

TOWN COUNCIL AGENDA

October 21, 2013

7:00 P.M.

The Town Council meeting will be held in the Moose Hill Council Chambers, Town Hall, 268B Mammoth Road, Londonderry, NH. Regular meetings are cablecast live and videotaped for the convenience of our viewers at home. 7:00 PM

A. CALL TO ORDER

B. PUBLIC COMMENT

1. Presentation on Londonderry Arts Council.
Presented by Jason Williams, Chair

C. PUBLIC HEARING

1. **Resolution #2013-12 – TIF Plan-Airport Area**
Stu Arnett Presenting - To establish a Development Program and Tax Increment Financing (TIF) Plan for the Airport Area Infrastructure District.

D. OLD BUSINESS

None

E. NEW BUSINESS

1. **Ordinance #2013-06 – Impact Fee Ordinance**
Amend Municipal Code – Title III – Land Use Codes,
Zoning Ordinance, Section 1.2, Impact Fees (First Reading)
2. **Resolution #2004-11A – A Resolution Relative to the Collection and Distribution of Rental Fees for the Mayflower Grange**

F. APPROVAL OF MINUTES

Approval of September 23, 2013 Town Council Minutes

Approval of October 7, 2013 Town Council Minutes

G. OTHER BUSINESS

1. Liaison Reports
2. Town Manager Report

Veterans Breakfast on November 9, 2013
Hosted by LHS Pay It Forward Club

3. Board/Committee Appointments/Reappointments

Resignation of Robert Ramsay from the Greater Derry Cooperative Alliance for Regional Transportation Board of Directors (CART), term to expire on November 30, 2013

Appointment of Nancy H. Michaels, Candidate for the Londonderry International Exchange

Appointment of Ann Chiampa, Candidate for the Heritage Commission

Appointment of Linda Bates, Candidate for the Elder Affairs Committee

H. ADJOURNMENT

I. MEETING SCHEDULE

1. Town Council Meeting – **11/04/13** Moose Hill Council Chambers, 7:00PM
2. Town Council Meeting – **11/18/13** Moose Hill Council Chambers, 7:00PM
3. Town Council Meeting – **12/02/13** Moose Hill Council Chambers, 7:00PM
4. Town Council Meeting – **12/16/13** Moose Hill Council Chambers, 7:00PM

J. BUDGET MEETING SCHEDULE

1. Town Council Meeting – Budget Presented To Council – **11/04/13** Moose Hill Council Chambers, 7:00 PM
2. Town Council Budget Workshop – **11/16/13** Moose Hill Council Chambers, 8:00 AM
3. Town Council Meeting -Budget Discussion – **11/18/13** Moose Hill Council Chambers, 7:00 PM
4. Town Council Budget Workshop – **11/25/13** Moose Hill Council Chambers, 7:00 PM

RESOLUTION 2013-11

A Resolution Relative to the

***Adoption of the Enabling Statute RSA Chapter
162-K to Establish Municipal Economic
Development and Revitalization Districts***

First Reading: 09/23/13

Second Reading/Public Hearing: 10/21/13

Adopted: xx/xx/13

WHEREAS in accordance with the provisions of RSA Chapter 162-K, any city or town may adopt this chapter and shall thereafter have all the authority, powers, duties and responsibilities set forth in this chapter; and

WHEREAS a municipality which adopts this chapter shall thereafter be authorized to establish one or more development districts; and

WHEREAS for each such district the municipality shall establish a development program and a tax increment financing plan;

NOW THEREFORE BE IT RESOLVED by the Londonderry Town Council that pursuant to New Hampshire statute Chapter 162-K Municipal Economic Development and Revitalization Districts, the Town of Londonderry hereby exercises its Local Option to adopt the provisions of RSA 162-K, allowing the Town the option to establish one or more Economic Development and Revitalization Districts.

John Farrell, Chairman
Town Council

(TOWN SEAL)

Susan Hickey
Acting Town Clerk/Tax Collector

A TRUE COPY ATTEST:
Adopted xx/xx/13

RESOLUTION 2013-12

A Resolution Relative to the

Adoption of Airport Area Infrastructure District

First Reading: 09/23/13

Second Reading/Public Hearing: 10/21/13

Adopted: xx/xx/13

WHEREAS

having adopted **RSA Chapter 162-K**, and having found that the construction of additional public infrastructure in this District will serve Public Purposes, the Town of Londonderry establishes the Airport Area Infrastructure District upon passage of this resolution, in accordance with **Section 162-K:3**. The District Boundaries are represented on Exhibit A attached as part of this Resolution; and

WHEREAS

in accordance with **Section 162-K4 Hearing**, the Town represents that it has held at least one public hearing on October 21st, 2013 as required, and has offered to meet with the Londonderry School Board and County Commissioners as required by RSA 162-K:9; and

WHEREAS

in accordance with **Section 162-K:5 – Limitations**, the Town finds that the District now adopted conforms with both requirements:

- i. The District is less than five (5) percent of the total acreage of the municipality and is less than a total of 10 percent with any other District, as there are no others at the time of this adoption;
- ii. The District is less than eight (8) percent of the total assessed value of the municipality, and less than sixteen (16) percent of the Districts for which bonds remain outstanding, as there are no others at the time of this adoptions; and

WHEREAS

in accordance with **Section 162-K:6 – Development Program and Tax Increment Financing Plan**, the Town adopts the Airport Area Infrastructure Development Program, which contains a Financing Plan, attached as part of this Resolution, and finds that the proposed uses are permissible under the Town and **RSA162-K** requirements; and

WHEREAS

in accordance with **Section 162-K:7 Grants and Other Sources of Financing**, the Town may seek public grants and other financial assistance for the advancement or construction of public infrastructure. The Town may establish other financing options,

such as a Special Assessment District (RSA Chapter 49-C), Economic Revitalization Zones (RSA 162-N), or the expansion of Impact Fees (RSA 674:21) to recoup Town costs, enhance public benefits, and to encourage private investment; and

WHEREAS

in accordance with **Section 162-K:8 Issuance of Bonds**, the Town authorizes the Town Manager to seek bonding options as they are presented in the Development Program and Financing Plan, and to find and recommend the best options available at that time to meet the Financing Plan goals, for consideration by the voters at the 2014 Town Meeting as a Warrant to Bond; and

WHEREAS

in accordance with **Section 162-K:9 and K:10 Tax Increment Financing Plan and Computation of Tax Increments**, the Town acknowledges and adopts the Airport Area Tax Increment Financing Plan which is part of the attached Development Program, and finds that it meets the requirements of this sections; and

WHEREAS

in accordance with **Section 162-K:10 Computation of Tax Increments**, upon formation of the Airport Area Infrastructure District, the Town assessors shall determine the current assessed value of the real property within the District, and thereafter comply with the annual requirements of Section 162-K:10; and

WHEREAS

in accordance with **Section 162-K:11 Annual Report**, the Town shall prepare and distribute an annual report as required by this section and by Town requirements; and

WHEREAS

in accordance with **Section 162-K:12 Maintenance and Operations and 162-K:13 Administration**, The Town hereby appoints the Town Manager as the District Administrator, and provides for the District's operation and maintenance per the attached Financing Plan; and

WHEREAS

in accordance with **Section 162-K:14 Advisory Board**, the Town shall create by Town Council appointment, an Advisory Board for the Airport Area Infrastructure District within thirty (30) days of a vote to authorize a bond per the requirements of this Section. Unless otherwise designated by vote of the Town Council, the Chair of the Advisory Board shall be the Town Manager; and

WHEREAS

in accordance with **Section 162-K:15 Relocation**, the Town does not foresee any displacement or relocation of persons as a result of this Resolution, the requirements of this Section are adopted; and

WHEREAS the Airport Area Infrastructure District terminates upon action by the Town Council or when public bonds are repaid; and

NOW THEREFORE BE IT RESOLVED by the Londonderry Town Council that pursuant to New Hampshire statute **Chapter 162-K Municipal Economic Development and Revitalization Districts**, the Town of Londonderry hereby adopts the Airport Area Infrastructure District, which shall be in place at the time of the passage of this resolution.

John Farrell, Chairman
Town Council

Susan Hickey
Acting Town Clerk/Tax Collector

(TOWN SEAL)

A TRUE COPY ATTEST:
Adopted xx/xx/13

**Town of Londonderry
Airport Area Infrastructure
District Development Program**

Including the:

- Tax Increment Financing Plan
- District Boundaries, and Acreage and Tax Value Assessment Totals

Having adopted the enabling RSA 162-K and finding that infrastructure improvements in the District will serve public purposes, the following Development Program is adopted Per Section 162-K:

Statement of Public Facilities to be constructed: Facilities will be publically-owned infrastructure such as roads, sidewalks, land, ROW, communication utilities, trails, traffic or street lighting, sewer systems, transit stops, drainage and others related to these uses. It does not include any improvements to, or construction of, public buildings, parks, or new public services. The major infrastructure components of the District are:

- The construction and upgrade of **Pettengill Road** and connected or related traffic improvements, and to procure easements, (\$8m)
- The construction of a town-owned **sewer line** with needed and directly-related systems and equipment, and to procure easements, ROWs, designs, and permissions (budgeted at \$4.3m)
- Expansion of the public **recreational trails** and directly related improvements, and to procure easements, ROWs, designs, and permissions, but not new parks (budgeted at \$.2m).

The construction is estimated to occur over two building seasons, and will be overseen by the Town Public Works Department. The Town will not charge its oversight costs to the District.

Relocation or displacement of persons: No relocations are expected. Should displacement or relocations be required, the required state and federal relocation assistance procedure will be followed, including reimbursements as required.

Tax Increment Financing Plan:

The Town will continue to seek ways to lessen this public investment amount, including:

1. Request for State of NH-DOT funding, and for other state and federal investments or grants
2. Cost reductions by appropriate design changes
3. Construction efficiencies such as co-scheduling the road and sewer construction, and/or coordinating with adjacent construction activities
4. Utilization of existing and eligible capital funds
5. Obtain private reimbursement for public infrastructure by the possible Town adoption of:
 - a. Special Assessment District(s) (RSA 49-c),
 - b. Assessment of Impact Fees pursuant to RSA 674:21 based on fair-assessments as demonstrated by an adopted and certified Capital Improvement Plan
 - c. Site exactions
6. Timely revaluations of property after construction, within the constraints of state law and fairness
7. Accelerate private investment by enacting economic development activities and services including the expansion of the existing Economic Revitalization Zones (ERZs), industrial recruitment in coordination with the state, economic development entities, local land-owners and the Londonderry Housing and Redevelopment Authority (LHRA).
8. As the District repayment depends upon incremental tax-revenue growth, this Development Program does not encourage any request for tax-deferral or tax-reduction incentives (per: RSA 79-e).

The Town has budgeted \$25,000 annually for its direct costs of administration, marketing and financial oversight of the District.

Public Benefit: An upgrade of Pettengill Road will improve access to Londonderry and impact development favorably throughout Town. Per the Bonding Conditions section of this policy, there will be no negative impact on town, county or school tax rates that can be directly attributed to implementation of a TIF District as the bond is conditioned on a positive cash flow projection.

Bonding Conditions

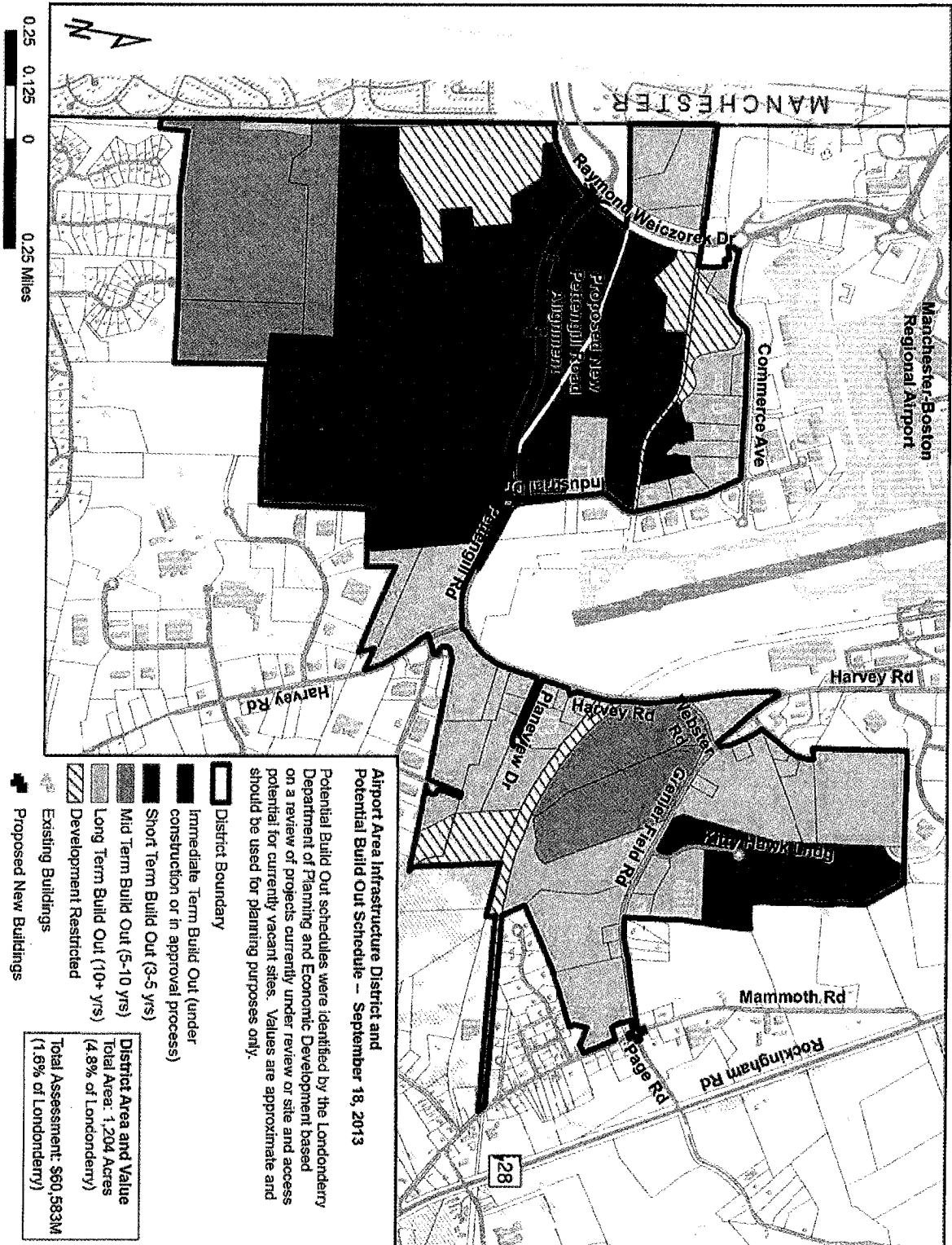
The Conditions before the Bond are issued: This Financing Plan presents Conditions to be met before a bond may be presented for a Town vote at the Annual Town meeting.

1. No Bond will be issued without an assessment and report to Town Council by the Town Manager that the new incremental payment revenues will be equal or greater than the bond payment for a projected period of no less than 36 months from bond issuance.
2. Until such time as the captured assessed value as defined in Section 162-K:10 exceeds the amount paid on all debt, administration and escrow requirements for one full fiscal year, the Town shall utilize all (100%) of the incremental proceeds to pay-down debt directly or into escrow. After one full year of the captured assessed value above the amount required to meet all debt-servicing, administration and escrow requirements, the remaining amount shall be evenly distributed (50%) into an escrow to accelerate the bond repayment and 50% into the General Fund accessible by the Town, School and County for operating and capital budgets, as regularly adopted by their respective budget authorization processes.

3. The actual terms and conditions of the bond cannot be determined until near the date of the Town meeting. Bonding options can include:
 - a) Interest only for up to 36 months
 - b) Terms of 5 to 20 years
 - c) Draw-downs as needed to minimize interest costs
 - d) With or without pre-payment penalties

4. No bond will be issued until the Town has all needed permits, permissions and easements Rights-of-Ways in hand.

District Boundaries and Information



Introduced: 10/21/13
Public Hearing: xx/xx/13
Adopted: xx/xx/13

ORDINANCE 2013-06
AN AMENDMENT TO THE ZONING ORDINANCE
TO REPLACE SECTION 1.2 IMPACT FEES IN ITS
ENTIRETY WITH REVISED LANGUAGE CONSISTENT
WITH REVISIONS TO NEW HAMPSHIRE RSA 674:21
AND RECENT COURT ORDERS

WHEREAS it was determined that Zoning Ordinance Section 1.2 Impact Fees required revisions to ensure its compliance with revisions to NH RSA 674:21 and recent court orders pertaining to impact fees; and

WHEREAS the Town Attorney was charged with amending the entire section to ensure the Town's regulations are consistent with the intent and specifics of the revised State statute; and

WHEREAS the Planning Board has recommended that the Town Council act favorably upon the request;

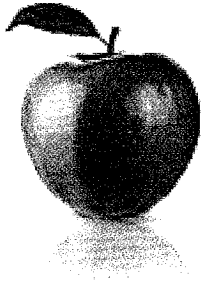
NOW THEREFORE BE IT ORDAINED by the Town Council of the Town of Londonderry that Section 2.1 of the Town Zoning Ordinance be amended by replacing it in its entirety with revised language consistent with NH RSA 674:21 and recent court orders.

John Farrell, Chairman
Londonderry Town Council

A TRUE COPY ATTEST:

Kathleen Donnelly - Deputy Town Clerk
x/xx/xx

Town Seal



Town of Londonderry

Planning & Economic Development Department

268B Mammoth Road
Londonderry, New Hampshire 03053
Phone (603) 432-1100 x134
www.londonderrynh.org



To: Town Council
CC: Town Attorney Michael Ramsdell, Esquire
From: Cynthia A. May, ASLA
Date: October 7, 2013
Subject: **Zoning Ordinance Amendment – Section 1.2 Impact Fees**

On September 11, 2013, the Planning Board held a public hearing relative to amending Section 1.2 of the zoning ordinance and replace it in its entirety to reflect consistence with update to NH RSAs. The public hearing was continued to October 2, 2013 based on changes suggested to the revised language. The Town Attorney subsequently modified the proposed language, which was presented at the continued public hearing on October 2.

The Planning Board, by unanimous vote, recommends to the Town Council to approve the amendment to Section 1.2 of the Zoning ordinance as proposed and modified by the Town Attorney.

A copy of the proposed ordinance amendment and the Planning Board minutes are attached.

Staff will be in attendance at the public hearing to present the proposed zoning change. Please feel free to contact me if you have any questions.

1.2 IMPACT FEES

1.2.1 Authority

These provisions are established pursuant to New Hampshire RSA 674:21, V as an innovative land use control. The administration of this Ordinance shall be in compliance with RSA 674:21, V.

1.2.2 Purpose

These provisions are intended to:

1.2.2.1 Assist in the implementation of the Town's Master Plan;

1.2.2.2 Promote the Town's public health, safety and welfare, and prosperity;

1.2.2.3 Ensure the adequate provision of public facilities necessitated by the growth and anticipated growth of the Town;

1.2.2.4 Provide for the harmonious development of the Town and its environs; and

1.2.2.5 Assess an equitable share of the growth-related and anticipated growth-related cost of new and expanded public capital facilities to all types of new development in proportion to the capital facility demands created by that development.

1.2.3 Findings

The Planning Board has made the following findings based on extensive consultation with all municipal departments, and a careful study of municipal facility needs.

1.2.3.1 The Planning Board adopted a Master Plan in January 1988, and updated it in 1997, 2004 and 2013.

1.2.3.2 The Planning Board has prepared, and regularly updated, a Capital Improvements Program and Budget as authorized by the Londonderry Town Meeting of March 11, 1988.

1.2.3.3 As documented by the Master Plan and the Capital Improvements Program, actual and anticipated municipal growth has and will create the need for construction, equipping, or expansion of capital facilities to provide adequate facilities and services for the Town's residents.

1.2.3.4 The Town is responsible for and committed to the provision of public facilities and services at standards determined to be necessary by the Town to support anticipated residential and non-residential growth and development in a manner which protects and promotes the public health, safety and welfare.

1.2.3.5 The cost of providing public capital facility capacity to serve anticipated new growth will be disproportionately borne by existing taxpayers in the absence of impact fee assessments.

1.2.3.6 The calculation methodology for impact fees, as established by Section 1.2.6.1, shall represent a fair and rational method for the allocation of anticipated growth-related capital facility costs to new development. Based on this methodology, impact fees will not exceed the costs of:

1.2.3.6.1 Providing additional public capital facilities necessitated by the new developments, or

1.2.3.6.2 Compensating the Town for expenditures made for existing public facilities which were constructed in anticipation of new growth and development.

1.2.3.7 Impact fee payments from new development will enable the Town to provide adequate public facilities to serve anticipated new growth, and provide new development with a reasonable benefit in proportion to its contribution to the demand for such facilities.

1.2.3.8 The imposition of impact fees is one of the preferred methods of ensuring that development bears a proportionate share of the cost of capital facilities necessitated to accommodate such development. This must be done in order to promote and protect the public health, safety and welfare.

1.2.3.9 An impact fee ordinance for public capital facilities is consistent with the goals and objectives of the Town's Master Plan and Capital Improvements Program.

1.2.4 Definitions

Fee payer - A person applying for the issuance of a building permit, subdivision or site plan approval, special exception, variance or other local land use decision which would create new development.

Impact fee - A fee or assessment imposed upon development, including subdivision, building construction, or other land use change, in order to help meet the needs occasioned by that development for the construction or improvement of capital facilities owned or operated by the Town, including and limited to water treatment and distribution facilities; wastewater treatment and disposal facilities; sanitary sewers; storm water, drainage and flood control facilities; municipal road systems and rights-of-way; municipal office facilities; public school facilities; the municipality's proportional share of capital facilities of a cooperative or regional school district of which the municipality is a member; public safety facilities; solid waste collection, transfer, recycling, processing, and disposal facilities; public library facilities; and public recreational facilities not including public open space.

New Development - Any activity which results in a net increase in the demand for additional public capital facilities, as defined in this ordinance, including:

1. The creation of new dwelling units, except for the replacement of existing units of the same size and density;

2. A net increase in the gross floor area of any nonresidential building or in the habitable portion of a residential building;

3. The conversion of a legally existing use to another permitted use if such change of use would create a net increase in the demand for additional public capital facilities, as defined by this ordinance.

Gross Floor Area - The entire square footage of a building calculated from the dimensional perimeter measurements of the first floor of the building with adjustments to the useable area of the other floors made in a manner consistent with Londonderry property tax assessment procedures. For residential structures, gross floor area shall not include portions of residential structure or accessory structure which is not available for human habitation.

Planning Board – Town of Londonderry Planning Board.

Public Capital Facilities - Facilities and equipment owned, maintained or operated by the Town as defined in the Capital Improvement Program and which are listed in the adopted impact fee schedule.

Public Open Space – An unimproved or minimally improved parcel of land or water available to the public for passive recreational use such as walking, sitting, or picnicking, that does not include “public recreational facilities.”

Public Recreational Facilities – Land and facilities owned or operated by the Town or the School District, other than public open space, which are designed for the conduct of recreational sports or other activite uses of an organized nature, and which include equipment or improvements to the land to support indoor or outdoor public recreation programs and activities.

School District – Londonderry School District.

Town – Town of Londonderry.

Town Council – Town of Londonderry Town Council.

1.2.5 Imposition and Payment of Public Capital Facilities Impact Fee

1.2.5.1 Impact fees shall be assessed to new development to compensate the Town and the School District for the proportional share of municipal capital improvement costs that is reasonably related to the capital needs created by the development, and to the benefits accruing to the development from the capital improvements financed by the fee, including municipal and public school facilities to be constructed, or which were constructed in anticipation of new development.

1.2.5.1.1 All impact fees shall be assessed at the time of Planning Board approval of a subdivision plat or site plan. When no Planning Board approval is required,

or has been made prior to the adoption or amendment of the impact fee ordinance, impact fees shall be assessed prior to, or as a condition for, the issuance of a building permit or other appropriate permission to proceed with development. Where no Planning Board approval is required, impact fees shall be intended to reflect the effect of development upon municipal facilities at the time of the issuance of the building permit.

1.2.5.1.2 Impact fees shall be collected at the time a certificate of occupancy is issued. No certificate of occupancy shall be issued for new development until the assessed impact fee has been paid, or until the fee payer has established a mutually acceptable schedule for payment. If no certificate of occupancy is required, impact fees shall be collected when the development is ready for its intended use.

1.2.5.1.3 A fee payer may request an alternate schedule of payment of impact fees in effect at the time of subdivision plat or site plan approval by the Planning Board. As a condition of a mutually agreeable alternate schedule of payment, the Town may require the fee payer to post a bond, a letter of credit, accept a lien, or otherwise provide a suitable measure of security so as to guarantee future payment of the assessed impact fees.

1.2.5.2 A fee payer may request, from the Planning Board, a full or partial waiver of impact fee payments required in this ordinance. The amount of such waiver shall not exceed the value of the land, facilities construction, or other contributions to be made by the fee payer toward public capital facilities. The value of on-site and off-site improvements which are required by the Planning Board as a result of subdivision or site plan review, and which would have to be completed by the developer, regardless of the impact fee provisions, shall not be considered eligible for waiver or credit under Section 1.2.10 of this Ordinance.

1.2.5.3 A person undertaking new development for residential use in which all or a portion of its occupancy will be restricted to persons age fifty five (55) and over, and where it can be shown to the satisfaction of the Planning Board that such restricted occupancy will be maintained for a period of at least twenty (20) years, shall be exempt from School Impact Fees for the said restricted occupancy units.

1.2.5.4 A person undertaking new development for residential use in which all or a portion of its occupancy will meet the requirements of "workforce housing" as defined by RSA 674:58, and where it can be shown to the satisfaction of the Planning Board that such "workforce housing" will be maintained with appropriate restrictions for a period of at least forty (40) years, may apply for a waiver of impact fees for said workforce units.

1.2.5.5 No building permit for new development requiring payment of an impact fee pursuant to Section 1.2.6 of this Ordinance shall be issued until the public facilities impact fee has been determined and assessed by the Planning Board or its authorized agent.

1.2.5.6 A person undertaking new development for residential use in which all or a portion of its occupancy will be assisted living facilities restricted to persons who are age fifty five (55) and over and/or disabled, shall be exempt from Recreation Impact Fees for said

restricted units where it can be shown to the satisfaction of the Planning Board that internal private recreation programs will be provided to the occupants by the developer and provisions to that effect will be maintained with appropriate restrictions for a period of at least twenty (20) years.

1.2.6 Computation of Impact Fee

1.2.6.1 The amount of each public facilities impact fee shall be assessed in accordance with written procedures or methodologies adopted and amended by the Planning Board for the purpose of capital facility impact fee assessment in Londonderry. The methodologies shall set forth the assumptions and formulas comprising the basis for impact fee assessment, and shall include documentation of the procedures and calculations used to establish impact fee schedules. The amount of any impact fee shall be computed based on the municipal capital improvement cost of providing adequate public capacity to serve new development. Such documentation shall be available for public inspection at the Town Planning & Economic Development Department.

1.2.6.2 In the case of new development created by a change of use, redevelopment, or expansion or modification of an existing use, the impact fee shall be based upon the net positive increase in the impact fee for the new use as compared to that which was or would have been assessed for the previous use.

1.2.7 Appeals

1.2.7.1 Any aggrieved party may appeal a decision under this impact fee ordinance in the same manner provided by statute for appeals from the officer or board making the decision, as set forth in RSA 676:5, RSA 677:2-14, or RSA 677:15, respectively.

1.2.8 Administration of Funds Collected

1.2.8.1 All funds collected shall be properly identified and promptly transferred for deposit into individual Public Capital Facilities Impact Fee Accounts for each of the facilities for which fees are assessed, and shall be special revenue fund accounts and under no circumstances shall such revenue accrue to the General Fund.

1.2.8.2 The Town Director of Finance shall have custody of all fee accounts, and shall pay out the same only upon written orders of the Town Council.

1.2.8.3 The Town Council may order the expenditure of impact fees solely for the reimbursement of the Town or the School District for the cost of public capital improvements for which they were collected, or to recoup the cost of capital improvements made by the Town or the School District in anticipation of the needs for which the impact fees were collected.

1.2.8.4 The Town Director of Finance shall record all fees paid, by date of payment and the name of the fee payers, and shall maintain a record of current

ownership, tax Map and lot reference number of properties for which fees have been paid under this Ordinance for a period of at least ten (10) years.

1.2.8.5 Prior to the end of each calendar and fiscal year, the Town Director of Finance shall make a report to the Town Council, giving a detailed account of all public capital facilities impact fee transactions during the year. The reports shall include a listing of any impact fee due to expire prior to the next scheduled report.

1.2.8.6 Following the Town Council's review of the report referenced in section 1.2.8.6 above and prior to the next scheduled Town Council meeting, the report shall be posted on the Town's website.

1.2.8.7 In the event that bonds or similar debt instruments have been, or will be, issued by the Town or the School District for the funding of public capital facilities which are or were constructed in anticipation of new development, or are issued for advanced provision of capital facilities identified in this Ordinance, impact fees may be used to pay debt service on such bonds or similar debt instruments.

1.2.9 Refund of Fees Paid

1.2.9.1 Unless notified of an agreement between the fee payer and the owner of record of property for which an impact fee has been paid, the fee payer shall be entitled to a refund of that fee, plus accrued interest where:

1.2.9.1.1 The impact fee has not been encumbered or legally bound to be spent for the purpose for which it was collected within a period of six (6) years from the date of the final payment of the fee; or

1.2.9.1.2 The Town has failed, within the period of six (6) years from the date of the final payment of such fee, to appropriate the non-impact fee share of related capital improvement costs, if there is a non-impact fee share of the capital improvement costs.

1.2.9.2 Upon its review of the reports referenced in section 1.2.8.4 above, the Town Council shall direct the Town Director of Finance to refund to all fee payers or property owners who are due a refund pursuant to section 1.2.9.1 and section 1.2.9.1.1 or section 1.2.9.1.2 above, the impact fee paid, plus accrued interest.

1.2.10 Credit

1.2.10.1 Land and/or public capital facility improvements may be offered by the fee payer as total or partial payment of the required impact fee. The offer must be determined to represent an identifiable dollar value computed in a manner acceptable to the Town Council. The Town Council may authorize the fee payer an impact fee credit in the amount of the value of the contribution.

1.2.10.2 Any claim for credit must be made no later than the time of application for the building permit.

1.2.10.3 Credits shall not be transferable from one project of development to another without written approval of the Town Council.

1.2.10.4 Credits shall not be transferable from one component of the public capital facilities impact fee to any other component of the public capital facilities impact fee.

1.2.10.5 Determinations made by the Town Council pursuant to the credit provisions of this Section may be appealed to the Board of Adjustment according to the procedures applicable to appeals from administrative decisions contained in Section 1.2.7 of this Ordinance.

1.2.11 Additional Assessments

Payment of a public capital facilities impact fee does not restrict the Town or the Planning Board in requiring other payments from the fee payer, including such payments relating to the cost of the extensions of water and sewer mains or the construction of roads or streets or turning lanes to access the site or other infrastructure and facilities specifically benefiting the development as required by the subdivision or site plan review regulations.

1.2.12 Premature and Scattered Development

Nothing in this Ordinance shall be construed so as to limit the existing authority of the Planning Board to provide against development which is scattered or premature, requires an excessive expenditure of public funds, or otherwise violates the Town of Londonderry Site Plan Review Regulations, Subdivision Regulations, or Zoning Ordinance.

1.2.13 Review

The Impact Fee Assessment Schedule shall be reviewed annually by the Planning Board, using the methodology established in the reports referred to in Section 1.2.6. Such review may result in recommended adjustments in one or more of the fees based on the most recent data as may be available from the Bureau of the Census, local property assessment records, market data reflecting interest and discount rates, current construction cost information for public capital facilities, etc. Adjustments shall be approved by the Town Council no more frequently than annually, based on such data.

1 **LONDONDERRY, NH PLANNING BOARD**
2 **MINUTES OF THE MEETING OF OCTOBER 2, 2013 AT THE MOOSE HILL**
3 **COUNCIL CHAMBERS**
4

5 Members Present: Art Rugg; Mary Soares; Lynn Wiles; Laura El-Azem; Chris
6 Davies; Tom Freda, Ex-Officio; Rick Brideau, CNHA, Ex-Officio; John Laferriere,
7 Ex-Officio; Leitha Reilly, alternate member; and Maria Newman, alternate member
8

9 Also Present: Cynthia May, ASLA, Town Planner and Planning and Economic
10 Development Department Manager; John R. Trottier, P.E., Assistant Director of
11 Public Works and Engineering; and Jaye Trottier, Associate Planner
12

13 A. Rugg called the meeting to order at 7:01 PM. He appointed M. Newman to vote
14 for Scott Benson.
15

16 **Administrative Board Work**
17

18 A. Approval of Minutes – September 4 and September 11, 2013
19

20 **M. Soares made a motion to approve and sign the minutes from the**
21 **September 4, 2013 meeting. L. Wiles seconded the motion.** No
22 discussion. **Vote on the motion: 4-0-3.**

23 (L. Wiles, C. Davies and R. Brideau abstained as they were absent from the
24 September 4, 2013 meeting).
25

26 **M. Soares made a motion to approve and sign the minutes from the**
27 **September 11, 2013 meeting. L. Wiles seconded the motion.** No
28 discussion. **Vote on the motion: 5-0-2.**

29 (L. Wiles and C. Davies abstained as they were absent from the September 11,
30 2013 meeting).
31

32 Minutes for September 4, 2013 and September 11, 2013 were approved and
33 signed at the conclusion of the meeting.
34

35 [T. Freda arrived at 7:05, L. El-Azem arrived at 7:07, and L. Reilly arrived at
36 7:10 PM].
37

38 B. Plans to Sign – Woodmont Commons Planned Unit Development (PUD) Master
39 Plan
40

41 C. May stated that all precedent conditions for approval have been met and the
42 staff recommends signing the PUD Master Plan.
43

44 **M. Soares made a motion to authorize the Chair and Secretary to sign**
45 **the PUD Master Plan. J. Laferriere seconded the motion.**
46

47 C. Davies asked for clarification regarding the applicability of Conditional Use
48 Permits (CUP) on the PUD Master Plan. Ari Pollack, attorney for the applicant,
49 explained that a modification made to the final plan involved the exemption of

1 the development from the need to request CUPs as required by the zoning
2 ordinance under Section 1.5.2., with the exception of those related to "the
3 disruption of wetlands and associated buffers within the Conservation Overlay
4 District." All other 'conditional uses' referred to in previous versions of the
5 Master Plan have been removed with the granting of the waiver on September
6 11 from that section. He added that mitigation for impacts related to individual
7 site and subdivision plans can still be considered when those plans are
8 presented.

9
10 There was no further discussion. **Vote on the motion: 9-0-0.** The PUD
11 Master Plan was signed at the conclusion of the meeting.

12
13 Later in the meeting during "Discussions with Town Staff," L. Wiles asked when
14 site or subdivision plans for Woodmont Commons might be expected. C. May
15 said that is unknown at this point. L. Wiles then asked if the site plan process
16 for individual developments within the PUD should be reviewed for the benefit
17 of the Board. C. May stated that the process is no different than that followed
18 by any proposal that comes before the Board, except for the self-imposed
19 requirement made by the developer that conceptual presentations to the Board
20 must be made for any proposal within the PUD. While conceptual
21 presentations are typically encouraged by Staff, they are currently not a
22 requirement of the site or subdivision approval process for any other
23 development in Londonderry.

24
25 A. Rugg added that an email from resident Joe Maggio regarding Woodmont
26 Commons was received with a request that it be read into the record, however
27 A. Rugg stated that since the public hearing is no longer open, the email will
28 not be read. He said it is included in the Planning Board's read file.

29
30 C. Extension Request - The Nevins Retirement Cooperative Association Site Plan
31 Amendment, 2 Wesley Drive, Map 7 Lot 122

32
33 C. May explained that in June of this year, the Planning Board had made a
34 recommendation to the Town Council to allow the discontinuation of the
35 easement on map 7 lot 122 related to public walking trails. Because the Town
36 Council has not yet resolved the issue and the conditional approval by the
37 Planning Board will expire on October 3, a letter was received from Attorney
38 Morgan Hollis, representative for the Nevins Retirement Cooperative
39 Association, requesting a 120 day extension of the site plan amendment to
40 January 31, 2014.

41
42 **M. Soares made a motion to grant a 120 day extension of the Nevins**
43 **Retirement Cooperative Association site plan amendment to January**
44 **31, 2014. L. Wiles seconded the motion.** No discussion. **Vote on the**
45 **motion: 9-0-0.** The extension for 120 days was granted.

46
47 D. Regional Impact Determinations – Walton Circle Subdivision Plan, Map 18 Lot
48 15-6 and Mill Pond Subdivision Amendment, Map 18 Lots 13-97 & 99

49

1 C. May reported Staff's determination that the condominium conversion
2 proposed by Gladys M. Gontarz and Steve Gontarz is not a development of
3 regional impact, as it does not meet any of the regional impact guidelines
4 suggested by Southern NH Planning Commission (SNHPC).

5
6 **M. Soares made a motion to accept Staff's recommendation that this**
7 **project is determined not to be of regional impact under RSA 36:56. L.**
8 **Wiles seconded the motion. No discussion. Vote on the motion: 9-0-0.**
9

10 C. May stated that Brook Hollow Corporation is proposing a subdivision plan
11 amendment to modify previously approved construction phasing within the Mill
12 Pond development on map 18, lots 13-97 and 99, and remove all proposed
13 private walking trails approved 1998 subdivision plan along with a proposed
14 recreational field that is by and large inaccessible by homeowners within the
15 development. She said that staff recommends this project is not a
16 development of regional impact, as it does not meet any of the regional impact
17 guidelines suggested by SNHPC.

18
19 **M. Soares made a motion to accept Staff's recommendation that this**
20 **project is determined not to be of regional impact under RSA 36:56. L.**
21 **Wiles seconded the motion. No discussion. Vote on the motion: 9-0-0.**
22

23 E. Discussions with Town Staff

24 • Liberty Utilities

25 J.R. Trottier explained that Liberty Utilities on map 7, lot 34-1 is
26 preparing to begin the second phase of their site plan approved in
27 March of 2013 and have proposed three minor changes that they are
28 asking the Board to allow Staff to handle administratively. The first
29 is to relocate a parking island towards the southern end of the
30 parking lot to the southernmost tip (see Attachment #1) in order to
31 accommodate snow plowing. The second request is to add two parking
32 spaces in a spot originally approved for a garage because the garage
33 is no longer needed. Lastly, a landscape island adjacent to the
34 southwest corner of the building would be removed, with the area
35 being restriped and the landscape plantings being relocated to the
36 area adjacent to the southeastern corner of the building. J.R. Trottier
37 noted that the emergency generator originally planned for that
38 southeast corner was moved to the northwest corner through Staff
39 with approval from the Board earlier in the year. A. Rugg asked for
40 comments and questions from the Board. L. Reilly confirmed that the
41 emergency generator has already been relocated. M. Soares asked if
42 the location of the proposed garage had been intended to block the
43 view of the garbage dumpster from the street. J.R. Trottier stated
44 that the dumpster is hidden by an enclosure. The consensus of the
45 Board was to allow the changes to be handled administratively by
46 Staff.

- 47
48 • (See also discussion following the adoption of the Woodmont
49 Commons PUD Master Plan)
50

- (See also discussion following the adoption of the Woodmont Commons PUD Master Plan)

Public Hearings

- A. Impact Fee Ordinance Amendment – Public Hearing for a Proposed Amendment to Section 1.2 Impact Fees of the Zoning Ordinance to replace the section in its entirety with revised language to reflect consistency with updates to NH RSA's [Continued on September 11, 2013 to October 2, 2013].

Town Attorney Michael Ramsdell stated that the language associated with two sections of the proposed ordinance have been revised since the September 11 public hearing on this matter. The first involves the addition of the words "Where no Planning Board approval is required" to the beginning of the last sentence in proposed Section 1.2.5.1.2 (see Attachment #3, page 4). The additional language clarifies that the statement "Impact fees shall be intended to reflect the effect of development on municipal facilities at the time of the issuance of the building permit" pertains specifically to those developments which did not require Planning Board approval. The second change is the elimination of proposed Section 1.2.8.4. This was removed because while the language comes from the State statute regarding impact fees, it was suggested at the September 11 public hearing that it could also be misleading since the State has deemed it illegal for towns to collect impact fees for State roads. With those revisions, M. Ramsdell said the proposed ordinance is in full and clear compliance with the State statute.

A. Rugg asked for input from the Board. Other than several expressions of agreement with the changes, there were no comments or questions.

A. Rugg asked for input from the public. There was none.

A. Rugg entertained a motion to recommend to the Town Council that the proposed ordinance be adopted. **M. Soares made a motion that the Planning Board recommends the Town Council adopt the impact fee ordinance as amended. L. Wiles seconded the motion.** No discussion.
Vote on the motion: 9-0-0.

- B. Gladys M. Gontarz and Steve Gontarz (Owners and Applicants), Map 18 Lot 15-6, Application Acceptance and Public Hearing for formal review of a subdivision plan to convert an existing duplex building to a condominium use at 6 Walton Circle, Zoned AR-I.

A. Rugg explained to the applicants that the Board will first vote on accepting the application as complete. A presentation can then be made, after which the Board will have 65 days to render a decision under State law.

J. R. Trottier stated that there were no checklist items, and staff recommended the application be accepted as complete.

RESOLUTION 2004 – 11A

**A Resolution Relative to the Collection and
Distribution of Rental Fees for the Mayflower Grange**

First Reading: 10/21/13
Hearing/Second Reading: Not required
Adopted: 10/21/13

WHEREAS The Town of Londonderry is the legal owner of the Mayflower Grange building located at 535 Mammoth Road in Londonderry, New Hampshire; and

WHEREAS The Town's Senior Recreation Programs are scheduled on a weekly basis at the Mayflower Grange; and

WHEREAS Londonderry Senior Citizens, Inc. is a local non-profit organization that sponsors various senior activities and provides financial support to the Town's Senior Recreation Program; and

WHEREAS Londonderry Senior Citizens, Inc. is willing to manage the public use of the Mayflower Grange by establishing and enforcing rental policies and fees, that include but are not limited to, exemption of rental fees charged to Londonderry non-profit organizations; and

WHEREAS Londonderry Senior Citizens, Inc. shall be authorized to use rental revenue to cover or contribute to the costs of janitorial services, operational supplies, repairing, upgrading or replacing assets, preventative and/or operational maintenance, senior programs and/or activities.

NOW THEREFORE BE IT RESOLVED by the Londonderry Town Council to authorize Londonderry Senior Citizens, Inc. to collect rental fees from individuals, groups, and businesses that use the Mayflower Grange for social, civic and business functions and allow Londonderry Senior Citizens, Inc. to use said rental fees to cover or contribute to the costs of janitorial services, operational supplies, repairing, upgrading or replacing assets, preventative and/or operational maintenance, senior programs and/or activities. The procedure for collecting and managing funds must be approved by the Finance and Administration Department.

John Farrell - Chairman
Town Council

(TOWN SEAL)

Susan Hickey
Acting Town Clerk/Tax Collector

A TRUE COPY ATTEST:
10/21/13

Veterans Breakfast



November 9th, 2013

Hosted by the LHS Pay It Forward Club

Who: All Veterans

When: 8:00 – 10:00

Cost: Free to veterans and one guest. Additional guests may give donations.

Where: LHS cafeteria

Agenda:

Welcome and Introductions

Service Branches Hymns' (performed by LHS band members)

Buffet Breakfast Served

Parade

(Vets who need assistance can be escorted to the Town Parade)

Special thank you to our donors: Londonderry Town Council, Londonderry School Board, Geisler Family

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<p style="text-align: center;">TOWN COUNCIL MEETING September 23, 2013</p>

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.**

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.

01
02 Bragdon stated that Town Manager Smith asked him to comment on the reorganization HealthTrust
03 did and then a week ago about one of the Attorneys for the Bureau of Securities said to a newspaper
04 that the Property Liability Trust was preparing to file for bankruptcy. Bragdon stated that it is false.
05 Bragdon stated he has never seen such a reckless course of action taken by a public official than to
06 have someone publicly state that an entity is filing for bankruptcy. Bragdon stated that insurance
07 carriers are not allowed to file for bankruptcy. Bragdon stated that their number one focus is making
08 sure the money is there to pay the claims.

09
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.

28
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.

32
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 the 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 to 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
.00 "The Town desires to limit the amount of development that can occur on the property and the
.01 developers are willing to restrict their rights to fully develop the property and the town is willing to
.02 compensate the developer for their restriction of a portion of such development."

.03
.04 Hollis stated that is what happened. Hollis stated the development rights were purchased for a set sum
.05 of money and that money was paid and the development rights were granted. Hollis stated he found
.06 no evidence that either documents were linked or as Chairman Farrell requested that public funds
.07 were expended to acquire those. Hollis stated that they appeared to be separate actions. Hollis stated
.08 that that is all he can report. Hollis stated that based his experience it tells him that sum of money is
.09 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 Maranel, 41 Morrison Rd, Londonderry stated that he has the complete site plan for an individual
.52 home which shows the easement of the walking trail going through two bathrooms and a bedroom.
.53 Maranel also stated that it's a 25 foot rite away. The plan shows the trail as 8 ft. wide. Maranel stated
.54 that the 8 ft. wide walking trail, which they were going to build with mulch, is actually 2 ft. from the
.55 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 not 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 out 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 Statute 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 15th 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 128th
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 Grazer, 3 Airs 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 Grazer stated he lives in the third house to the right, right by the guardrail and where the wetlands are.
00 The access point is the other end of the guardrail. Grazer stated that his view is that his home is
01 situated in such a way that the sidewalk is on his side of the street. Anyone accessing or exiting the
02 trail has to come by his house. Grazer stated he is the senior resident there and that he moved in
03 October of 2005. There were just a handful of homes when he moved in. Grazer stated when he first
04 bought there it was a different realtor than the one who sold most of the development. ReMax in
05 Londonderry, with Mark Oswald. Grazer stated when he realized there was a trail he was hoping it
06 would never be built.

07
08 Councilor Butler asked Grazer if the Nevins roads were private roads. The crowd answered with yes,
09 they are private roads.

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

[Council and audience discussed the map]

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

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

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

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

Vice Chairman Dolan stated that it might be good to have a history lesson. Dolan stated back when the development was originally proposed the development was going to be about three times the size 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
00 trying to figure it out. Murphy asked Farrell since he's concerned with the 2.9, has he thought back to
01 when they were going to build 200 homes, no age restrictions, what it would have cost for the support
02 of the streets, the fire calls, the more police and so much more. Chairman Farrell stated that they
03 haven't increased the amount of staff on the Police since 1992 and he doesn't know whether they

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

11
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 its 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.

99 Chairman Farrell stated that that was the last speaker on for this subject this evening and that we are
100 at the one hour mark. Chairman Farrell asked the Council what they would like to do. Councilor
101 Butler stated that the Council needs to take a real common sense approach to the problem and he
102 thinks that there are some faults on the developer and there may be some faults on the town side
103 through different boards. Councilor Butler stated that they are private roads and some of the trail goes
104 between houses and on the sidewalks. He's also been told that the trails go nowhere. Councilor Butler
105 stated that there would be a problem with parking and there is no place to park. He stated that it will
106 be a public safety concern if it's not taken in to consideration. Councilor Butler stated that he
107 wouldn't want a trail 15 ft. from his patio. Butler stated to Cynthia May that he knows that we have
108 \$19,000 sitting on the table as a possible resolution to this, but how did we get to the \$19,000.
109 Cynthia May stated that the initial developer, back in 2009, provided, through the department of
110 Public Works, an estimate of what it would cost to build the trail back than but didn't consider the
111 cost of constructing the two bridges and what it would cost to build a somewhat assessable foot
112 bridge over a lesser wetland area. May stated that DPW and herself looked at what the estimates
113 would bring. May stated that she talked to Bob Saur from the Trailways Committee to confirm the
114 cost. May stated that she designed trails for three years so she does have a background and based on
115 the type of trail it is, a clearing in the woods with woodchips, it's an inexpensive trail.

116
117 Vice Chairman Dolan stated he had a couple issues and that negotiating should be done in private.
118 Dolan motioned to continue the public hearing to the next Council meeting on October 7th. Councilor
119 Green second. Chair votes 5-0-0.

120
121 Chairman Farrell addressed the Proposed Hicks Purchase. Paul Nickerson, 7 Sparhawk stated that
122 he's a member of the Conservation Commission and the recently created Joint Negotiating
123 Committee, which was established by the Council to strengthen the acquisition program in
124 Londonderry. He will be presenting. Nickerson pointed out the map on the screen. Nickerson stated
125 that he came across the Hicks during one of his monitors excursions. Dan Hicks approached the
126 commission and said that he would like to sell Nickerson the land. Nickerson stated it was referred to
127 the Joint Negotiation Council as per the instructions the Council laid down. Nickerson stated that he
128 told Hicks that an appraisal needs to be conducted to make it a legitimate process, and they did.
129 Nickerson stated that the appraisal came back with the value of \$60,000, which is what Hicks had
130 originally quoted to them. Nickerson stated that in August once the appraisal was completed the Joint
131 Negotiating Committee recommended acquisition to the Conservation Commission and that was by
132 unanimous vote by all the members. On September 10th the Conservation Commission held a public
133 hearing and they voted to recommend acquisition to the Town Council and that is why he is present.
134 Nickerson stated that there were no public comments at the meeting. Nickerson stated that the
135 purchase and sales agreement has been signed by all the family members.

136
137 Chairman Farrell said looking at the contract there are some changes that need to be made to the
138 contract. Vice Chairman Dolan stated to Kevin Smith that on page 2 of 5, paragraph five, the words
139 'purchase the easement interest' should be changed to 'purchase the property interest' [referring to
140 the contract]. Dolan stated on page 5, one on the signature pages, Dolan stated he would like to take
141 the Conservation Commission off the signature page and put the Town Manager in place of them.
142 Vice Chairman Dolan stated that the Council was advised that only the Town Manager and Council
143 can sign contracts like that. The end results the same. Vice Chairman Dolan stated after the changes
144 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
'00 time they took the National Land Trust Alliance standards and adapted them for the Town of
'01 Londonderry and adopted them as a commission for the Conservation Commission basis for
'02 stewardship of the land. Lievens stated that document is in place.
'03

'04 **OLD BUSINESS**

'05
'06 None
'07

'08 **NEW BUSINESS**

'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 21st 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 21st, 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.

'46
'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 7th, 2013. Vice Chairman
'65 Dolan made the motion. Councilor Green second. Chair votes 5-0-0.

'66
'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 17th 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
:00 removal of the existing roofing materials and proper installation of the ice and water shield flashing
:01 in the shingling of the cupola in the amount of \$2,800.00.

:02
:03 Councilor Green stated what he doesn't understand how we can't go back to the contractor and find
:04 him/her responsible for it, specifically South Fire. Smith stated that he talked to the purchasing agent
:05 about it and he will follow up with him about it but it's his understanding that this is not in warranty
:06 anymore and we did bid this out, it went out to the lowest bidder and this was the work that was done.
:07 Smith stated that it had a one year warranty. Councilor Green stated that we have proof that it was
:08 faulty installation. Smith stated that he can further inquire Councilor Green to see what the recourse
:09 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.

31
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 2nd at 10 AM.

63
64 Kevin Smith stated that in the ongoing efforts to move the town into the 21st century, with the help of
65 Kirby Wade and the IT staff the town now has an official 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.

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ADJOURNMENT

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

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

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DRIVE

**TOWN COUNCIL
MEETING
October 7, 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 Joe Green, Jim Butler, Tom
Freda; Town Manager Kevin Smith; Executive Assistant Kirby Wade

CALL TO ORDER

Chairman Farrell opened the meeting with the Pledge of Allegiance led by Councilor Butler. This
was followed by a moment of silence for Londonderry's First Responders who have been working hard
during the bad stormy weather.

PUBLIC COMMENT

Chairman Farrell introduced Susan Hickey – Finance Director, Doug Smith – Controller and Donna
Pratt – Human Resources.

- Susan Hickey introduced the September Revenue and Expenditure Reports. Hickey stated we should be 25% into revenue collections and expenditures. Hickey stated at this point we are 24% with revenues and 32% for expenditures. Software agreements are due in July. Packet included a summary of cash and investments and the different bank accounts the Town has. Packet also included a summary of special revenue funds, which only appear in the Town Report. It's a total of 6.8 Million in all in the special revenue fund, but the larger ones are the Sewer Fund (5.4 mil.) and Open Space (1.2 mil). Last but not lest it included Capital Reserve balances as of September 30th.
- Councilor Freda asked what the difference is between Impact Fee and Impact Fee Escrow. Hickey stated Impact Fees are the regular account for any collections that come in. Escrow account is the amount that was held aside pending Court order for anything \$5,000 or less that was not sent to Rockingham Superior Court.
- Town Manager Kevin Smith stated that all documents discussed will be available online.
- Doug Smith introduced the Second Technical Release from the Department of Revenue Administration. On October 1st the rumbling was the 230 + communities responding to the first technical update which said tax rate setting will begin on or about November 7th. Other communities stated the date may cause a problem. Department heads worked with

Department of Education to come up with a revised plan which allows beginning the tax rate setting process on or about October 22nd. Londonderry is in a good situation with cash availability. Smith stated all documents are filed except MS-5, which Council signed. Smith stated they're hoping to have revised estimates from the DOE by October 22nd.

- Doug Smith talked about distributing the surpluses that were received from the local Government Center. Back in August we received in the form of billing credits and a check, refunds from the LGC totaling a little over \$400,000. Represents return of premium surplus's from calendar years 2010 and 2011 which equated to \$6.5 million. The 2011 distribution was a voluntary distribution by the LGC whereas 2010 has been returned under order of the administrative officer from the Bureau of Security Regulation. There will be a distribution plan where the refunds will be shared with the Town employees in the same way the employees contributed when they paid. \$113,000 will be distributed to employees, current, former and retired. Approx. \$290,000 will be retained by town. Distribution for the 2011 share (\$31,000) (\$83,000 for the town) will be taking place in the next week. 2010 distribution will be taking place later.
- Donna Pratt shared two recent retirements of employees. Office Jack Slade in July after 26 years of service. High Way Foreman Russ Pickering in September after 33 years of service to the Town.
- Pratt stated there's a promotional process to appoint a new Foreman which has been filled by Paul Schacht. Promotional process is underway for Assistant Foreman position. Promotional process for the open fire position will begin this month as well.
- Two employee seminars scheduled for October, one of time management and the other on overview of the 2014 'Slice of Life' Wellness Program.
- Pratt shared the Halloween/fall festivities that will be taking place at Town hall for Town Hall departments on October 30th, 2013. An employee Potluck lunch is planned.
- Councilor Freda referred to Special Revenue Funds, the Open Space Fund and a separate Conservation Commission Fund with \$28,000 in it. Freda asked how it was funded. Hickey stated the Open Space Fund is funded by the Land Use Change tax and the Conservation Commission Fund is funded by a grant when it started. It is used to pay for appraisal work and paths. Hickey stated that the timber cut revenue goes into the account, not the timber tax. Hickey stated she would print out the trend analysis so the Council can see.
- Mike Speltz stated that he's disappointed that the Council entered into a 20 yr. development with Woodman Commons without conducting a public hearing. Speltz stated there are two actions the Council can take. The Council can instruct the Town manager to propose a reauthorization of the Towns Growth Management Ordinance, which is the last best line of defense against a large development that can overwhelm the existing public safety and education infrastructures or the Town Council can instruct the Town Manager to initiate a process that will allow to amend the Town Charter to require the Council to conduct a properly noticed Public Hearing. Councilor Freda stated that the town made an election where the Town Council could have been the decision maker but the Town

elected the Planning Board as the determining body, including the Zoning decisions. In the agreement it says the 5 points of law the Zoning Board uses will be utilized by the Planning Board. Freda told Speltz that he needs to be accurate with his comments. Freda stated that if Speltz wants to amend the Charter about contracts over 3 years he can. Freda stated GMO is still in effect in the Development Agreement. Chairman Farrell and Councilor Green stated that at the last meeting the Town Manager was given direction to look into amending the Charter with the Planning Board.

- Kent Allen gave a presentation about the cleanup of the town forest. Allen stated that he made a presentation to the Heritage Commission and it was accepted by the group. Two weeks later it was presented to the Conservation Commission which took exception to everything except cleaning up a 2 ft. apron on the existing trail that was just put in. Kent asked the Council who was in charge of this. Vice Chairman Dolan, liaison to the Conservation Commission stated that they wanted to preserve the habitat of the species that live in the fallen timbers.
- Chairman Farrell asked if an arborist look at it for an opinion. Allen stated it would be a good idea. Gene Harrington, V. Chair of the Conservation Commission stated that there was a tree stand analysis and a thinning out a few years ago. Allen wanted to clear everything under 3 inches in diameter out, which would take out future timber growth. Conservation Commission told Allen he could clean up the new trail already created by Trail Ways and along the roadway. Harrington stated Town Forester Charlie Moreno had the same opinion. Harrington stated the difference between an arborist and a forester. An arborist manages individual trees healthiness and a forester manages a forest. Councilor Butler asked if Charlie has seen what Kent wants to propose. Allen stated that he hasn't. Councilor Butler and Chairman Farrell both stated that they would like Kent and Charlie to get together and come to an agreement.
- Councilor Butler stated it is unsure who has control over the town forest. Harrington referred to the vote from the 1984 town meeting they gave it to the Conservation Commission. The Heritage Commission gets to oversee what happens but the management is Conservation Commission

PUBLIC HEARING

None

OLD BUSINESS

- The Council requested a continuation, at the request of the Nevins Attorney, of the Walking Trail Easement, Nevins Trail. Attorney Hollis was present. Chairman Farrell stated that the Planning Board extended agenda to January 31st and the groups are working behind the scenes to get the answers to the questions the Council had. Vice Chairman Dolan motioned to table it until a later meeting. Councilor Butler Second. Chair votes 5-0-0. Chairman Farrell stated to Hollis that the Council will wait to hear from him.

NEW BUSINESS

- Chairman Farrell introduced Expendable Maintenance Trust Fund for a replacement of the HVAC rooftop unit at the Londonderry Police Dept. Chief Bill Hart stated the HVAC unit has been near failure for a couple months. Hart stated that they also had to look at the control panel. Hart stated they spoke to various contractors and the one that has been used in the past, Control Technology, did not bid. SAM Mechanical did bid and they tended over the last 18 months to be the cheapest bid. The panel will not be replaced but the way the HVAC system works will be replaced, with an accent on being much more energy conscious. That way the station will be able to save on electricity cost's going forward. Hart stated that the unit has been a problem since day one. Hart stated SAM will use two separate AC units one with a triple head, which will look specifically at the server room, dispatch center and 911 room. The other will be the rest of the building.
 - Councilor Green asked what the life expectancy of the HVAC is. There will be a comprehensive extending warranty for 5 years. The life expectancy is 20 years. Hart stated given the history with SAM Mechanical, picking them was an appropriate choice to make. Hart stated that SAM Mechanical was responsive, price conscious and was a good contractor. Councilor Butler stated he would like another opinion.
- Chairman Farrell stated the Order doesn't state that we have to use SAM Mechanical. The Order is to approve the job in general. Councilor Freda stated that we should consider upcharges for extended warranties for 10 or 15 years.
- Town Manager Kevin Smith stated he had a discussion with the Towns purchasing agent about all the repairs that keep coming up. A good bulk of it is because of some value engineering that was done at the time and subsequently after they were built and some has been bad contract work. Smith stated if we are picking the lowest bidder that we need to triple check other references. Councilor Butler asked to get more bids and make sure all the bidders know what they're looking at.
- Councilor Green motioned to approve Order 2013-33. Councilor Butler second. Chair votes 5-0-0.
- Chairman Farrell introduced Order 2013-32 Expendable Maintenance Trust Fund for Painting of the Remaining Wood Trim at South Fire Station. Town Manager Kevin Smith stated that South Fire was built in 2006 and many areas of rotted finger jointed pine trim was just finished being replaced with cement board material. To prevent the remaining trim from needing replacement we need to perform preventive maintenance on the remaining trim. Smith stated the request is for the labor, materials, lift truck and paint the remaining exterior.
- Councilor Butler motioned to approve Order 2013- 32. Vice Chairman Dolan second. Council votes 5-0-0.

APPROVAL OF MINUTES

- Kevin Smith stated that there was a technical problem with the computers and CD's and the

minutes for the last meeting will be presented at the Council meeting on October 21, 2013.

LIASON REPORT

- Chairman Farrell went to Airport Authority, and traffic is finally stabilized and they have the passenger accounts stabilized.
- Councilor Green went to the Library Trustee's meeting and they have the budget prepared, a \$30,000 increase, which is restoring book purchases to what they were doing 5-6 years ago. Chairman Farrell asked Councilor Green to see if they came in at default because every department should. Councilor Green stated each month more people go to electronics, it is now an option with your library card to download books and it's charged to the library but passed on through the patrons that go through there, both electric means and hard covered books.
- Vice Chairman Dolan attended the Eagle Scout Court of Honor for Jason Lamarre. Lamarre did work at ST. Jude's, cleaning up and repairing things. Dolan stated he is an outstanding young man and thanked him for his help and service.
- Councilor Butler attended Traffic and Safety Committee with regards to Tananger Way and the Trailhead. The Committee feels that there is a problem there, same with the fire and police departments. The Committee asked Butler to propose to the Council to remove the trailhead sign and see if they can cut down the traffic there. Chairman Farrell asked Butler to check with the Conservation Commission before their sign is taken down.

TOWN MANAGERS REPORT

- Kevin Smith stated that Police Chief Hart set the Halloween Trick or Treat date for October 31st 2013 from 5-8 PM.

ADJOURNMENT

- Councilor Freda motioned to adjourn. Vice Chaiman Dolan second. Chair votes 5-0-0.

DRAFT