Bragdon stated it focused on one issue that different insurance pools

91 were run by the same Board of Directors and part of the Order from the Secretary of State was that it  
92 be broken apart and it be separate Boards for each of the pools. Bragdon stated that earlier this year  
93 they took it further and broke it into separate corporations. Now each insurance pool is its own  
94 separate corporation, has its separate Board of Directors, has a separate set of bylaws. Bragdon stated  
95 that he is the new Executive Director of the HealthTrust. Bragdon stated that Londonderry is a  
96 member of HealthTrust and in the past has used the Property Liability Insurance. Bragdon shared that  
97 just under 90% of eligible cities and towns in NH have coverage with the Property Liability Trust or  
98 HealthTrust. HealthTrust is busy preparing their rates for the upcoming year. Chairman Farrell joked  
99 about the prices going down. Bragdon stated that they supply great customer service and without  
00 qualifications you will not be able to get better service for your needs.

2 Bragdon stated that Town Manager Smith asked him to comment on the reorganization HealthTrust  
3 did and then a week ago about one of the Attorneys for the Bureau of Securities said to a newspaper  
4 that the Property Liability Trust was preparing to file for bankruptcy. Bragdon stated that it is false.  
5 Bragdon stated he has never seen such a reckless course of action taken by a public official than to  
6 have someone publicly state that an entity is filing for bankruptcy. Bragdon stated that insurance  
7 carriers are not allowed to file for bankruptcy. Bragdon stated that their number one focus is making  
8 sure the money is there to pay the claims.

10 Chairman Farrell reminded the audience that it is public comment. Farrell asked the Council if they  
11 had any comment or questions. Councilor Freda stated that some of the things he heard is that the  
12 health insurance for some of the employees is going to be going up on and order of 50%. Bragdon  
13 stated that the statement is unlikely and the rates have not been set yet and there is nothing that shows  
14 that kind of increase. Chairman Farrell stated that we pay about \$23,000 per year for a family plan  
15 and he has seen numbers as high as \$30,000 for next year. Chairman Farrell stated on the towns side  
16 we pay about one million to the LGC a year and he is not familiar with what the numbers are on the  
17 school side. Chairman Farrell stated that the Council will be looking for indicators as to where it is  
18 going because we have to do things like Manchester and Nashua have done and possibly self-insure.  
19 Chairman Farrell stated we can't continue to climb at those rates and pass it along to the tax payers.  
20 Chairman Farrell stated we are actively working with our collective bargaining groups trying to give  
21 them the same level of service. Bragdon stated that he understands where Farrell is coming from and  
22 he hasn't heard anything to indicate that there would be the type of increases that have been  
23 mentioned. Bragdon stated you can't set your rates until you have the audit from the prior year to tell  
24 you how much is left over to get rolled back. Vice Chairman Dolan followed up on the point and  
25 asked Bragdon what he has heard and what he thinks we should expect. Bragdon stated nothing has  
26 been discussed. Peter Curo, the business manager for the school district stated that there is a trend of  
27 6.8 currently.

29 Councilor Green asked Bragdon why LGC changed its name. Bragdon stated because the Secretary of  
30 States Order deemed that there should be separate boards. HealthTrust Inc. was the way it was before  
31 and same with Property Liability Inc. and NH Municipal Inc.

33 Chairman Farrell thanked Bragdon for speaking. No further comment from the Council or the public.  
34 Chairman Farrell needed a motion to go into public hearing. Councilor Butler motioned, Vice  
35 Chairman Dolan second. Chair votes 5-0-0.

37  
38  
39 **PUBLIC HEARING**  
40

41 Chairman Farrell made a joke regarding the public audience and the Nevins Trail.

42  
43 Chairman Farrell stated that the first reading for the Nevins has been completed. Chairman Farrell  
44 asked for a motion to wave the meeting and move right into public hearing. Councilor Green  
45 motioned, Councilor Freda second. Chair votes 5-0-0.  
46

47 Chairman Farrell asked the Council if there was any further comment from them before we let the  
48 public speak. Chairman Farrell asked the audience if they had a spokesperson.  
49

50 Attorney Gottesman and Hollis, P.A., an attorney in Nashua, Morgan Hollis spoke on behalf of the  
51 people. Hollis stated he represents the association and the developer. Hollis stated that he would lay  
52 out the request and why he is there. This matter arises out of a request by residence of the Nevins.  
53 Hollis stated that the Nevins is a cooperative and a different type of residential community from a  
54 legal structure perspective. The land on which the buildings are located is leased out to owners who  
55 than construct a home on the leased land. Hollis stated that the land is owned in a cooperative and  
56 that each home owner owns a percentage of interest. In this case there are 128 owners and each  
57 owner's percentage interest in the land itself, and that land is leased to them as owners. Hollis stated  
58 that at time of approval it was determined that they would have an amenity to the project a walking  
59 trail. Hollis stated the walking trail would go around the perimeter of the property. There are several  
60 places it cuts into the public roads so people could access the trail. Hollis stated that during eh course  
61 of the Planning Board negotiations it was designated on the plan as a Walking Trail Easement and it  
62 became public. Hollis stated that there was a Walking Trail Easement deed granted by the developer  
63 to the town and recorded in the registry for a 25 ft. wide Walking Trail Easement throughout the  
64 project.  
65

66 Hollis stated that the trail was for both the residence and the public. He stated that the trail doesn't  
67 lead to anywhere. It begins at one end and goes around the perimeter and ends at the other end. Hollis  
68 shared that in his experience what has happened is that many residence have concern about these  
69 Walking Trail Easements in particular if they are open to the public. Hollis stated that people are  
70 nervous about the lack of space between the easement and the homes. Hollis stated that the second  
71 concern is that when the trail was laid out it was a two dimensional layout. The residence asked the  
72 developer if he would consider not building it once the construction of it was final and ready to move  
73 forward. Hollis stated the only way to do that is t put together a presentation and go to Planning  
74 Board and ask to amend the site plan. Hollis stated that that has been done by the residence. Hollis  
75 shared that there were also two informal meetings with the Board of Directors where the vote was  
76 unanimous and the second instance was near unanimous. The Board of Directors presented it to the  
77 Planning Board and the Planning Board approved it so that the site plan could be amended. Hollis  
78 stated that it doesn't resolve the issue. It has been deeded by a Walking Trail Easement deed to the  
79 town and referenced in an open space Conservation Easement and Declaration of Restrictive  
80 Convenience which is of record. In that particular document the developer granted an open space  
81 conservation area Walking Trail Easement. Hollis stated that those are two grants of easement rights  
82 to the municipality and if the Walking Trail Easement is to come off the plan the only way to make it

83 meaningful is to have the municipality release its rights so that the public rights in that easement  
84 would be released off.

85  
86 Hollis stated that he worked with the Town staff to bring forth a petition to bring to the Council for a  
87 Resolution.

88  
89 Hollis stated that there has been discussion at the first reading, Chairman Farrell raised the question is  
90 this 'hand in glove' with the acquisition of development rights for the 'Orchard Lot'. Hollis clarified  
91 that Chairman Farrell is correct. Hollis stated the Declaration of Convenience and Restrictions which  
92 is recorded in 2003 there is a reference to the 'Orchard Lot Development Rights' being sold,  
93 reference to open space lots, open space in the Nevins not to be developed but not open to the public  
94 and then a reference to the Walking Trail Easement. All three are referenced in there. Hollis stated the  
95 best he can determine, while they're 'hand in glove' you can only look at the map and see the  
96 walking trail does not connect in any fashion or any remoteness to the Orchard Lot. The trail was  
97 never intended to go in that direction. The Orchard Lot, Hollis stated, was a prime development lot  
98 and it was high and dry and good soils. Hollis read what the preface is:

99  
1 "The Town desires to limit the amount of development that can occur on the property and the  
2 developers are willing to restrict their rights to fully develop the property and the town is willing to  
3 compensate the developer for their restriction of a portion of such development."

03  
4 Hollis stated that is what happened. Hollis stated the development rights were purchased for a set sum  
5 of money and that money was paid and the development rights were granted. Hollis stated he found  
6 no evidence that either documents were linked or as Chairman Farrell requested that public funds  
7 were expended to acquire those. Hollis stated that they appeared to be separate actions. Hollis stated  
8 that that is all he can report. Hollis stated that based his experience it tells him that sum of money is  
9 based on an appraisal of lost development rights and a Walking Trail Easement has no lost  
10 development rights so that would not be in that appraisal process. Hollis did not have the documents  
11 present but he had confirmed with the town.

12  
13 Hollis stated that in the petition they are here to ask for the town to release its rights on the Walking  
14 Trail Easement which is identified in both the Easement Deed at book 4279 page 544 of the registry  
15 and to release the public rights of the town as set forth in the Conservation/Open Space Easement for  
16 trails on the lot, in article 8 of the Open Space Easement and Declaration of Restrictive Convenience.

17 Hollis stated article 17 section 17.1 which stated in part the town, 'By appropriate town vote may  
18 amend or revoke the restrictive convenience in part or in their entirety, which amendment or  
19 revocation shall be effective upon recordation in the Rockingham County Registry of Deeds.'

20  
21 Hollis stated again that the Councils vote tonight would be to release the rights as the resolution states  
22 and that would cause an amendment to be filed with regard to just the walking trail and the public  
23 rights in the walking trail. Hollis stated that there is no alternative plan for the use of the property.

24  
25 Chairman Farrell stepped in and asked Councilor Freda if he was on Planning Board when this went  
26 through. Councilor Freda clarified that he wasn't when the Nevins took place. Councilor Freda stated  
27 that he was present when they brought it to the town of a bound for 2.9 million. Chairman Farrell

28 stated that he was present when the Nevins took place. Chairman Farrell stated that it is a different  
29 developer now. Chairman Farrell stated that back in the early 2000's a developer by name of Elmer  
30 Pease brought a development to the town and was going to build several hundred residential homes.

31 The town said that they would like to work with Elmer Pease on this but they would like to build  
32 something smaller, which is the Nevins now, and that there was a town vote for 2.9 million to buy the  
33 rest of the land, which the residence now pay for in their taxes. Chairman Farrell stated that the  
34 Council wants to make sure they do the right thing. He clarified that the Council does not know what  
35 they're going to do. Chairman Farrell stated that the Council is asking a lot of questions so that they  
36 can understand what the right thing to do is. The Council opened up for questions.

37  
38 Councilor Freda referred to the section that Hollis had read 17.1 and asked if that was a part of the  
39 Town Charter. Hollis stated that it is not and that it is 17.1 of the Open Space Conservation Easement  
40 document, which is the document in which the Walking Trail is preserved as open space. Councilor  
41 Freda stated that Hollis had mentioned that it required a vote of the town. Hollis answered with yes.

42 Councilor Freda stated that he is wondering if it is the Council or the voters at the town meeting.  
43 Hollis stated that in his opinion it is the Town Council because under the Town Charter and under the  
44 prevision, the Town Council is charged with these duties and responsibly. Councilor Freda stated that  
45 it is because its property we own and the Council can dispose of it. Hollis stated that that is correct.

46  
47 Councilor Butler asked Hollis that he had mentioned that the trail was close to the buildings and the  
48 houses. Councilor Butler asked if it was 60 ft., 10 ft., how much. Cynthia May, the Town Planner  
49 stated that it is 15 ft. in some cases.

50  
51 Bill Marineau, 41 Morrison Rd, Londonderry stated that he has the complete site plan for an  
52 individual home which shows the easement of the walking trail going through two bathrooms and a  
53 bedroom. Maranel also stated that it's a 25 foot rite away. The plan shows the trail as 8 ft. wide.  
54 Maranel stated that the 8 ft. wide walking trail, which they were going to build with mulch, is actually  
55 2 ft. from the side of the house but the easement goes into the house.

56  
57 Councilor Green stated to summarize that we had this property come up for development, the  
58 Planning Board thought it was a good idea to have an easement through it. Council Green stated that  
59 right now it's not being used. Councilor Green stated that the problem he has is that there's different  
60 boards making these decisions and the Council is almost asked to say that a board was incorrect given  
61 this easement. Councilor Green stated that he would like to know how to do that. The Planning Board  
62 of today said that they agree that it should be released. Chairman Farrell stated that the problem with  
63 this one is that it has history. The community went through a period of time where they were trying to  
64 connect walking trails to everything throughout the entire town. Chairman Farrell said the purpose  
65 was for the walking trail to connect to Home Depot so you could walk to the stores. Chairman Farrell  
66 stated that the Council has received phone calls and emails that there are people that live in the  
67 Nevins that disagree with the position of removing the walking trails.

68  
69 Council Green stated that they've heard there are no plans and a little controversy that there are  
70 plans.

71  
72 Vice Chairman Dolan stated that he has heard feedback from some of the residence in the  
73 development that representations were made to them as they were in the process of looking ot buy,

74 that the walking trail had been discontinued or had been disapproved. Vice Chairman Dolan asked the  
75 residence present at the meeting if those terms were presented to them when buying their homes.

76  
77 Bob Maxwell, 25 Morrison Driver, Londonderry, stated that he bought his property in November of  
78 2011 and that he was told at that time that yes there were some drawings that showed a walking trail  
79 but it would never be built and it was never used as a reason why people should buy. Maxwell stated  
80 that he lives in one of the homes where the walking trail would be 18 ft. behind his patio.

81  
82 Vice Chairman Dolan asked Maxwell if it was a realtor who made that representation. Maxwell stated  
83 that it was the sales office and they said that the trails would never be built.

84  
85 Chairman Farrell asked the Council if they had anything further. Chairman Farrell opened up the  
86 floor to the public to make a statement.

87  
88 Attorney Hollis clarified the question raised by Vice Chairman Dolan stating that he is aware that  
89 representatives of the sales staff have made that statement but the process started in 2009 when there  
90 was a vote, anonymous vote, there had been actions started before the Planning Board. Hollis stated  
91 that it wasn't out of the blue that someone was making those accusations. Hollis clarified that he is  
92 not saying it was right or wrong but he wanted to give some background to that information.

93  
94 Vice Chairman Dolan asked Hollis how you reconcile that with someone who has laid out their life  
95 savings and now have had the misrepresented to them. Hollis stated that he would have to determine  
96 what was exactly said. Hollis stated that each case is going to be on its own as to what was said.

97 Hollis stated each case has to sit on its own facts as to what was and wasn't said.

98  
99 Councilor Green stated that with developments of this size and magnitude, a lot of the times open  
00 space is set aside or a buffer zone. Councilor Green asked if this was any part of the agreement.

01  
02 Chairman Farrell stated that he doesn't believe this one did because the 2.9 million had to go to a  
03 special election and it was all handled and the other pieces were left out. There are more pieces in  
04 regards to sewers and fees, but not about open space.

05  
06 Councilor Butler stated that the easement went through a gentlemen's bathroom. Councilor Butler  
07 stated that he is curious as to how the banks let that happen and what happens to the gentlemen if this  
08 is not reversed and he goes to sell his property knowing that the easement is in his bathroom.

09  
10 Hollis stated that it was a hard question for him to answer as a matter of law. Hollis stated there may  
11 be consequences to it and the easement might have to be moved. Hollis stated that we might have to  
12 lay it out again and come forward with an amendment to the site plan. Again the easement is 25 ft.  
13 and you can locate the path from anywhere within the 25 ft. Hollis stated theoretically there's room  
14 outside the house where it could be. Hollis stated that he can't explain how or why it happened.  
15 Hollis stated in response to the question of Councilor Green, as best as he can describe it the first step  
16 is to go to the Planning Board, can the site plan be amended. If the Planning Board believes based on  
17 the criteria that it has in front of it and what it views appropriate to allow an amendment. They made



18 it clear in their vote that they have no jurisdiction about giving up the public rights. That is not within  
19 their domain. Hollis stated that it's covered under the Charter and the State Statue which says any  
20 town in which the legislative authority is given to a Town Council that Town Council has  
21 responsibility for all such matters. Hollis stated to the Council that they decide on the giving up of  
22 public rights.

23  
24 Vice Chairman Dolan stated that the home owner who has the easement through part of his home, he  
25 asked Hollis if he agrees that it's the responsibility of the builder not to build homes in the middle of  
26 a public easement. Hollis stated no question.

27  
28 Councilor Freda stated that there were two votes by the residence and one was anonymous, what was  
29 the percentage of participants in that vote. Hollis answered stating it would be better to ask the  
30 president of the Board who conducted both of those. Hollis stated that he is present tonight.

31  
32 Chairman Farrell called up the representative. John Mitchell, 4 Wesley Drive, Londonderry, stated  
33 that he has been on the Residence Advisory Board for three years. He is not the President of the  
34 Board. Mitchell stated that when he moved into the community the development was half finished.  
35 Mitchell stated that he is now on the board of directors and there are three other members at the  
36 meeting tonight. Mitchell shared that a lot of the people that have bought since he has lived there  
37 which is half of the residence, were told there would not be a walking trail. There's another element  
38 causing confusion and even people who thought there would be a walking trail thought it was going  
39 to be a private walking trail, only available to the residence. A lot of the residence said that would be  
40 in favor if it was a private trail for the community and not a public trail. Mitchell asked where would  
41 people park. Mitchell stated that a major concern was the fact that some residences aren't home for  
42 three months out of the year and there would be a trail in their back yard while they're not home.  
43 Mitchell stated that once the residence found out it was public, it was presented as a public trail.  
44 Chairman Farrell asked how many board members in total. Mitchell stated five. Mitchell said it was a  
45 community vote, and a meeting that was attended by 60-70% of the residence. It happens every 2-3  
46 months. Mitchell stated the first meeting there was a show of hands and it was unanimous, 100%  
47 said they did not want the trail, they asked for a show of hands who would want the hands and no one  
48 raised their hands. Mitchell stated at the second meeting there was more discussion about the public  
49 vs. private aspect of it. They had a show of hands, three people said they would still like a walking  
50 trail and the other 50 people said they still didn't want it.

51  
52 Chairman Farrell stated that the Council and Town Managers office received e-mails and phone calls  
53 from people who are not present. Chairman Farrell stated he received a phone call from a female who  
54 didn't leave her name and that the Council was told there are people in the community who feel they  
55 are being intimidated around the walking trail piece. Chairman Farrell stated that the Council takes it  
56 very seriously. Chairman Farrell shared that they are getting 30-50 residence who want the walking  
57 trail, private and/or public.

58  
59 [Crowd discussed among one another]

60  
61 Jack O'Connell, 6 Wesley Dr. stated that he moved into the Nevins in 2006 and he is not on the  
62 current Board of Directors but up until a month ago he served from 2009-2013 on the Board of  
63 Directors and the Residence Board. O'Connell brought his notes from the planning board. He stated

64 that he doesn't understand the intimidation and the meetings they have are very open and people are  
65 offered the opportunity to speak. Chairman Farrell stated that the Council only knows what they get.

66 O'Connell stated that in the early days, 2009, there was a lot of early discussion that the trail  
67 shouldn't be built, because of how close it is to people's back doors. In 2009 there were regular  
68 residence meetings run by the sales team. There was a lot of discussion about the walking trail at  
69 those meetings and in 2009 there was a paper ballot vote of all the households, 60-70 homes. The  
70 actually vote count as to if the residence want the trail or not it was 42 to nothing out of the 60-70  
71 homes at that time. O'Connell stated that they had a special meeting devoted to discussion about the  
72 walking trail. There were about 40-50 residence at that meeting. At the time 100 homes. When asked  
73 at the end of the meeting who was in favor, not one hand went up. O'Connell stated later on in the  
74 month they had a meeting on another option that came up of relocating the trail. O'Connell stated on  
75 April 15<sup>th</sup> there was a second meeting that was open to everybody. At that meeting they invited Joe  
76 Maynard from Benchmark Engineering who drew the trail and knew the layout. Maynard was able to  
77 show that the trail is 15 ft. from everyone's back door as well as being right up against all the  
78 wetlands. O'Connell shared that when it came up about relocating the trail; there are wetlands  
79 everywhere so you couldn't relocate the trail. Maynard shared with the residence that relocating  
80 wasn't a realistic option. O'Connell shared only 3 out of the 80 people raised their hands in favor of  
81 it. He stated again the he doesn't understand the intimidation.

82  
83 Chairman Farrell stated the Council represents all people and thanked O'Connell for his statement.

84  
85 Councilor Green asked to pull up a subdivision map and pointed out the trail.

86  
87 Hollis stated that just so the Council has in its mind, the property is governed by a Board of Directors  
88 there are a set of bylaws that each member has to abide by and the typical bylaws provide for  
89 management for all of the property by the Board of Directors, as opposed to one vote each person  
90 having a right. Hollis stated that he wanted to make sure the Board of Directors had their meetings,  
91 conducted their investigation and determine what they felt was appropriate for the association as a  
92 whole. Hollis stated that the Council has to look at what the public wants. People who own a 128<sup>th</sup>  
93 interest are governed by the bylaws and that's different than giving up their public rights by  
94 becoming a part of this public association.

95  
96 William Graser, 3 Eayers Range Rd., stated that he wanted to comment on the access to the trail and  
97 where it comes in from. He stated there's another area that impacts the Nevins. [He pointed out the  
98 area on the map]...Phase one and the end of the road exits from Capital and Constitution Condos.  
99 Graser stated he lives in the third house to the right, right by the guardrail and where the wetlands are.  
1 The access point is the other end of the guardrail. Graser stated that his view is that his home is  
2 situated in such a way that the sidewalk is on his side of the street. Anyone accessing or exiting the  
3 trail has to come by his house. Graser stated he is the senior resident there and that he moved in  
4 October of 2005. There were just a handful of homes when he moved in. Graser stated when he first  
5 bought there it was a different realtor than the one who sold most of the development. ReMax in  
6 Londonderry, with Mark Oswald. Graser stated when he realized there was a trail he was hoping it  
7 would never be built.

07  
8 Councilor Butler asked Graser if the Nevins roads were private roads. The crowd answered with yes,  
9 they are private roads.

10  
11 Dara Lamone, 43 Morrison, stated she represents the other side and she just moved into the Nevins.  
12 Lamone believes that one of the accesses is right next to her home. There is 27 ft. between her house  
13 and the other house where the access will be and people would be walking right next to her bedroom.  
14

15 [Council and audience discussed the map]  
16

17 John Finn, 57 Morrison Dr. stated that he thinks that anonymously people portray actions of other  
18 residence in a manner that the Council has to say ‘anonymously’. Finn stated that he believes it’s  
19 unfortunate that the Council is in a situation where they get information anonymously. Finn stated  
20 that there was a petition that was going around that talked about the developer having built in moneys  
21 into the cost of the houses and that the residence would get rebates if the trail was not built. Finn  
22 stated it wasn’t the sales office or the management or the developer and that it was someone who just  
23 showed up at his door. Finn stated where Nevins runs into Morrison, the way the houses are  
24 constructed is that the developer took into consideration how various rooms in the houses would be  
25 facing. Finn gave a couple of examples. Finn pointed out where the trail goes, around his  
26 neighborhood, on the map and stated from his patio to the woods is 20 ft. Finn stated that if the  
27 Council walked through the line they would see how devastating it is to the residence.  
28

29 Chairman Farrell stated when they get evidence and emails it is circulated around the Council and the  
30 Police Chief and the Council asks the Police Chief to pull any records of calls that have been in the  
31 Nevins in the past 12 months. Police Chief Bill Hart clarified that it was actually three years.  
32

33 Michael Smith, 32 Nevins Rd, stated that when he was present for the Planning Board, trail butters  
34 were present at the meeting as well and in the notes the did not want the trail either because it was  
35 running along their rock walls.  
36

37 Oliver Ducharme, 6 Haley Court, stated he’s lived at the Nevins since 2006. Ducharme stated he is  
38 not in favor of a public trail. It’s private property and the money was raised privately. Ducharme  
39 stated that he is one of those people who bought early and was promised a walking trail. Ducharme  
40 stated that there was an approved site plan in the sales office. Ducharme stated that he believes the  
41 builder got twenty thousand dollars extra per lot because it was wooded lot. Ducharme stated the  
42 people who were promised this amenity are in a tough spot because of the builder. Ducharme stated  
43 that builder did what he wanted to do. Ducharme asked the Council if this is something they approve  
44 of. Chairman Farrell stated that the Council has no jurisdiction on what the builder does with the  
45 developer. The land use boards in New Hampshire are designed to be separate from the Town  
46 Council. Chairman Farrell stated it came to the Council because it was deeded as public land.  
47 Ducharme stated it is no surprise to the people where they were buying. Chairman Farrell stated there  
48 are strict laws around real-estate agents in the state of New Hampshire about saying things that aren’t  
49 true but that is was outside the Town Council. Ducharme asked what is going to be done for the  
50 people that put their hard earned money down and paid for the amenity and now it may not happen.  
51 Ducharme stated that now that the builder has his money he should correct the situation for all.  
52

53 Vice Chairman Dolan stated that it might be good to have a history lesson. Dolan stated back when  
54 the development was originally proposed the development was going to be about three times the size  
55 as what it is now without any age restriction so there would be a lot of children, which would have

56 flooded the schools and it would have made a bad situation worse. Dolan stated at the time he was on  
57 the Town Council and they had went to the developer (who is no longer involved) and told him that  
58 the development would put the community under duress. The Council asked the developer how they  
59 can turn the dial down on the development and build fewer homes and age restrictions so there will  
60 be no school impact. The Council still wanted to make it environmentally friendly with walking trails.

61 Dolan stated that the developer at the time said if he does it he will lose a lot of money that he was  
62 going to make on the development. The Council had asked the developer how much. The developer  
63 stated 2.9 million. Dolan stated that the Council suggested going to the voters to ask them for 2.9  
64 million and they give it to the builder if he makes the community like what the Council suggested.

65 Dolan stated that the Developer agreed and so the Town held a special election. Dolan said it was  
66 packaged that 95% of the residence voted for it to spend their 2.9 million to change the development  
67 that is there now. Dolan stated one of the issues that the Council has to deal with is how to avoid  
68 going back to the citizens who voted for it who paid 2.9 million and didn't get anything. Dolan stated  
69 it's not just the residence who live there now who are dealing with this, but also the people who don't  
70 live in the Nevins who paid almost three million dollars to get this package that is almost done. The

71 Council has to answer to them as well. Vice Chairman Dolan stated that there is a proposal to the  
72 community to rebate back to the community a small portion of the 2.9 million which is about \$20,000  
73 worth of construction cost. Vice Chairman Dolan stated that this involved the community as well  
74 because they paid for a large part of the development. Dolan asked the people to think about that part  
75 of the situation as they make comments.

76  
77 Bill Malone, 43 Morrison, stated that he just moved into the Nevins at the end of June. Malone stated  
78 one reason why he bought the property was because it backed up to the wood which is supposed to be  
79 preserved. Malone never envisioned someone could be walking within 10 ft. of his patio while he is  
80 BBQing. Malone was informed that is was a dead issue. Malone stated that he thinks it should be an  
81 easy issue because a walking trail is only around nineteen thousand dollars of the 2.9 million. Malone  
82 stated what the community got for the 2.9 million is not a walking trail, they got less burden on the  
83 schools, fire and police. Malone stated that the walking trail is such a small piece and it should be a  
84 'no brainer'.

85  
86 Paul Murphy, 14 Morrison Dr., stated that he had the exact thought as Malone stated. Murphy stated  
87 that he would like to ask the Chief of Police and the Fire Chief if they have got other new  
88 developments that they want walking trails around. Chairman Farrell stated that it has been going on  
89 since the earl 2000's. Murphy asked how is it working out for them, are there other situations where  
90 there are walking trails this close to homes. Murphy asked if the Chief of Police had the statistics he  
91 was going to share. Chairman Farrell stated that the information that was received form the Chief of  
92 Police were call records for about 40 calls in 3 years and none of them have to do with walking trails.  
93 Chairman Farrell stated where there's walking trails in the other areas, the analysis hasn't been done  
94 yet but there's walking trails throughout Century Village. Farrell stated what they find that the Fire  
95 Dept.'s calls continue to go up no matter what happens. Police continues to go up no matter what  
96 happens. Farrell stated in some of the areas where there's walking trails, some have been removed  
97 and things have to be thought out. Farrell stated that difference between the Nevins and all the other  
98 ones is that there was a special election for 2.9 million dollars, and like the Attorney said, it went  
99 'hand in glove'. Chairman Farrell stated to Murphy that he knows he pays taxes but the Council is  
1 trying to figure it out. Murphy asked Farrell since he's concerned with the 2.9, has he thought back to  
2 when they were going to build 200 homes, no age restrictions, what it would have cost for the support  
3 of the streets, the fire calls, the more police and so much more. Chairman Farrell stated that they  
4 haven't increased the amount of staff on the Police since 1992 and he doesn't know whether they

5 would have increased it or not. Chairman Farrell reminded the audience again that the Council is  
6 trying to get to the middle. Murphy asked Chairman Farrell how long it's going to take the Council to  
7 take a position. Chairman Farrell stated that the Council may vote tonight and it won't take much  
8 longer. Murphy stated that last time he thought the decision was made. Murphy asked if the decision  
9 is made against them, if there is an appeal process they can initiate. Chairman Farrell stated that they  
10 can always bring it to court, but it's an expensive path. Chairman Farrell stated that it could also be  
11 brought back to the Council with new information and ask the Council to look at it again.

12 Chairman Farrell stated that the Council is usually limited on how long they let people speak for at  
13 meetings. Farrell stated that there are 128 homes and he knows how much tax revenue that is, that's  
14 why the Council is allowing all to speak.

15  
16 Vice Chairman Dolan stated that the Council is now deliberating so deliberately now is because when  
17 the issues come up it is normally between the Council, the Planning Board and the people who have  
18 an issue. Dolan stated that there is always a third party called 'the rest of the tax payers' who are  
19 partnering in this decision, which the Council is trying to consider their aspect as well. Dolan stated  
20 that the Council wants to be fair to them as well as give the Nevins residence a good solution. Dolan  
21 stated that he has heard some bad things. Dolan stated that it's not that a walking trail is being put  
22 close to the homes; it's that the homes were put too close to the walking trail. The walking trail on the  
23 plan existed long before any homes were built. Dolan stated the builder had a responsibility not to  
24 locate the homes too close to that walking trail. Dolan stated that there are probably some legality  
25 issues with that. Dolan stated that it seems some residence have questions about misrepresentation by  
26 the seller to the residence. Dolan stated that the Council will not handle that, it is a civil issue. Dolan  
27 said the Council doesn't like when the developers put private structures on public land, or easement.  
28 Dolan stated that it appears to be what happened in the Nevins.

29  
30 Judy Braje, 61 Morrison Dr., stated that she thought it was a done deal as well. Braje referred to when  
31 the Council mentioned the 30-50 e-mails that they received for the trail, she stated that the Council  
32 needed to clarify that they are all individual people because she doesn't see how that could be  
33 possible with all the people she knows, she can't think of more than one or two that have ever felt that  
34 it should be done. Chairman Farrell stated that the e-mail and phone calls expressed that there were  
35 20-50 people who wanted the trail and that they Council did not get 30-50 e-mails.

36  
37 Councilor Green asked Attorney Hollis if anyone has thought about relocating the trail. Green stated  
38 that there's a lot of open space to the right [referring to the map]. The audience stated that it's all  
39 wetland. Attorney Hollis stated that it was the very first question he asked his client. Hollis stated that  
40 at the Planning Board and what was referred to by the residence at a public meeting, there are no  
41 places to relocate it due to steepness, wetlands or other unusable area. Councilor Green stated that  
42 again, the Council is just trying to find a middle ground. Hollis stated that Councilor Dolan raised the  
43 key element of a balance between what the public paid for, what was negotiated and what is now  
44 occurring. Hollis stated that the Nevins is a private owned land controlled by a board of directors and  
45 they have in the documents the right to more these amenities. Hollis stated that with the public rights  
46 you are asking us/we, the board and the developer, are asking the town to give up some public rights,  
47 but not for free. Hollis stated that they are willing to pay, whatever the cost that they have reached the  
48 determination with the town; it would take to put in the trail, in order to have the town put the trail  
49 somewhere else, where it would be more meaningful to the public. Hollis stated that there is no lose  
50 to the town but a bargain. Hollis stated that it would cost approximately \$20,000 to contrast the trail.

51 Hollis stated this way the town would be getting more location and more trail and the public would  
52 more likely use it since it won't be going through someone's house. Hollis stated that they are not  
53 asking the public to wave off, they are asking for a release and exchange.  
54

55 Elvio Delise, 6 Morrison Dr., stated that he was going to use that argument to Vice Chairman Dolan  
56 they're paying back, a negotiation to pay back a portion of what was originally 2.9 million and that is  
57 being negotiated right now. Chairman Farrell stated that there is a deal on the table. Vice Chairman  
58 Dolan stated that on the Resolution the Council has before them does have in it \$19,200 to repay the  
59 town for forgiveness of the trail.  
60

61 Councilor Freda stated that one thing that Vice Chairman Dolan mentioned was that the rest of the  
62 voters approved 2.9 million dollars to set this in motion. Freda stated that what is missing is that  
63 people present in the room tonight are getting a disproportionate burden placed on them because their  
64 homes are being used by members of the public. Councilor Freda stated that he thinks it would be  
65 unfair for the Nevins people to deal with the general public walking through their back yards.  
66 Councilor Freda said that the Council hasn't seen any members of the public at meetings other than  
67 people from the Nevins complaining that their tax dollars were misappropriated.  
68

69 Jack O'Connell, 6 Wesley Dr., stated again that within 5 ft. of the drawn trail it is all wetland. He  
70 stated that he wished there was a color coated map to show the wetlands. At the open resident  
71 meeting that they had the engineer for any of the residents to ask questions, but he indicated that there  
72 is no room to relocate the trail and it's all wetland and the only place is where it is. O'Connell stated  
73 that when he moved in in 2006 a, the lower half was all woods. When they started moving the trees  
74 there was a huge mountain of woodchips and he asked the sales office what they were for. The sales  
75 office had told him it was for the walking trail. This was the time they started to have the resident  
76 meetings on a monthly basis and there were a lot of negative opinions on it. This was back when it  
77 was only 50 homes, O'Connell stated, the community didn't want the trail and it was the developer  
78 who was listening, realized that the residence didn't want it. O'Connell stated that right now the  
79 developer was responding to what the residence were asking back in 2009 and what they are  
80 continuing to ask today. Vice Chairman Dolan stated his reference was more to the tax payers back in  
81 2003 and the special election. The bait and switch was with them and not the residence. O'Connell  
82 stated that he understood and the points the Council made and the people at the meeting is that the  
83 vast majority of all the target goals of that site plan have been achieved. Vice Chairman Dolan agreed  
84 that the trails are a small portion of the 2.9 million.  
85

86 Oliver Ducharme, 6 Haley Court, stated that he wanted to respond to issues but Councilor Green and  
87 Vice Chairman Dolan brought up about the trail being relocated and the negligence of the builder.  
88 Ducharme stated like it was indicated, the trail was there first. Ducharme stated the builder clearly  
89 built the way he wanted to build assuming the trail would go away. Ducharme stated that he agrees  
90 that the Council should find middle ground and as indicated, 40 houses at \$20,000 upcharge per  
91 house is \$400,000. Home Depot's built on wetlands. Ducharme asked if anyones seen a test and he  
92 keeps hearing wetlands and stated that it is not that wet. He stated that maybe the builder should take  
93 some of the \$400,000 that he took from people saying that this wouldn't happen and make everyone  
94 happy. Ducharme stated no one wants the trail where it is, not even himself. Council Freda asked  
95 Ducharme where he gets the \$20,000 per house. Ducharme stated that if the Council asks any of the  
96 people present, they were charged \$20,000 per lot to have a wooded lot and were told the trail would  
97 not be there.

98

99 Chairman Farrell stated that that was the last speaker on for this subject this evening and that we are  
1 at the one hour mark. Chairman Farrell asked the Council what they would like to do. Councilor  
2 Butler stated that the Council needs to take a real common sense approach to the problem and he  
3 thinks that there are some faults on the developer and there may be some faults on the town side  
4 through different boards. Councilor Butler stated that they are private roads and some of the trail goes  
5 between houses and on the sidewalks. He's also been told that the trails go nowhere. Councilor Butler  
6 stated that there would be a problem with parking and there is no place to park. He stated that it will  
7 be a public safety concern if it's not taken in to consideration. Councilor Butler stated that he  
8 wouldn't want a trail 15 ft. from his patio. Butler stated to Cynthia May that he knows that we have  
9 \$19,000 sitting on the table as a possible resolution to this, but how did we get to the \$19,000.  
10 Cynthia May stated that the initial developer, back in 2009, provided, through the department of  
11 Public Works, an estimate of what it would cost to build the trail back than but didn't consider the  
12 cost of constructing the two bridges and what it would cost to build a somewhat assessable foot  
13 bridge over a lesser wetland area. May stated that DPW and herself looked at what the estimates  
14 would bring. May stated that she talked to Bob Saur from the Trailways Committee to confirm the  
15 cost. May stated that she designed trails for three years so she does have a background and based on  
16 the type of trail it is, a clearing in the woods with woodchips, it's an inexpensive trail.

16

17 Vice Chairman Dolan stated he had a couple issues and that negotiating should be done in private.  
18 Dolan motioned to continue the public hearing to the next Council meeting on October 7<sup>th</sup>. Councilor  
19 Green second. Chair votes 5-0-0.

20

21 Chairman Farrell addressed the Proposed Hicks Purchase. Paul Nickerson, 7 Sparhawk stated that  
22 he's a member of the Conservation Commission and the recently created Joint Negotiating  
23 Committee, which was established by the Council to strengthen the acquisition program in  
24 Londonderry. He will be presenting. Nickerson pointed out the map on the screen. Nickerson stated  
25 that he came across the Hicks during one of his monitors excursions. Dan Hicks approached the  
26 commission and said that he would like to sell Nickerson the land. Nickerson stated it was referred to  
27 the Joint Negotiation Council as per the instructions the Council laid down. Nickerson stated that he  
28 told Hicks that an appraisal needs to be conducted to make it a legitimate process, and they did.

29 Nickerson stated that the appraisal came back with the value of \$60,000, which is what Hicks had  
30 originally quoted to them. Nickerson stated that in August once the appraisal was completed the Joint  
31 Negotiating Committee recommended acquisition to the Conservation Commission and that was by  
32 unanimous vote by all the members. On September 10<sup>th</sup> the Conservation Commission held a public  
33 hearing and they voted to recommend acquisition to the Town Council and that is why he is present.

34 Nickerson stated that there were no public comments at the meeting. Nickerson stated that the  
35 purchase and sales agreement has been signed by all the family members.

36

37 Chairman Farrell said looking at the contract there are some changes that need to be made to the  
38 contract. Vice Chairman Dolan stated to Kevin Smith that on page 2 of 5, paragraph five, the words  
39 'purchase the easement interest' should be changed to 'purchase the property interest' [referring to  
40 the contract]. Dolan stated on page 5, one on the signature pages, Dolan stated he would like to take  
41 the Conservation Commission off the signature page and put the Town Manager in place of them.  
42 Vice Chairman Dolan stated that the Council was advised that only the Town Manager and Council  
43 can sign contracts like that. The end results the same. Vice Chairman Dolan stated after the changes  
44 are made, he is in favor of it. Councilor Green stated that as was promised, a couple years ago to be a

45 focus when going forward with property purchases, that there would be a stewardship plan in place  
46 prior to any purchases and Green stated he hasn't seen that yet. As things go forward and try to add to  
47 the base of open space, Councilor Green stated it would be irresponsible for it to continue to grow  
48 without first developing a very solid stewardship. Councilor Green asked how is the land going to be  
49 taken care of and how will we ensure it will be taken care of properly. Nickerson stated that the  
50 stewardship plan is on the way and it's moving slowly at this point. Nickerson stated that the  
51 Conservation Commission will monitor the property. Nickerson stated that they will do a better job  
52 on their own keeping an eye on the land. Councilor Butler stated that it looks as though there are  
53 some trails that lead into the property as an easement, Butler asked if the Conservation Commission  
54 taken in any consideration on if people want to use that property where they will parks so that people  
55 won't be parking where people shouldn't and on peoples property's which has happened in the past.  
56 Nickerson stated that it this point it's hard to imagine what the demand will be. Councilor Butler  
57 stated that the easement that goes in there is highly used. Chairman Farrell stated the only time you  
58 really notice the parking is during hunting season and otherwise you don't see it.

59  
60 John Vogl, stated that he wanted to clarify that the land to the front that extends to High Range Rd. is  
61 part of the property would be ownership to the town and not be the easement. It's a stretch 50 ft. wide  
62 and provides access from the road to the back area of the property.

63  
64 Councilor Freda asked Nickerson about the first paragraph of the purchase and sales agreement says  
65 Mr. Hicks is the grantor but there are also 6 people who signed it. Councilor Freda asked if 6 people  
66 own the property. Dan Hicks stated that his brother and sister ended up buying the land from Mr.  
67 Sumna which was their neighbor. Hicks stated since than his sibilings have passes away and he is the  
68 last one standing except for his daughter in-laws who all came out to sign the agreement. Hicks stated  
69 that the other two of his sisters, daughter and son, came out to sign it as well. Councilor Freda stated  
70 that his questions is that if 6 people own it the agreement should say 6 people own it by indicating  
71 that they're all grantors. Nickerson stated that he will have to defer to an attorney who knows real-  
72 estate. Councilor Freda stated throughout the agreement it refers to the grantor who will do this and  
73 then the grantors will do that, it should be consistent. Councilor Freda read part of the agreement: "By  
74 shall have the right to have the premises tested for environmental matters". Councilor Freda stated  
75 the he is wondering if there were any tests conducted. Nickerson stated no it's very clean and that  
76 there should be no worry about environmental contaminants on the property. Councilor Freda stated  
77 that we are spending tax payers money and what if Nickerson is wrong. Nickerson stated that he isn't  
78 wrong. Dan Hicks stated that it has always been woodland, for at least 100 years.

79  
80 John Vogl stated in regards to the grantor, there are 5 names on the original deed to that property but  
81 Hicks is the only surviving member. The other names are not on the deed but they inherited it.

82  
83 Deb Lievens, Conservation Commission Chair, stated that she would like to follow up with Freda's  
84 question about stewardship after the meeting because there is an answer that Nickerson isn't aware  
85 of.

86  
87 Vice Chairman Dolan made a recommendation that the Council authorizes the Town Manager and  
88 the Town Council Chair to sign the purchase and sales agreement with the suggested amendments.  
89 Dolan stated that it's a very generous offer by the Hicks family and it's a good purchase for the  
90 community given the price we are paying verse the appraisal price value. Councilor Green stated he



91 thinks more research needs to be done as far as the deeding process. Councilor Freda stated that they  
92 can just amend the purchase and sale. Chairman Farrell stated that he has a motion to authorize the  
93 Town Manager and the Chairman of the Council to sign an agreement that will be amended, as  
94 presented this evening. Councilor Green second. Chair votes 5-0-0.

95  
96 Vice Chairman Dolan Motion to close public hearing. Councilor Freda second. Chair votes 5-0-0.  
97

98 Deb Lievens stated that she wanted to explain something that has gone by her and the Council, when  
99 the Conservation Commission was involved with the Ingersoll Property because it was so big, at the  
1 time they took the National Land Trust Alliance standards and adapted them for the Town of  
2 Londonderry and adopted them as a commission for the Conservation Commission basis for  
3 stewardship of the land. Lievens stated that document is in place.

### 04 **OLD BUSINESS**

05  
06 None

### 07 **NEW BUSINESS**

08  
09  
10 Chairman Farrell introduced Resolution 2013-11, Adopt RSA 62-k. Kevin Smith stated that this  
11 would be the first reading designating a TIF district that's been discussed at prior meetings around the  
12 Pettengill Rd. area. Vice Chairman Dolan made a motion that the Council skip the first reading and  
13 conduct a second reading and public hearing on October 21<sup>st</sup> to move forward with this Resolution.  
14 Councilor Butler second. Chair votes 5-0-0. There will be a second reading and a public hearing on  
15 October 21<sup>st</sup>, 2013.  
16

17 Chairman Farrell introduced Resolution 2013-12 TIF plan airport area. Kevin Smith stated that it's  
18 the second Resolution, following the first one that it would also designate the area by Pettengill Rd. in  
19 the airport area a TIF district. Chairman Farrell asked the Council what they would like to do. Vice  
20 Chairman Dolans stated that he would like to make the same motion as before. Councilor Butler  
21 second. Chairman Farrell stated the same motion to skip the first reading and conduct a second  
22 reading and public hearing on October 21, st 2013. Chair votes 5-0-0.  
23

24 Chairman Farrell introduced Resolution #2013-14, first reading, fire department. Fire Chief Darren  
25 O'Brien stated that it's a fee structure for permits that the fire department gives out for blasting  
26 permits, oil burner inspections, fire alarm inspections. O'Brien stated that the fees haven't been  
27 adjusted since 2008, so they have done comparison with area communities and adjusted the rates  
28 accordingly.  
29

30 Division Chief Brian Johnson stated the second part of the packet is a Fire Alarm Ordinance that the  
31 fire station is looking to in act. Johnson was the author of it. Johnson stated that it has been put off a  
32 couple of times. It defines what alarm systems are, who the users are, who the contact people are and  
33 it also addresses if the fire department has to respond to numerous false alarms with a business, that  
34 in some point in time they can charge for those calls. Councilor Green asked if they had it on the fee

35 structure for false alarm fire. Johnson stated on the permit fees, no. Johnson stated it's in the  
36 ordinance itself and the permit fees are for when they come in to the fire department and fill out a  
37 permit for inspections. A false alarm ordinance is for the monitoring and excessive false alarms for  
38 people who don't properly maintain their systems. Chairman Farrell stated it would be similar to what  
39 the police have. Johnson stated that he contacted the Londonderry Police and got some of their  
40 verbiage. He stated that in other communities they checked in, they found that after they put it into  
41 play they found the business maintained their fire alarms more. They saw an 80% drop in false alarm  
42 calls. Vice Chairman Dolan asked O'Brien and the Johnson if they are looking for guidance form the  
43 Council whether or not they want to pursue it. It was originally going to be a joint ordinance with the  
44 police one but when the Johnson went before Chief Hart he had him get in touch with communication  
45 supervisor Robert Jones and they decided there's worked for them and it would get confusing.

47 Councilor Freda stated that it seems like they are being overly generous giving people 6 false alarms  
48 before the fee goes up to 100 from 50. Councilor Freda stated that if they really want the business's to  
49 fix their alarms Freda suggested keeping it at 3, which is one every two months. Johnson stated  
50 originally he had it less than that and it came from some of the administration that we should give  
51 them a little leeway since this is just beginning. Chairman Farrell asked if there were places that had 6  
52 false alarms. Johnson and O'Brien both stated yes. Chairman Farrell asked how many. Johnson stated  
53 that he doesn't know and he will need to check. The Londonderry Fire responded to 267 false alarms  
54 in fiscal year 13. Chairman Farrell asked what the goal was. Johnson stated that he is optimistic based  
55 upon what the other communities said about it going down by 80% and that he would rather have  
56 everything in service for when an actual emergency occurs. Councilor Butler asked about the  
57 surrounding towns and how many calls do they alarm, false alarms, before the put in place the fees.  
58 Johnson stated most of them are 6-4. He stated that Londonderry's is 6 before it goes to one hundred.

59 The first 4 are free, 2 are \$50 and after that it's \$100. Vice Chairman Dolan suggested that the  
60 Council is in agreement that they want an ordinance. Dolan asked O'Brien and the Johnson to put  
61 together an ordinance and they might tweak it during the public hearing. Chairman Farrell stated that  
62 6 is a lot. Farrell stated that they are trying to make a point so they should make it. Vice Chiarman  
63 Dolan stated on that note he would recommend that the Council accept the first reading of Resolution  
64 2013-14 and schedule a second reading and public hearing on October 7<sup>th</sup>, 2013. Vice Chairman  
65 Dolan made the motion. Councilor Green second. Chair votes 5-0-0.

67 Chairman Farrell introduced Order 2013-30, the award of bid for Police cruisers totaling \$28,050.00.  
68 Councilor Butler stated that he thought we bought all our cruisers. Police Chief Bill Hart stated that  
69 they went from 21 to 16 cars in the last bidding process. They did it in large measure because Ford  
70 seized production of the Crown Vic PI model and began production of the 2 new police interceptors.  
71 One is a sedan and the second is an SUV. Hart stated that he looked hard at the numbers, figured 16  
72 was good, which was a reduction in fleet of 5 and that he participated that we would be well under  
73 budget given the Vehicle Maintenance Trust program they had developed to pay for the outfitting of  
74 the vehicles. Hart said that they found they are chronically short of cars. Hart stated that they have  
75 had an empty parking lot 3-4 days a week. Councilor Freda asked Hart if they are still using old cars.

76 Harts stated that the airport still uses the old Crown Vic PI's but they will be adopting the new  
77 Londonderry model of the SUV properly marked. Hart stated that he priced out a car and felt, with  
78 help from captain Michaud who did the line share of the work, wanted to see if we got in early for a  
79 17<sup>th</sup> car, would it minimize the exposure over the three year lease and indeed that's the case. Hart  
80 stated that it's an approximately a \$9,500.00 in the first year payment and 9,275.00 in each of the two  
81 succeeding years. Hart stated in terms of price of the car everything else will be paid up front. Hart  
82 stated that they will still be under budget for fiscal year 13 and they anticipate the default will

83 continue to be under budget as it has been every year. Councilor Green asked if there was a need for  
84 two. Hart stated no, it's a three year lease and they are looking at changes happening in Londonderry  
85 and what the change looks like going forward. Council Farrell stated that he would take a motion to  
86 approve Order 2013-30. Councilor Green motioned. Vice Chairman Dolan second, stating that there's  
87 no need for a public hearing or second reading. Chair votes 5-0-0.

88  
89 Chairman Farrell introduced Order 2013-31, Expenditure Maintenance fund for the South Fire Station  
90 Trip Repair and North Fire Station cupola repair, totaling in \$4,310.00. Town Manager Kevin Smith  
91 stated the first item came from South Fire Station; the exterior door trim was finished with a pre-  
92 primed finger jointed pine trim instead of the PVC or hardboard product as originally planned. This  
93 request is for the labor and materials to replace the deteriorated pine trim with concrete board trim  
94 material, prime and the final coat of paint to match the rest of the building trim in the amount of  
95 \$1,510.00. The second item was at the North Fire Station cupola repair. Smith stated while in the attic  
96 reviewing placement of additional electric circuit there were wet spots noticed along with  
97 discoloration of the framing in the cupola area. After further investigation, which required removal of  
98 the shingles on the cupola there was found improper installation of the flashing starter course of the  
99 shingles and only partial covering of the plywood with ice and water shield. This request is for  
1 removal of the existing roofing materials and proper installation of the ice and water shield flashing  
2 in the shingling of the cupola in the amount of \$2,800.00.

02  
3 Councilor Green stated what he doesn't understand how we can't go back to the contractor and find  
4 him/her responsible for it, specifically South Fire. Smith stated that he talked to the purchasing agent  
5 about it and he will follow up with him about it but it's his understanding that this is not in warranty  
6 anymore and we did bid this out, it went out to the lowest bidder and this was the work that was done.  
7 Smith stated that it had a one year warranty. Councilor Green stated that we have proof that it was  
8 faulty installation. Smith stated that he can further inquire Councilor Green to see what the recourse  
9 is. Councilor Green stated these are constantly coming across the Councils table and he can  
10 remember at least a half dozen for North Fire Station. Councilor Butler stated that he thinks it's  
11 because some of the things they went outside the spec instead of staying with the spec, it pretty much  
12 changed it, which changed the type of material, which in the long run is costing us more money.  
13 Butler stated that he just wants to make sure the boards we are replacing are a minimal fiber board or  
14 something that has a 15-20 year warranty.

## 15 16 **APPROVAL OF MINUTES**

17  
18 Councilor Green motioned. Councilor Freda second. Chair votes 4-0-0. Councilor Butler was not  
19 present at the last meeting.

## 20 21 **LIASON REPORT**

22  
23 Councilor Green stated that he attended a Senior Affairs group meeting and they talked about the  
24 process of making sure the property being selected to house senior housing is going through the test  
25 process. Janusz has updated Green several times and they did find some arsenic there and they're  
26 working with the state to figure out how we can get it under control. Councilor Butler asked what  
27 property it is. Councilor Green stated Sanborn Rd. Councilor Green had a report stating the property  
28 was clear but then subsequently, Janusz said his team found signs, which were then investigated and

29 they feel there's some more arsenic on the property. They are trying to find out how much it's going  
30 to cost them and how much is it going to be to clean up.

### 32 TOWN MANAGERS REPORT

33  
34 Kevin Smith stated an update on the Town Clerk/Tax Payer positions that were talked about at the  
35 last meeting. Upon doing further research and consulting with the Town Attorney it appears is that if  
36 the Council would like separate the positions what it would take is two questions on the ballot in  
37 2014. One question is asking the voters asking if they would like to discontinue having a combine  
38 position and a second questions allowing the Council to be able to appoint the Tax Collectors  
39 position. If both approved they would still have a combined position for one year after the March  
40 ballot. In the election in 2015 you would just have an election for a Town Clerk and appoint the Tax  
41 Collector. Smith stated when we talk about separating out the positions, he's not talking about  
42 creating two positions rather you would have one Town Clerk who's roles and responsibilities would  
43 be limited in nature and the job responsibilities of the Tax Collector would be absorbed by existing  
44 staff that are in the Town Clerks office. The town would stand to have a savings if it were to go in  
45 that direction. Attorney Ramsdell, the town Attorney is making sure all the I's are dotted and T's are  
46 crossed with regard to making sure if that's the direction the town goes in that it is the proper process  
47 for doing so. Councilor Freda asked if there will be an actual election for a Town Collector. Smith  
48 stated in 2014 there would be an election for the combined position still. After that there would just  
49 be an election for Town Clerk. Chairman Farrell stated it would be a one year term and the Council  
50 will set the salary and after that the Town Clerks hours can change, if the voters approve. Smith said  
51 that the positions were separate until 1994 when the town approved to combine the positions.

52  
53 Kevin Smith stated that he was asked at the last meeting to do investigation of Murray's Auto in  
54 regards to some of the issues that Mr. Adams raised. On the issue of the siding, the time table for  
55 when it will get done on the trailer is within the next month. The second issue was whether or not  
56 there were other business's operating out of the home. They found he does have other entities  
57 registered there, absolutely nothing is operating out of that area. He is receiving mail but that is it.  
58 Smith stated that he has driven down Hall Rd. a couple times to see if there is any activity going on  
59 after 5 PM and he hasn't seen anything at this point.

60  
61 Kevin Smith stated that he would like to remind the Council and the public that the Governor and  
62 Executive Council will be meeting in the Moose Hill Council Chambers on October 2<sup>nd</sup> at 10 AM.

63  
64 Kevin Smith stated that in the ongoing efforts to move the town into the 21<sup>st</sup> century, with the help of  
65 Kirby Wade and the IT staff the town now has an officially Facebook page and Twitter account.  
66 Councilor Green asked who will monitor them. Smith stated that he will be along with Wade. Vice  
67 Chairman Dolan asked to put the Development Agreement that the Council signed off on, on the  
68 website.

69  
70 Councilor Green asked if the GMO issue was going to be put on one of the agendas going forward  
71 because there are a lot of people who are concerned about it. Chairman Farrell stated that it's not the  
72 Council, it's the Planning Board. All Ordinances come from them.

**ADJOURNMENT**

Chairman Farrell entertained a motion to adjourn. Councilor Green motioned to adjourn at 10:10 PM.  
Second Councilor Freda.

<b>Notes and Tapes by:</b>	<b>Kirby Wade</b>	<b>Date: 09/23/13</b>
<b>Minutes Typed by:</b>	<b>Kirby Wade</b>	<b>Date: 10/06/13</b>
<b>Approved by:</b>	<b>Town Council</b>	<b>Date:</b>

