

TOWN COUNCIL /BUDGET MEETING
January 14, 2013

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

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

BUDGET COMMITTEE: Dan Lekas, Chair; John Curran, Vice Chair, William Mee; Chris Melcher; Tom Dalton; Todd Joncas. Absent, Lisa Whittemore

Call to Order

Vice Chairman Dolan opened the meeting at 7:04PM with the Pledge of Allegiance. This was followed by a moment of silence for those defending our country.

Public Comment

Pollyann Winslow announced that the Londonderry Lancers are marching in the Inaugural Parade in Washington, D.C. on 2013. She invited the public to come out at 7:30AM on Saturday 1/19/13 to cheer them on as the buses goes down Mammoth Rd led by the LPD on their way to I-93.

Meg Seymour, Town Clerk/Tax Collector talked about the filing periods for town elections that start next Wednesday, 1/23/13 thru 2/1/13 and listed the open positions.

Londonderry Fire Captain James Rogers announced the LFD received a Homeland Security Grant of \$44,976. The grant will be used for various equipment to include an air monitoring device, a 4 gas detector that tells how toxic the air is; a calibration system; ammonia, hydrogen cyanide, gamma rae and radiation detectors.

Impact Fees – Vice Chairman Dolan explained we had a recent court ruling calling for an independent auditor. Acting Town Manager, Londonderry Police Chief Bill Hart said that Judge Marguerite Wageling issued a court order last Monday in response to a petition that was filed by the Town. Judge Wageling strongly suggested hiring an independent auditor to review our impact fees. He said some questions have come up as to why this wasn't answered at last Monday's Council meeting. He stated that was because we wanted to discuss it with Counsel to better understand the court order and take appropriate action. He explained he chose Melanson Heath to do the audit based on several criteria. They had some familiarity with the town and this process. Their forensic accounting department is completely separate from their regular audit department. They have done a number of forensic audits like this in the past. He said he hired them quickly because they wanted to deal with this in front of everybody and be as open as they could about it. They would be very public about the audit. We are doing the best we can going forward acting as fiduciary for the town. He stated that John Sullivan from Melanson Heath is

in the audience tonight if anybody had any questions. Acting Town Manager, LPD Chief Hart explained we began the audit last Thursday and we are changing for the better. Open for discussion. Patricia Panciocco, 392 Spofford Road, Auburn, NH, owns property in Londonderry but does not live in Londonderry. She asked who is the town's annual auditor; Acting Town Manager, LPD Chief Hart responded Melanson Heath. He clarified that she was a lawyer and she responded yes. He explained that Melanson Heath has a separate department. If there is any failure of their fiduciary duties to the town it can result in criminal prosecution. Should there be a breach of that duty we will pursue it. Acting Town Manager, Chief of Police Hart said as a lawyer himself, as the Chief of Police, and a former County Attorney he feels very comfortable in dealing with the firm. P. Panciocco asked if the audit will be available after it is complete. Acting Town Manager, LPD Chief replied he didn't want to answer definitely but his inclination is that it will be. P. Panciocco asked what is the distinction between an annual and forensic audit. Acting Town Manager, LPD Chief Hart responded there is a profound distinction. The annual audit is a review of all the financial documents that are maintained on behalf of the taxpayers. Forensic is a legal audit, it is a very narrowly defined distinct audit based on the order that Judge Wageling gave looking at impact fees. Vice Chairman Dolan added that the audit will reach back 20 years. P. Panciocco said she contacted Attorney Ramsdell today via telephone; she asked him about the parameters of the audit and inquired if the audit will examine the studies that the impact fees are built upon; how they are applied, and the hypothetical numbers that are included in many of those studies. According to her conversation with Attorney Ramsdell he indicated he was not really acquainted with the specific concerns that she had raised in the other lawsuit that is in Superior Court. P. Panciocco said in the record of that lawsuit there are very detailed letters raising a lot of questions. She raised a lot of concerns about studies and asked if those questions are going to be looked at also. Vice Chair Dolan responded that we will have Attorney Ramsdell help Council address her questions. P. Panciocco said that preliminarily Attorney Ramsdell did not think those questions were going to be addressed as part of the audit; explaining it is not an audit function. Councilor Freda said his recollection from the court order is that having the audit is a method of confirming what the town has already done regarding its impact fee analysis and just to see if we are using the right process. That is the primary goal of the audit. The Judge had some concerns because there were some issues with the town; she wanted something independent to verify the town's analysis. P. Panciocco said collections and expenditures were what Attorney Ramsdell said the audit was concerned about; not how those figures were derived and how updated studies built on studies that were the foundation that has significant flaws. The significant flaws were a big part of the suit. Vice Chairman Dolan said this is a very complex issue; we want to fix anything that needs to be fixed. P. Panciocco said the consultant contract back then carved out compliance with any kind of unsatisfactory mandate. Those were not part of the consultants job. John Curran, 6 Fay Lane spoke as a citizen and not a Budget Member. He asked is it possible that after the audit is done we find out we owe more. Acting Town Manager, LPD Chief said that is extremely unlikely. We believe the amount is correct, we took the total amount of impact fees that were in controversy, plus the interest owed against those fees and looked at it in the worse scenario for the town. We escrowed the worst so we had the money. Most of that money has been paid back; we probably won't owe any more money. J. Curran asked if the scope of the audit includes errors, omissions, malpractice; has the town the where with all to look back. Acting Town Manager, LPD Chief Hart responded he will not answer the question directly. As the representative for the town he speaks for the members of Council when he says, we are taking a very global view of this. We as a town are looking at how to do business different going forward.

Councilor Green made a motion to go into a public hearing, second Councilor Freda. Councils vote 4-0-0

Public Hearing

Vice Chairman Dolan said we will discuss the FY14 budget of \$27,525,281. Open for discussion to the public and the Budget Committee. Pauline Caron, 369 Mammoth Rd. said early on in the budget Council removed all the Management Service items from each individual department budget and put them into the Town Managers budget. It included \$15K from the library budget. She explained what the money was used for and said there is no other money in the library budget to cover the money. She said she is requesting on behalf of the Trustees that the Council remove the money from the Town Manager's budget and put it back into the library budget. Finance Director Sue Hickey explained that line item was removed from their budget and put in the Town Manager's budget for transparency during the budget process. The line item will be moved back into the department's budgets once the Town Meeting is complete.

Councilor Freda made a motion to close the Public Hearing, second Councilor Butler second. Councils vote 3-0-0, (Councilor Green was not in attendance at this point in the meeting). Vice Chairman Dolan reviewed the Warrant Articles and waited for the return of Councilor Green.

Old Business

Final Vote on Warrant – Vice Chairman Dolan explained the Warrant Articles can be amended at the Deliberative Session but they can't be changed as to their intent. The quantity and amount of money can be changed. The Council and the Budget Committee can take a position on each warrant article. He said he has been contacted today by a citizen urging the Council to take a position on all articles. He explained that sometimes the Council does not take positions on articles. His personal belief is that a citizen petition article has to stand on their own. He said he is not taking a position on a citizen petition so that he does not influence anyone. The Budget Committee will take a position tomorrow night at their meeting. Vice Chairman Dolan proceeded to review all the articles until Councilor Green returned to the meeting to vote on the articles. Budget member Todd Joncas pointed out to the public that the items have been discussed in meetings which is why there is not a lot of dialogue tonight.

#2 – Expendable Maintenance Trust Fund - Councilor Freda pointed out that this article does not include the Roadway Maintenance Trust Fund. **Councilor Green made a motion to accept, second Councilor Butler. Councils vote 4-0-0.**

#3 Fiscal Year 2014 Town Operating Budget – **Councilor Freda made a motion to accept, second Councilor Butler. Councils vote 4-0-0.**

#4 Appropriate Funds to Capital reserve Funds to Replace Ambulances, Highway Heavy Equipment, Fire Trucks, Fire Equipment and Highway Trucks – **Councilor Freda made a motion to accept, second Councilor Butler. Councils vote 4-0-0.**

#5 Establish a Capital Reserve Fund for Cable Division Equipment – **Councilor Freda made a motion to accept, second Councilor Green. Councils vote 4-0-0.**

#6 Fund Special Revenue Account – **Councilor Freda made a motion to accept, second Councilor Butler. Councils vote 4-0-0.**

#7 Fund Sewer Fund – **Councilor Freda made a motion to accept, second Councilor Butler. Councils vote 4-0-0.**

#8 Police Department Personnel Costs for a Student Resource Officer – Councilor Butler said we had a discussion of hiring 2 part time officers and asked about that. Vice Chair Dolan responded the purpose of the article is to appropriate the money; the implementation is within the discretion of the Town Manager. Acting Town Manager, Chief of Police Hart recommended changing the word “Student” to “School” and change the wording of “one” to “an additional School Resource Officer” J. Curran Budget Member asked if we were running this by the DRA to make sure the wording was correct. S. Hickey responded that after this version is edited, she will send it to the DRA and Attorney Ramsdell to review. J. Curran he liked the wording of “an additional School Officer”. Councilor Green said he is looking for an additional officer to be put in the High School, now we have coverage and that is not what we are looking for. Vice Chairman Dolan said this wording gives us the opportunity to get part time officers, it gives flexibility to the Town Manager. Councilor Freda questioned our stating that they are sworn police officers. If we hire a school resource officer that could be someone who is not a sworn police officer. Acting Town Manager, LPD Chief Hart said he means a sworn officer who is trained by the NH Police Standards Council. They will take additional basic and advanced school resource officer programs. Councilor Green said he is asking for a vote to increase safety at the schools. Councilor Freda asked if it should be worded to say, “hire one additional police officer (to serve as a school resource officer)”. **Councilor Freda made a motion to support Article 8** with the following proposed new language... “for the purpose of hiring one additional police officer to serve as a School Resource Officer, **second Councilor Green for discussion.** Vice Chairman Dolan questioned if we want “one” or just “an additional” to give flexibility. Councilor Butler said we should have flexibility. Todd Joncas, Budget member said it is very important to maintain some flexibility in the language; at the Deliberative Session someone could double that amount. Vice Chairman Dolan said it might be amended at the Deliberative Session. Chris Melcher, Budget Member stated if it is increased for more, and it got voted down, you can’t put a SRO into the schools. Acting Town Manager, LPD Chief said it that happens it is possible they might internally re-allocate personnel if it fails. He said the voters should be cautious, flexibility is better; he would consider the notion of part time officers. C. Melcher recommended the wording on the voting portion on the warrant be changed so it is clearer. Finance Director S. Hickey said last year we put “yes” and “no” as well as the voting numbers and she said she would change that. **Councilor Freda withdraw his motion, Councilor Green withdrew his second. Councilor Freda made a motion and changed the wording to read “...hiring an additional police officer to serve as a School Resource Officer (SRO)”, second Councilor Green.** J. Curran said they spoke during the workshops about hiring 2 part time certified police officers to avoid paying benefits and retirement. The language shows us hiring a full time officer not a part time officer. He said he would like to see the language in there to hire part time officers. Vice Chairman Dolan suggested when S. Hickey submits the warrant to the DRA to say we are considering the option of multiple part timers, and does this language need to be changed. S. Hickey said she will send it to both the DRA and LGC about our intentions for the language. Councilor Freda said if we drop “an additional” and just say “police officers” that would fill it. Acting Town Manager, LPD Chief said he is dis-inclined to hire part time officers as Chief of Police, he is not excited about it but he will definitely consider it. **Councils vote 4-0-0.** Bob Saur, 4 Mountain Home Road pointed out that the title of the article should be changed from “Student” to “School” Resource Officer. Article 8’s title was changed to read “Police Department Personnel costs for a School Resource Officer”. Pauline Caron suggested removing the word “an” Vice Chairman Dolan the DRA and LGC will change it if they deem it necessary.

Anne Chiampa talked about federal grants for security at schools. She suggested securing them instead of hiring an SRO. Vice Chairman Dolan assured her if something comes along it will be aggressively pursued, but it is too early for them now.

#9 Ratify Collective Bargaining Agreement Between Londonderry Executive Employees Association (LEEA) and the Town of Londonderry – **Councilor Freda made a motion to accept, second Councilor Green.** Open for discussion. Vice Chairman Dolan said by voting now we will take a position on both contracts. He proceeded to explain that it was a 3 year contract with no impact in the 1st year, a 2.00% increase in the 2nd year and 3rd year. Councilor Green thanked LEEA for recognizing the economy crisis we are in. **Councils vote 4-0-0.**

#10 Ratify the Extension of the Collective Bargaining Agreement Between AFSCME 3657 and the Town of Londonderry – Vice Chairman Dolan explained this is a 1 year contract with no tax increase. **Councilor Green made a motion to accept, second Councilor Freda. Councils vote 4-0-0**

#11 Authorization for Special Meeting on Cost Items- - **Councilor Freda made a motion to accept with an amendment. Amend it to read “...if either Articles 9 and or 10 are defeated...” and “...to address either Article 9 and or 10 ...”, second Councilor Butler. Councils vote 4-0-0.**

#12 Roadway Maintenance Trust Fund – **Councilor Butler made a motion to accept, second Councilor Freda. Councils vote 4-0-0.**

#13 Zoning Ordinance - Vice Chairman Dolan explained that the initial article has been completely changed at the request of the Planning Board. It now reads: “To see if the Town will vote to raise and appropriate the sum of \$20K (\$20,000) to conduct a Zoning Ordinance Audit”. The tax impact will be .01 cents. **Councilor Green made a motion to accept, second Councilor Butler.** Open for discussion. Councilor Freda asked what benefit will it provide the town. Acting Town Manager, LPD Chief said it address some concerns in the current zoning ordinance. Two concerns came up immediately; the initial article with the grant has a time frame of 4-5 months from now and continuing for a 12 month period. We are not going to qualify for the grant in the time frame allowed and we will not be able to complete what is required in that time frame. We will begin that process internally so the allocated money from this article could be used for the outside consultant to review the audit. Councilor Freda said not long ago the zoning ordinances were changed. If we get a grant in the future it is a contingency. Acting Town Manager, LPD Chief Hart said that he would anticipate that most if not all will be done on a contracted review basis after being developed by staff. Councilor Green asked if this amount is a quote from the person doing review. Acting Town Manager, LPD Chief responded it was not, we looked at what the cost would be to the town and the cost that would be grant funded. We can get the work done in-house and use an outside consultant to review. T. Joncas asked if we are trying to find out if we need that position or are we going to pay a consultant as we go. If this does not pass, the money will come from not filling the Planning Director position. Acting Town Manager, LPD Chief Hart said we need the funds in the budget. We have an open position which is funded into next year. The direction from Council is to look at ways we can be more prudent; do we need that position or can we get that work done from a consultant. We are not looking at hiring a full time position with benefits. C. Melcher asked if the monies could come out of the undesignated fund balance. Councilor Green said he is part of the Master Plan Steering Committee; they are going forward with the new Master Plan. Staff has made a recommendation that they work with a consultant on the zoning audit (copy attached). **Councils vote on the article as amended 4-0-0.**

#14 Fund Construction of One Section of the Rail Trail - **Councilor Freda made a motion to accept, second Councilor Butler.** Open for discussion. Councilor Green said he is trying to limit taxes on the taxpayers. This is an “a la carte” item and he has a hard time as a Councilor saying yes to this and he won’t support it. As a taxpayer it is a great idea and as a taxpayer he will support it. J. Curran encouraged Vice Chairman Dolan to support it. He said he is in support of this. He thinks it is a great thing, if you vote for it in the ballot box you should vote for it here. Councilor Green said he supports it personally but not in the budget. J. Curran encouraged citizens to vote for it. Councilor Freda quoted municipal budget law Section 32, 5, V and stated we are obligated to recommend or not recommend the article. T. Joncas asked if there were any extra requirements from police to patrol the area. Acting Town Manager, LPD Chief Hart responded we already have bike patrol; there will not be additional costs. C. Melcher said it is great, he has not decided whether or not to support it yet; he cautioned that on the school side this year, we are going to have one of the historic tax increase we have had in a long time. He said he doesn’t know if another \$20.00 on a \$300K house is attainable this year. Vice Chairman Dolan said this is a large amount of money affecting the taxpayers. He said he has been a strong supporter over the years of the work that Trailways has done. He is faced with the costs associated with the additional SRO, and given the environment we are in he will support the SRO instead of this article. If the taxpayers can only afford one thing, he said he will pick safety rather than recreation and will vote not to support this article. Budget Chair, Dan Lekas said the Trailways committee will make a presentation again tomorrow at the Budget meeting. Councilor Green said the budget we put out is for imperative things, it is a separate decision to make to operate the town. He is voting to support Londonderry Trailways and the program they are offering. **Councils vote 3-1-0.**

NEW BUSINESS

Public Works Director Janusz Czyzowski – Apply for Reimbursement Funding for Household Hazardous Waste Collection – The consensus was to go forward with the grant application.

Order #2013-02 – An Order Relative to the Award of Bid for Police Cruisers - Councilor Butler read the order and **made a motion to adopt, second Councilor Green with discussion.** Councilor Green questioned the bidding process of taking 3 bids. Acting Town Manager, LPD Chief Hart explained there are exceptions to the Municipal Code. Exceptions include a sole source vendor; or a purchase subject to state bid pricing; and extenuation circumstances. In the case of the police cruisers we went to a bid, the price was set by the state bid. We looked at the amount of the residual value that the bidder was willing to purchasing the existing fleet for. We manage the fleet so that the residual value of the fleet when returned back in is low. He pointed out that we paid almost \$20K less for cars than we paid in 1994 due to the maintenance/management we do on our cars. They also considered the use of staff to drive to the other locations the other bidders came from. He explained we don’t lose any staff time with going to Ford of Londonderry. **Councils vote 4-0-0.**

Order #2013-03 – An Order Relative to Expenditure of Maintenance Trust Funds for Various Projects - Councilor Freda read the order and **made a motion to adopt, second Councilor Green.** **Councils vote 4-0-0.**

APPROVAL OF MINUTES

Council meeting minutes of 01/07/13 – Councilor Green made a motion to approve with amendments: Vice Chairman Dolan was absent, and the subsequent votes that were taken should read 4-0-0, second, Councilor Freda. Council’s vote 5-0-0.

OTHER BUSINESS

Liaison Reports –

Town Manager Report –

Board/Committee Appointments/Reappointments – Councilor Freda made a motion to appoint Scott Benson as a Full Member to the Planning Board with an expiration date of 12/31/15, second Councilor Freda. Councils vote 4-0-0

ADJOURNMENT

Councilor Freda made a motion to adjourn at 9:00PM, second Councilor Green. Council’s vote 4-0-0.

Notes and Tapes by: **Margo Lapietro** Date: **01/14/13**

Minutes Typed by: **Margo Lapietro** Date: **01/18/13**

Approved by: **Town Council** Date: **01/21/13**



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Business is good.
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Town of Londonderry

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TO: Town Council
FROM: Cynthia A. May, ASLA
DATE: January 11, 2013
RE: Planning Board Recommended Changes for Warrant *ARTICLE NO. 13*

The Planning Board is seeking to modify the language of Warrant *ARTICLE NO. 13* relative to raising and appropriating funds for a comprehensive zoning upgrade. This money was intended to be applied with anticipated grant money from a NH Community Planning Grant (CPG). We have since learned that a zoning ordinance comprehensive re-write would not likely occur within the time frame required by the Community Planning Grant; therefore, the Town is not in a position to prepare and submit an application for that purpose. Staff also reported to the Planning Board that approximately a dozen communities had participated in the first round of the grant program, which funded the zoning ordinance audit for each of them to identify deficiencies, discrepancies, cohesiveness, and opportunities for improvement. These same communities have a priority position for the next round of funding, if they can demonstrate they completed the audit as required.

Staff recommends that instead of jumping into the comprehensive re-write, we work with a consultant to execute the zoning audit in FY14 utilizing the \$20,000 to be raised by the Town. This will enable the Planning Board to know the scope of the Comprehensive Re-write prior to seeking funding, and put the Town in a good position to seek other grant assistance if available the following year.

On Wednesday January 9, 2013, the Planning Board voted to recommend that Warrant *ARTICLE NO. 13* be amended to delete the \$30,000 grant, and change the amount to be raised and appropriated from \$50,000 to \$20,000. The reference to a Zoning Ordinance Comprehensive Re-write would also need to be changed to Zoning Ordinance Audit. The revised article would then read:

"ARTICLE NO. 13: [ZONING ORDINANCE AUDIT]

To see if the Town will vote to raise and appropriate the sum of **TWENTY THOUSAND DOLLARS (\$20,000)** to conduct a Zoning Ordinance Audit.