

## TOWN COUNCIL AGENDA

August 17, 2015

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.) Town Common/Forest Update  
**Presented by John Vogl and Kent Allen**

C. **PUBLIC HEARING**

D. **OLD BUSINESS**

E. **NEW BUSINESS**

- 1.) **Order #2015-27** – Expenditure of Maintenance Trust Funds for Various Projects  
**Presented by Steve Cotton**
- 2.) **Ordinance #2015-06** – An Amendment to the Zoning Ordinance to Update Sections Related to Housing Opportunities in Londonderry  
**(First Reading)**
- Table of Contents
  - 1.3.3 Phasing of Developments
  - 2.2 Use Table
  - 2.3.1 Agricultural-Residential District
  - 2.3.3 Inclusionary Housing
  - 2.3.4 Retention of Housing Affordability
  - 2.4.5 General Standards for MUC Sub-district
  - 3.4.1 Backlot Development
  - 3.6 Elderly Housing
  - 3.6.5 Conditional Use Permits
  - 3.7 Assisted Living Facilities and Nursing Homes
  - 3.10.10 Minimum Parking and Loading Required
- 3.) Update on Target Shooting in the Musquash  
**Presented by Chief Bill Hart**
- 4.) **Ordinance #2015-07** – An Ordinance Restricting Target Shooting in the Musquash  
**Presented by Chairman Farrell**
- 5.) Memorandum of Understanding Between the NH Fish and Game Department and the Town of Londonderry  
**Presented by NH Fish & Game and the Londonderry Council**

**F. APPROVAL OF MINUTES**

Approval of July 20, 2015 Town Council Minutes

**G. OTHER BUSINESS**

1. Liaison Reports
2. Town Manager Report
3. Board/Committee Appointments/Reappointment

1.) Appointment of Member to the Planning Board

**H. ADJOURNMENT**

**I. MEETING SCHEDULE**

- A. Town Council Meeting – **09/14/15** Moose Hill Council Chambers, 7:00PM
- B. Town Council Meeting – **09/21/15** Moose Hill Council Chambers, 7:00PM
- C. Town Council Meeting – **10/05/15** Moose Hill Council Chambers, 7:00PM
- D. Town Council Meeting – **10/19/15** Moose Hill Council Chambers, 7:00PM

# **ORDER #2015-27**

An Order Relative to

## ***EXPENDITURE OF***

## ***MAINTENANCE TRUST FUNDS FOR VARIOUS PROJECTS***

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Reading: 08/17/2015

Adopted: 08/17/2015

***WHEREAS*** voters since 2003 have approved funding for the maintenance and repair of public buildings and grounds in the town; and

***WHEREAS*** by the Town Council of the Town of Londonderry that the Town Treasurer is hereby ordered to expend \$8,249.90 from the Expendable Maintenance Trust Fund for the aforementioned repairs and improvements.

***NOW THEREFORE BE IT ORDERED*** by the Town Council of the Town of Londonderry that the Town Treasurer is hereby ordered to expend \$8,249.90 from the Expendable Maintenance Trust Fund for the aforementioned repairs and improvements.

---

John Farrell, Chairman  
Town Council

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Sharon Farrell  
Town Clerk

***A TRUE COPY ATTEST:***  
08/17/2015

**Stephen R. Cotton**

**From:** Stephen R. Cotton  
**Sent:** Monday, August 10, 2015 2:45 PM  
**To:** Stephen R. Cotton  
**Subject:** EMTF for 8/17/15 TC Meeting

**Expendable Maintenance Trust TC Order Request  
 for Town Council Meeting "8/17/15"**

Description	Vendor	Amount
<b>Electrical Work - Band Stand</b> Various users of the band stand requested the installation of 6 additional outlets, replacement of 6 existing floods with 6 LED floods, and after further review I found several outlets that were not GFI's. This EMTF request is for the labor/materials to install the additional GFI outlets, LED Floods, and install GFI breakers on the non GFI outlets to bring them up to electrical code.	<b>Stephens-Marquis - Invoice #19183</b> EMTF Request Amount	\$ 2,416.55 \$ 2,416.55
<b>Sever Room mini-split repair - Town Hall</b> The 10 year old mini-split failed at 2:30AM on Saturday 7-18, tech. support came on site Saturday morning, fan motor burnt out, and added 3 lbs. of refrigerant to get the unit back on line. Unit failed late Saturday (7-18), tech. support called back Sunday (7-19) to trouble shoot the issue. Found a refrigerant leak up in the ceiling above the servers, to repair we had to remove the wall unit, repair the leak, and re-install the wall unit. This EMTF request is for the materials/labor that were necessary to patch the unit in order to maintain the required temperature in our server room.	<b>SAM Mechanical - Invoice #2015407</b> EMTF Request Amount	\$ 918.20 \$ 918.20
<b>Server Room mini-split replacement - Town Hall</b> The existing 10 year old mini-split in our sever room has experienced several issues over the past few years, this single unit is the main source of temperature control in our server room. Due to the age, the critical application this mini-split is required to perform, it is time to replace the unit. This EMTF request is for the labor/materials to replace existing mini-split with a Fujitsu mini-split system.	<b>SAM Mechanical - Quote 08/04/2015</b> EMTF Request Amount	\$ 4,915.15 \$ 4,915.15
<b>Total Town Council EMTF Order:</b>		<b>\$ 8,249.90</b>

Steve R. Cotton  
 Town of Londonderry  
 Administrative Support Coordinator  
 268B Mammoth Road  
 Londonderry, NH 03053  
 603-432-1100 x119  
 FAX (603) 432-1128

Introduced: 08/17/15  
Public Hearing: 09/21/15  
Adopted: xx/xx/15

**ORDINANCE 2015-06**  
***AN AMENDMENT TO THE ZONING ORDINANCE***  
***TO UPDATE SECTIONS RELATED TO HOUSING***  
***OPPORTUNITIES IN LONDONDERRY***

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***WHEREAS*** the Zoning Audit commenced in 2014 identified certain inconsistencies and deficiencies within the Zoning Ordinance related to housing opportunities in Londonderry;

***WHEREAS*** it was determined that the Zoning Ordinance should be amended to better ensure compliance with state law, including NH RSA 674:58-61, Workforce Housing;

***WHEREAS*** the Zoning Ordinance shall provide for enhanced housing opportunities throughout Town in accordance with state law, but remove the ability to develop multi-family Workforce Housing in the AR-I Zone except in the limited areas as noted in the amendments;

***WHEREAS*** the Zoning Ordinance shall permit opportunities for small workforce housing developments, housing for older persons, assisted living, and elderly affordable housing that are more compatible with the character of Londonderry's existing residential neighborhoods;

***WHEREAS*** the Zoning Ordinance shall encourage the development of accessory dwellings as an opportunity to provide compatible affordable living units;

***WHEREAS*** the Conditional Use Permit criteria for inclusionary housing shall be amended to promote project feasibility;

***WHEREAS*** the amendments shall be consistent with the 2013 Master Plan goals; and

***WHEREAS*** after a series of Public Hearings in 2015, the Planning Board by unanimous vote sent a recommendation to the Town Council on July 8, 2015 to approve the Zoning Ordinance amendments related to housing opportunities in Londonderry.

**Ordinance 2015-XX Amendment to Zoning Ordinance  
Housing Opportunities**

**Introduced: 08/17/15  
Public Hearing: 09/21/15  
Adopted: xx/xx/15**

***NOW THEREFORE BE IT ORDAINED*** by the Town Council of the Town of Londonderry that the following Sections of the Zoning Ordinance are amended as posted:

- Table of Contents
- 1.3.3 Phasing of Developments
- 2.2 Use Table
- 2.3.1 Agricultural-Residential District
- 2.3.3 Inclusionary Housing
- 2.3.4 Retention of Housing Affordability
- 2.4.5 General Standards for MUC Sub-district
- 3.4.1 Backlot Development
- 3.6 Elderly Housing
- 3.6.5 Conditional Use Permits
- 3.7 Assisted Living Facilities and Nursing Homes
- 3.10.10 Minimum Parking and Loading Required

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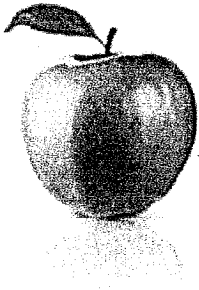
John Farrell, Chairman  
Londonderry Town Council

***A TRUE COPY ATTEST:***

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***Sherry Farrell - 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](http://www.londonderrynh.org)



**To:** Town Council  
**CC:** Town Attorney Michael Ramsdell, Esquire; Planning Board  
**From:** Planning and Economic Development Staff  
**Date:** August 17, 2015  
**Subject:** **Zoning Ordinance Amendments – Housing Opportunities**

These proposed amendments to the Zoning Ordinance are the result of approximately 6 months of discussions among the Planning Board, Staff, planning consultant Jonathan Edwards of ADG, and the public. Concerns surrounding Workforce Housing applications were the catalyst for these amendments, which build on the findings of the 2014 Zoning Audit. The proposed amendments do not attempt to address all the issues related to housing as identified in the audit, but they do accomplish the original goal of fixing problems associated with the Workforce Housing ordinance and assuring compliance with State law.

Three major concerns were raised over the latter part of 2014 related specifically to Workforce Housing: 1) There appeared to be a high volume of Workforce Housing applications in the "pipeline" by the end of 2014; 2) There was a perceived overreliance on the ZBA for variance relief related to the feasibility/affordability of constructing Workforce Housing in Londonderry; and 3) Large-scale Multi-family Workforce Housing was permitted throughout the AR-1 district in locations that were not necessarily compatible with the majority of single-family residential neighborhoods. Each concern is addressed in the amendments.

One of the primary goals of the amendment process was to address the issue of neighborhood compatibility, as well as removing impediments to the development of elderly housing, in particular, affordable elderly housing. Another objective was to expand opportunities for accessory dwellings at a time when the State Legislature is attempting to do the same.

A workshop to discuss Zoning Ordinance housing issues was held by the Planning Board on March 11<sup>th</sup>. The first public hearing was held on May 8<sup>th</sup>, following legal review of the Department's proposal. The Planning Board subsequently held three public hearings between May and July of this year to amend significant sections of the zoning ordinance related to inclusionary, workforce and elderly housing; each time taking and addressing extensive testimony from the public.

Memo to Town Council: Proposed Zoning Amendments  
August 17, 2015

As a result of the successful completion of this collaborative process, the Planning Board voted unanimously on July 8, 2015 to send a recommendation to the Town Council to approve the amendments to the Zoning ordinance as proposed.

A copy of the proposed ordinance amendments and the Planning Board minutes for each of the five Planning Board meetings where the amendments were discussed are attached. Supporting documents are included as attachments to the Planning Board minutes, which are available on the Town's Planning Board web page.

Staff and the Planning Board's consultant will be in attendance at the public hearing to present a brief overview of the proposed zoning changes and answer questions. Please feel free to contact us if you have any questions in advance of the meeting.



# ORDINANCE 2015-07

## *AN ORDINANCE RESTRICTING TARGET SHOOTING IN THE MUSQUASH*

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First Reading: 08/17/15  
Public Hearing: 09/14/15  
Adopted: 09/14/15

**WHEREAS** On January 5, 2015, in response to citizen complaints regarding shooting in the Musquash Recreational area, the Londonderry Town Council established the Task Force to study Target Shooting in the Musquash and other Town owned Conservation Land.

**WHEREAS** The Council, in its Resolution (2014-06B), observed that for many years recreational shooters and other users have co-existed in the Musquash without incident, but that recently and at a public meeting held in October 2014 complaints regarding target shooting were made to the Council and/or Town Manager. The Council established the Task Force to study the situation and make recommendations regarding what, if any, changes should be made to Town Ordinances governing target shooting.

**WHEREAS** The Task Force met seven times and held a public session to solicit input from citizens. The meetings were televised, agendas were made public prior to the meetings and minutes were available following approval by the Task Force. On June 15, 2015, the Task Force delivered a report and recommendations to the Council.

**WHEREAS** Based on its review of the Task Force's report, the Town Council has determined that the number of citizens who shared their opinions and otherwise participated in the Task Force's work warrants interim action in the form of immediate restrictions on target shooting in the Musquash and placing the issue before the Town's voters on the next ballot to decide whether permanent restrictions are desired.

**NOW THEREFORE BE IT RESOLVED** by the Londonderry Town Council that, effective September 14, 2015, the Town of Londonderry ordains:

1. Target shooting shall be allowed in the Musquash only during turkey and deer hunting seasons as established by New Hampshire Fish and Game and only by those who have a valid New Hampshire Fish and Game license and have followed a check in procedure with the Londonderry Police Department. The Londonderry Police Department shall establish a check-in procedure before the next turkey or deer hunting season.

2. There shall be caliber restrictions equivalent to only those allowed for hunting deer and turkey, no center fire, with an additional allowance for rim fire twenty-two and twenty-two long rifle.
3. The protective shooting radius stated in RSA 207:3-a (“It is unlawful for a person to discharge a firearm . . . within 300 feet of a permanently occupied dwelling without permission of the owner or the occupant of the dwelling or from the owner of the land on which the person discharging the firearm is situated.”) shall be extended from 300 feet to twice that distance at 600 feet.
4. Signs shall be posted around the Musquash that target shooting is allowed only as described in this Ordinance 2015-xx.
5. Anyone violating a provision of this Ordinance 2015-xx shall be guilty of a violation. A person’s first violation of this Ordinance 2015-xx shall be punishable by a \$100.00 fine. A second violation shall be punishable by a \$250.00 fine. A third violation shall be punishable by a fine of \$1,000.00 and subject the individual to arrest.
6. The Town Manager is directed to draft or cause to be drafted a warrant article in advance of the Town’s next deliberative session to place the issue of target shooting in the Musquash before the voters.

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John Farrell, Chairman  
Town Council

(TOWN SEAL)

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Sherry Farrell  
Town Clerk

***A TRUE COPY ATTEST:  
09/14/15***

MEMORANDUM OF UNDERSTANDING (MOU)

Between the

NEW HAMPSHIRE FISH AND GAME DEPARTMENT

And the

TOWN OF LONDONDERRY

Concerning

Habitat management of town owned parcels for enhancement of rare and endangered species including but not limited to New England cottontail, Northern black racer, Eastern hognose snake, Blanding's turtle and spotted turtle.

This MOU is entered into by the New Hampshire Fish and Game Department and the Town of Londonderry, herein referred to as NHFG and TOWN, respectively. The purpose is to allow for management of habitat and monitoring of populations of rare wildlife on town conservation lands.

WHEREAS, the TOWN owns and manages public lands set aside specifically for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the Town of Londonderry for the benefit of present and future generations of citizens.

WHEREAS, the NHFG has the authority to carry out conservation of wildlife species listed as threatened and endangered under the Endangered species act (RSA 212-A: Fis 1000); and

WHEREAS, the NHFG has received mitigation funding from development projects in the Town of Londonderry to support monitoring and management activities for New England cottontail, Eastern hognose snake and Northern black racer.

WHEREAS, NHFG and the TOWN have identified parcels within municipality to be managed for early successional shrubland to benefit wildlife species dependent on this habitat type such as the New England cottontail.

WHEREAS, NHFG is cooperating in a regional effort for the conservation of the New England cottontail that has identified portions of the town as a focal area for conservation of the species.

WHEREAS, NHFG is cooperating in a regional effort for the conservation of Blanding's turtle that has identified portions of the town as a focal area for conservation of the species.

NOW, THEREFORE, the above-referenced parties agree to the following:

NHFG agrees to:

1. Provide a point of contact (POC) to the TOWN.
2. Provide for management of habitat and request approval for any substantial improvements.
3. Provide outreach to the residents of TOWN in regards to needs of endangered wildlife.
4. Cooperate to secure funding to implement the purposes of this MOU.
5. Coordinate the details of specific management actions with the TOWN.
6. Acknowledge the TOWN as a partner in the recovery of the New England cottontail and habitat management in any reports, publications and other documents and presentations.
7. Provide the TOWN with a copy of any reports, publications, and other documentation relevant to the NHFG habitat management and monitoring activities conducted within the municipality.

TOWN agrees to:

1. Allow NHFG management oversight of project area as shown in Exhibit A Table 1;
2. Coordinate the details of specific management actions with NHFG.
3. Allow NHFG unrestricted access to TOWN owned parcels for purpose of monitoring endangered wildlife.
4. Provide POC to NHFG.
5. Assist NHFG with outreach efforts to residents of TOWN in regards to needs of endangered wildlife.
6. Inform NHFG if activities on conservation parcels may impact NHFG activities which are authorized by the MOU.
7. Assist in securing funding to implement the purposes of this MOU. The TOWN is not obliged to provide funding from municipal resources.
8. Cite NHFG, Wildlife Division, Nongame and Endangered Wildlife Program as the sources of data resulting from this project in any publications or other presentations of the data

NHFG and the TOWN mutually agree that the terms of this MOU may be modified by a further written agreement of respective parties.

This agreement becomes effective upon the signature of all parties and shall remain in effect indefinitely or until modified by agreement of both parties.

Kevin Smith  
Town Manager  
Town of Londonderry

Glenn Normandeau  
Executive Director  
NH Fish and Game

## **EXHIBIT A: A Draft Proposal For Cooperative New England Cottontail Management On Londonderry Conservation Lands**

**Strategy Statement:** As part of a comprehensive strategy to protect rare and endangered wildlife impacted during the development of the industrial landscape in Londonderry, businesses are contributing funds to NH Fish and Game to restore habitats and monitor wildlife population responses in the surrounding area. Successful implementation of these actions includes coordination with the Town of Londonderry Conservation Commission to manage vegetation and monitor multiple species on fee-owned town conservation parcels.

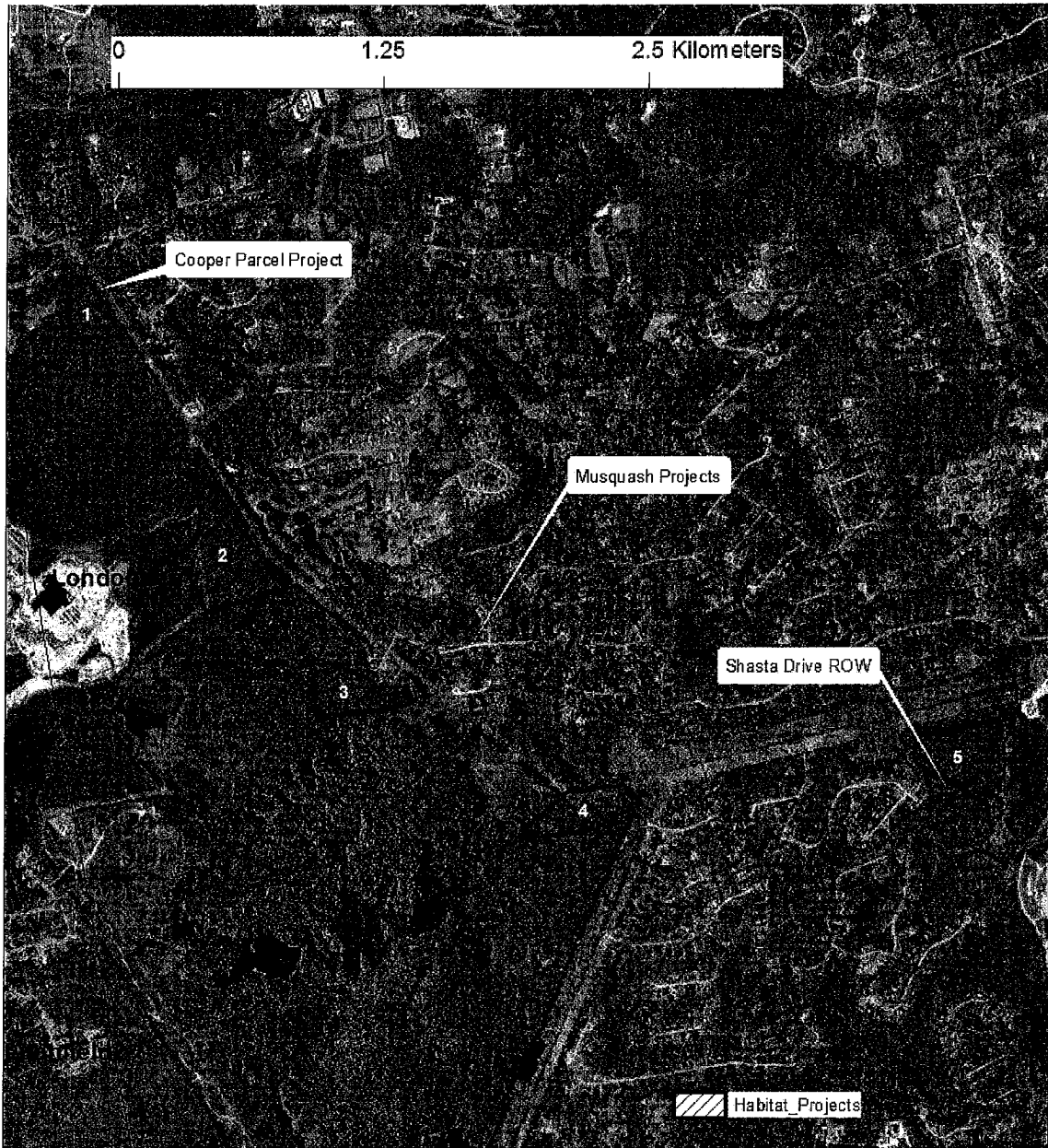
Background: As the industrial landscape surrounding the Manchester Airport is developed the amount of habitat available for the State Endangered New England Cottontail (NEC) and other state listed species will be reduced substantially. In order to maintain NECs on the landscape it is critical that new habitat be created. Managed parcels must be in close proximity to one another (1-2 km) to facilitate movement between habitat patches or be connected by landscape features such as utility Right of Way (ROW) that are managed for persistent shrub cover. A total of three conservation lands owned by the Town of Londonderry have been identified as potential locations for creating or enhancing habitat for the New England cottontail (see Table 1). Habitat projects would include connecting suitable habitat patches together, and creating suitable habitat by manipulating existing vegetation.

Objective 1: The first objective includes the creation and linkage of young forest and shrublands by removing forest canopy cover and establishing desired plant composition and structure. It is expected that the regenerating vegetation will provide suitable NEC habitat in 5-10 years. Once the habitat is deemed suitable, the local NEC population will be augmented (as necessary) with the release of rabbits from a captive breeding program. The creation of young forest and shrubland habitat will also benefit a wide variety of wildlife species that have been declining in New Hampshire including brown thrasher, Eastern towhee, black racer, and American woodcock.

Objective 2: The second objective is the monitoring of species at risk. Monitoring will be conducted using radio telemetry for New England cottontail, Eastern hognose snakes (state endangered) and black racer snakes (state threatened), all of which have been documented in Londonderry's industrial area. Monitoring will provide more detailed information on the status of these species as the landscape is modified. NHFG will require access to select town owned lands for the capture and monitoring of said species.

Id	Property	Parcel Acres	Project Acres
1	Cooper Parcel	34.19	20
2	Musquash	36.99	20
3	Musquash	13.48	10
4	Musquash	19.45	10
5	Shasta ROW	69.82	20
			80

**Table 1.** Summary of conservation lands that could be managed for young forest habitat to benefit New England cottontails and other associated species of greatest conservation need.



New England Cottontail  
Habitat Management Opportunities  
Town of Londonderry, NH



## **A Description of Proposed Management Actions By Land Unit (Table 1)**

### *Musquash Conservation Area*

New Hampshire Fish and Game, Londonderry Conservation Commission, Wildlife Management Institute and UNH Cooperative Extension have previously worked with the town's consulting forester to identify potential habitat management areas for New England cottontail within the Musquash Conservation Area. These potential habitat areas were identified as having the least impact on other natural resources and recreational uses, while still providing high quality opportunities for management. Staff from all agencies assisted with outreach about the habitat management projects including site walks and a televised information program. The Town of Londonderry approved the initial implementation of habitat work on the Musquash Conservation Area in Fall 2012. The timber harvest was conducting in March 2013, creating a ~20-acre habitat patch.

NH Fish and Game continues to work with the Conservation Commission to monitor the regenerating habitat and evaluate additional management actions that may be needed to facilitate habitat regeneration. Site walks were conducted in Spring 2014 to survey for the presence of invasive species. No invasive plants were found. It is estimated that the habitat will take 5-10 years to develop into suitable habitat for the New England cottontail, at that time NHFG intends to release rabbits from the captive breeding program at the site.

Two additional project areas were identified by the forester for creating habitat for New England cottontail on the property. One of the proposed project areas requires a substantial road improvement for the timber to be harvested. The successful implementation of this project would be dependent on the successful submission of a trails grant by the Londonderry Conservation Commission to offset this cost. In addition there is a high density and diversity of wetlands in the conservation area. Early (pre-permitting) and regular communication when planning for additional timber harvest or access development will be required.

### *Cooper Parcel*

This large parcel is connected to the greater landscape by a utility ROW that passes through. It is possible that there is existing habitat that is occupied on the parcel at this time although no formal surveys have been conducted. Creation of a large core habitat patch on this parcel would provide substantial benefits to the persistence of the species. It is unknown if there are any potential use conflicts for this property.



## *Shasta Drive Right of Way*

This parcel owned by the Town of Londonderry includes a utility ROW that connects to the Musquash Conservation Area. There are extensive wetlands present, but also the potential to provide a high quality core habitat patch of 20 acres in dry uplands. It is unknown if there are any potential use conflicts for this parcel.

### **Integrated Conservation Planning**

There are a number of additional priority wildlife species occurring in the Town of Londonderry, such as the Blanding's (state endangered) and spotted turtles (state threatened); and various other natural resource and recreation objectives identified by the Conservation Commission. It is anticipated that through discussion an integrated plan may be developed to provide maximum benefit for multiple wildlife species, prevent adverse impacts to other state regulated species, and facilitate the town objectives for these properties.

### **Implementation Timeline**

**Fall/Winter 2014** – Trap and collar New England cottontails for telemetry monitoring.

**Winter 2014-2015** – Meet with the Conservation Commission to discuss potential habitat management projects. Draft plans and organize public information events.

**Spring 2015** – Capture and implant radio tracking devices in black racer and hognose snakes. Monitor movement and habitat use.

**Fall/Winter 2015** – Trap and collar New England cottontails for telemetry monitoring.

**Winter 2015-2016** – Begin implement habitat management projects on town parcels.

\*Contingent on funding.

# LONDONDERRY TOWN COUNCIL MEETING MINUTES

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1  
2 **July 20, 2015**

3  
4 The Town Council meeting was held in the Moose Hill Council Chambers, Town Hall, 268B Mammoth  
5 Road, Londonderry, NH.  
6

7 Present: Chairman John Farrell; Councilor Tom Dolan; Vice Chairman Jim Butler; Councilors Tom  
8 Freda and Joe Green; Town Manager Kevin Smith; Executive Assistant Kirby Wade  
9

10 **CALL TO ORDER**

11  
12 Chairman Farrell opened the meeting with the Pledge of Allegiance led by Town Manager Smith. This  
13 was followed by a moment of silence for all those who were killed in the Chattanooga shooting.  
14

15 **PUBLIC COMMENT**

16  
17 Chairman Farrell reminded the public that the Council is on a summer schedule so they will only be  
18 meeting once a month in July and August.  
19

20 Chairman Farrell invited up Public Works Director Janusz Czyzowski to give the Council a Pettengill  
21 Rd. update [see attached PowerPoint].  
22

23 David Burl, Accurate Tree Services, Dunbarton, stated that they have been contracted through Granite  
24 Ridge to do three miles of their corridor taking down any dangerous trees by the wires. Burl stated that  
25 he will be contacting the abutters so they are aware of what's going on.  
26

27 Czyzowski continued his presentation.  
28

29 Chief Bill Hart addressed the crowd and thanked the citizens for following the new Hands Free Law.  
30

31 Chairman Farrell welcomed up Richard Belinski, 89 Hall Road. Belinski stated that he is here regarding  
32 the controversy with Murrays Auto on Hall Road. Belinski discussed the barn on the property. The  
33 building burnt down in February and the Zoning Ordinance doesn't allow the building to be rebuilt.  
34 Belinski stated that he has talked to a few people about it and what he is being told is that it can be  
35 rebuilt because it meets the building requirements. Forty feet from the road and fifteen from the side  
36 boundary and back. Belinski stated that it has nothing to do with replacing a non-conforming use of a  
37 building. Belinski stated that the requirements for building in an AR-I zone are in section two of the  
38 Zoning Ordinance. The non-conforming is in section four. Belinski stated it's a conforming building.  
39 Whether it's conforming or not is irrelevant as far as the use of a non-conforming building, Belinski  
40 stated.

# LONDONDERRY TOWN COUNCIL MEETING MINUTES

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41  
42 Chairman Farrell invited up Town Attorney Mike Ramsdell and Building Inspector Richard Canuel.  
43 Attorney Ramsdell stated that he has never offered an opinion or anyone else offers an opinion about the  
44 building permit. Attorney Ramsdell stated that the Ordinance has not kept up with the law. It is  
45 unenforceable in his opinion. Canuel stated that there is no legal basis for his to deny the building  
46 permit. A zoning variance was granted for the permit, Planning Board approval was granted and a  
47 permit was issued for the original building. No different permit other than what was originally issued.

48  
49 Materials that are allowed for the rebuilt were discussed.

50  
51 Attorney Ramsdell stated that it can be rebuilt as it was.

52  
53 Attorney Pat Panciocco, representative for Ed Dudek and Murrays, stated that she has read the  
54 documents. Panciocco shared photos with the Council [see attached photos]. Panciocco stated that there  
55 was a variance granted previously for Murray's to allow the garage that was there to be constructed.  
56 Panciocco discussed the location and layout of the old building. Panciocco stated that the building meets  
57 all the setbacks. The use of the building may be non-conforming, the building itself is not.

58  
59 Chairman Farrell stated that from what he understands, the building permit was approved and put in  
60 place based on current State law in New Hampshire. What has been agreed upon is the building  
61 materials are going to be looked at so that as part of the operations of the Town, it will be addressed.  
62 The Town Council doesn't have any authority over.

63  
64 PUBLIC HEARING

65  
66 Motion to enter Public Hearing made by Councilor Green and second by Councilor Freda. Chair votes  
67 5-0-0.

68  
69 Canuel stated that he has done inspection of the yard and he can give the Council nothing less of a  
70 positive report. Mr. Dudek has complied with all of the conditions of the license. One of them being the  
71 height of the vehicles, being visible about the fence. He is in compliance, Canuel stated.

72  
73 Gerard Adams, 54 Hall Rd, asked when it came into compliance. Canuel stated that it did back in June.

74  
75 Adams addressed an e-mail in regards to making false accusations to the police. Attorney Ramsdell  
76 stated that he provided the language for the e-mail. He felt that it should be explained to the Adams, as  
77 it's been explained to Mr. Dudek that if complaints are made and are founded or they're unfounded,  
78 there may be consequences. It was meant to be fair notice. The issue of complaints was discussed with  
79 Chief Bill Hart.

80  
81 Claudet Adams discussed contamination and the hazardous contaminants in the fire. Adams stated that

# LONDONDERRY TOWN COUNCIL MEETING MINUTES

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82 as of October 2014, DES has paid out over \$289,000 in contamination control measures.

83  
84 The Adams discussed other violations the Junkyard has. Claudet stated that now that the building has  
85 burnt down, it's a good opportunity to correct these things.

86  
87 Claudet stated that when they submit their complaints, they don't receive any responses. Chairman  
88 Farrell stated that the Council doesn't get involved in operations. Claudet stated that when they send a  
89 complaint through the complaint form on the website, who is supposed to respond? Town Manager  
90 Smith stated on the Building Department website it would go to the Building Department.

91  
92 Belinski stated that he agrees with Canuel when he says that it looks good from the outside. Belinski  
93 stated that there is still a flatbed and transporters on the side of the road. Belinski read into the record a  
94 letter about the junkyard being in compliance.

95  
96 Chairman Farrell called up Ed Dudek and stated that going forward there should be no more  
97 conversations about the stacking of cars.

98  
99 Attorney Ramsdell stated that the conditions from last year have not changed at all.

100  
101 [See attached]

102  
103 Chairman Farrell read Order #2015-22 into the record. Motion to approve Order #2015-22 made by  
104 Councilor Green and second by Councilor Freda. Chair votes 5-0-0.

105  
106 Motion to close public hearing made by Councilor Dolan and second by Vice Chairman Butler.

107  
108 **OLD BUSINESS**

109  
110 Chairman Farrell invited up Peter Curro to present the HealthTrust documents. Councilor Dolan  
111 motioned to authorize the Town Manager and the Town Council Chairman to sign the appropriate  
112 documents presented to the Town Council. Second by Councilor Green. Chair votes 5-0-0.

113  
114 **NEW BUSINESS**

115  
116 Chairman Farrell introduced Resolution #2015-04, a Resolution Regarding the Northeast Direct Project.  
117 Chairman Farrell read into the record the Resolution. Motion to approved Resolution #2015-04 made by  
118 Councilor Green and second by Councilor Freda. Chair votes 5-0-0.

119  
120 Cherylann Pierce, 23 Mayflower Drive, thanked the Council for taking this action.

# LONDONDERRY TOWN COUNCIL MEETING MINUTES

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121  
122 Chairman Farrell introduced Order #2015-24, the expenditure of Maintenance Trust Funds for various  
123 projects. Motion to approve Order #2015-24 made by Councilor Green and second by Councilor Freda.  
124 Chair votes 5-0-0.

125  
126 Chairman Farrell introduced Order #2015-25, expired Impact Fee refunds. Doug Smith, Finance  
127 Director and Justin Campo, Senior Accountant, presented. Motion to approve Order #2015-25 made by  
128 Councilor Dolan and second by Councilor Green. Chair votes 5-0-0.

129  
130 Chairman Farrell introduced Order #2015-26, the expenditure of Roadway Maintenance Trust Funds.  
131 Public Works Director Janusz Czyzowski presented. Motion to approve Order #2015-26 made by  
132 Councilor Freda and second by Councilor Green. Chair votes 5-0-0.

## APPROVAL OF MINUTES

133  
134  
135  
136 Motion to approve the Town Council minutes of June 15, 2015, made by Councilor Dolan and second  
137 by Councilor Green. Chair votes 5-0-0.

138  
139 The Town Council conducted interviews for the open position on the Londonderry Planning Board. The  
140 Board will appoint a new alternate at its August 17, 2015 meeting.

## ADJOURNMENT

141  
142  
143  
144 Motion to adjourn made by Councilor Freda and second by Councilor Green. **Chair votes 5-0-0.**

145  
146  
147 Notes and Tapes by Kirby Wade Date: 07/20/2015  
148 Minutes Typed by: Kirby Wade Date: 08/05/2015  
149 Approved by: Town Council Date: 08/17/2015  
150  
151  
152  
153  
154  
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156  
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158



Gerry&amp;Claudet Adams &lt;adams.claudet1@gmail.com&gt;

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**Noise Complaint**

1 message

Kevin Smith &lt;ksmith@londonderrynh.org&gt;

Mon, Jun 22, 2015 at 9:28  
AMTo: Gerry&Claudet Adams <adams.claudet1@gmail.com>, Richard Canuel  
<rcauel@londonderrynh.org>

Gerry and Claudet – I received your message about the noise complaint and passed it along to Richard. I would also strongly suggest that the next time you believe a level of noise is emanating from the junkyard, such that it violates the supplemental conditions on the license, that you contact the police department. Given the standard on the license, this would not merely be a violation of the junkyard license. Rather, the complaint rises to the level of having committed a crime – in this case, disorderly conduct. Therefore, if the complaint is justified, the police can exercise their discretion as they see fit.

→ I would also advise you that if the complaint is unfounded, the police *may*, instead, exercise their discretion to charge that a false report was made to law enforcement.

If you have any further questions, please let me know. Thank you,

Kevin

**From:** Gerry&Claudet Adams [mailto:adams.claudet1@gmail.com]

**Sent:** Thursday, June 11, 2015 10:37 PM

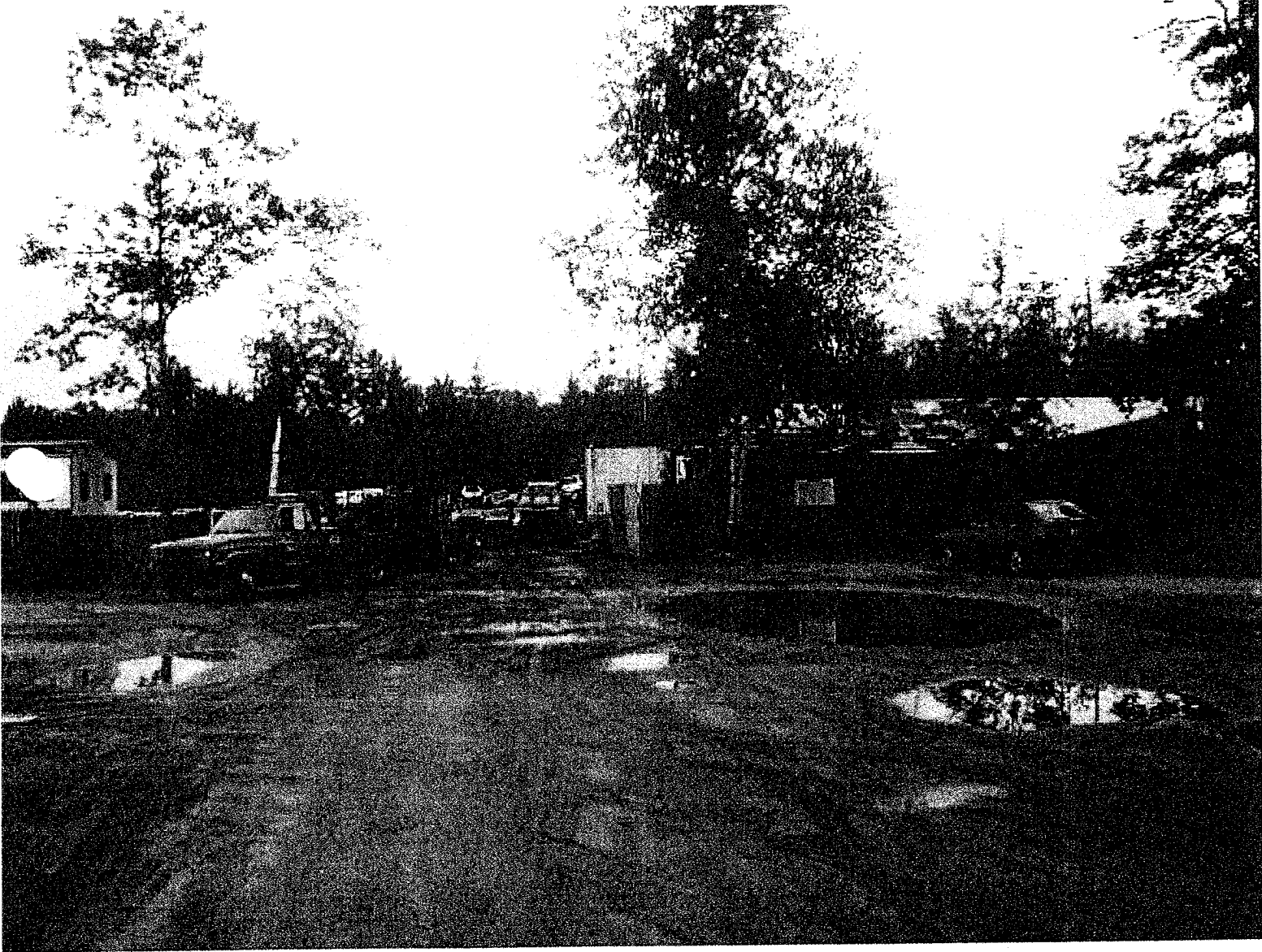
**To:** Richard Canuel

**Cc:** Kevin Smith; Tom Freda; Tom Dolan; Joseph V. Green; jbutler@londonderrynh.org; John W. Farrell

**Subject:** Re: Code Enforcement / Zoning

Mr. Canuel: Your assessment of this violation is incorrect. The complaint is not a late delivery by Murray's: it is a customer delivery by "Precision" flatbed at 5:50 p.m., well after closing time. Late deliveries are for Murray's flatbeds NOT Precision Auto, NOT customer flatbeds. Again, what will be done about this?

July 17, 2001



071701  
1:35 P  
J. J. J.

November 1994

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**CONDITIONS OF JUNKYARD LICENSE ISSUED TO EDWARD DUDEK, Jr.  
d/b/a MURRAY'S AUTO RECYCLING, 55 Hall Road, Londonderry, NH  
Public Hearing held July 20, 2015**

**Based on its consideration of all information presented during the public hearing held on July 20, 2015, the Londonderry Town Council renews the junkyard license issued to Edward Dudek, Jr. d/b/a Murray's Auto Recycling pursuant to the following conditions:**

1. Mr. Dudek shall continue to work with a properly licensed and qualified engineer to meet all State of New Hampshire Department of Environmental Services (NHDES) requirements. Copies of all reports and test results submitted to NHDES shall be provided to the Town.
2. Mr. Dudek shall comply with, and shall see that Murray's Auto Recycling ("Murray's") complies with, all federal, state and local code provisions, statutes, laws, administrative regulations, and ordinances, and all court orders, including but not limited to the Rockingham County Superior Court Order dated December 16, 1997 and the Stipulation for Decree executed on April 18, 2000 and approved by the Rockingham County Superior Court on April 28, 2000, copies of which are attached to, and incorporated into, this license.
3. Mr. Dudek shall maintain the 8-foot high gate located at the rear of the Front Lot of the property.
4. Mr. Dudek shall maintain the existing wooden fence on the westerly side of the property, including that which was completed with the construction of the garage, as approved by the Planning Board in 2007, and the approximately 100 additional feet of 6-foot tall stockade fence that was added in 2014.
5. Mr. Dudek shall maintain the double fabric layers that currently exist above the wooden fence, with both layers secured to the fence to eliminate flapping.
6. Mr. Dudek and Murray's shall not store or park junk vehicles outside of the fenced area at any time. Pursuant to RSA 236:112(c), "junk vehicle" is defined as "(1) [m]otor vehicles which are no longer intended or in condition for legal use according to their original purpose including motor vehicles purchased for the purpose of dismantling the vehicles for parts or for use of the metal for scrap; and/or (2) [u]sed parts of motor vehicles or old iron, metal, glass, paper, cordage, or other waste or discarded or secondhand material which has been a part, or intended to be a part, of any motor vehicle."
7. The hours of operation for Murray's shall be limited to Monday through Saturday 8:00 a.m. to 5:00 p.m. Murray's is allowed to transact business and perform junkyard operations only during these hours of operation. "Junkyard operations" shall include: (a) Mr. Dudek or his employees conducting business with the public; and (b) Mr. Dudek or his employees engaging in physical activity or labor inside the fence. "Junkyard operations" shall not include: (a) Mr. Dudek or his employees working before or after the hours of operation behind the fence or in the office, provided that such work does not create sufficient noise to create a breach of the peace pursuant to RSA 644:2, II; or (b) the departure or arrival of the motor vehicles at Murray's before or after the hours of operation, without further activity, provided that such work does not create sufficient noise to create a breach of the peace pursuant to RSA 644:2, II. Motor vehicles shall not be allowed to return to Murray's after 8:00 p.m.

8.

8. Junk vehicles, junk, and any other items located on the property shall not be stacked above the existing fencing. In other words, there shall be no area inside the fencing where junk vehicles, junk, or other items are stacked above the height of the fencing.

9. Any failure to comply with the foregoing license conditions shall be grounds for the Town Council to revoke Mr. Dudek's license, upon notice and a public hearing.

←

*And*