

**TOWN COUNCIL MEETING**  
**July 15, 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, 7:08PMr; Joe Green, 7:06; Tom Freda; Acting Town Manager, LPD Chief William R. Hart; Executive Assistant Margo Lapietro. Absent: Chairman John Farrell.

**CALL TO ORDER**

Vice Chairman Dolan opened the meeting at 7: 05 PM with the Pledge of Allegiance. This was followed by a moment of silence for the men in women serving for our country and for first responders.

**PUBLIC COMMENT**

Vice Chairman Dolan read a Proclamation for the 400<sup>th</sup> Anniversary of Derry/Londonderry, Northern Ireland.

Londonderry Chamber of Commerce – Bill Parnell, Pres. Of the Greater Derry/Londonderry Chamber of Commerce and Stacey Bruzzese the Executive Director were in attendance. B. Parnell explained they have become active in regional issues and are available as a resource. Councilor Butler asked what is in it for Londonderry. B. Parnell responded they have made a conscience effort to expand their services to the Londonderry area. He said if a business expresses interest in moving into Londonderry they can help make that happen. They have the people & resources to explain why they should locate here. He then referred to Stacy Bruzzese. She explained she was instrumental in forming the Londonderry Business Consortium which is open to all business owners/professionals in Londonderry whether they are Chamber members or not. The group meets regularly to identify issues unique to Londonderry through seminars/events/discussions/workshops. They have a support system and build relationships among the business community. Some of the things they have done as a result of the committee was to have a Londonderry Meet the Business event in March; they had 15 businesses participate in the program. They brought professional development seminars to the community every other month and have had seminars on finance and grants. She said she has met with Acting Town Manager/LPD Chief Bill Hart and with the Town Planner Cynthia May. Councilor Dolan asked that she provide the list of board members to be included in the minutes (attached). Councilor Green explained that he has worked with Stacy and explained that they are very useful for Londonderry and has definite resources we can use.

Update on 4<sup>th</sup> Quarter Financials – Finance Director Susan Hickey and Town Accountant Doug Smith were in attendance. S. Hickey said she would be happy to come back to the August meeting to give Council a final number for FY13. They are expecting approximately \$136K under the anticipated budget. Shortfalls in motor vehicle permits were under \$140K; interest income was under \$145K. Impact fees were budgeted for an \$80K transfer for buildings, police

46 facility and the library as well as we had some old impact fees that we are waiting to transfer that  
47 were \$186K. Some excess revenues were in interest costs and other taxes of \$168K that were  
48 from two properties that were taxed deeded in 2009 that we have received payment on and they  
49 have been taken care of successfully. Departmental income excess is \$235K due to the cable  
50 studio being part of the General Fund instead of a Special Revenue Fund. Insurance  
51 reimbursement was in excess of \$43K due to Workman's Comp Insurance/Disability claims.  
52 Expenditures were anticipated at \$255K under expenditure. Two areas were over and they were  
53 in Legal fees of \$218K and fire is going to probably be \$230K over. The other departments are  
54 under and have made up that. The total surplus for Undesignated Fund Balance for FY13 at this  
55 point is estimated at around \$120K. She said the audit will be done by August and she said she  
56 can come back to the August meeting with final figures. Councilor Butler asked if the fire is just  
57 overtime, S. Hickey responded it was mostly and she could provide a break down. Councilor  
58 Freda said between the shortfall and the revenue and the over expenditure expenses what is the  
59 total amount. S. Hickey responded \$120K in surplus between the short fall in revenues and the  
60 under expended expenses. In March of 2013 the Acting Town Manager and she began working  
61 with the Town Clerk/Tax Collector on taxes, liens and deeds. They had about 6 pages of liens  
62 and deeds. Deeded 8 properties, out of those 8, 7 are seeking funding to redeem properties.  
63 The two she mention early from 2009 they both have closed which was an additional \$168K in  
64 interest and penalties as well as back taxes. Councilor Freda asked if she got the full amount and  
65 she responded they did. They have a handful of old properties that they have taken for tax  
66 deeding from the late 80's; early 90's; they are working on about 10 of them. Councilor Freda  
67 asked why are we waiting so long to sell them. Acting Town Manager/LPD Chief Hart said they  
68 looked at old accounts some had young children or elderly and they didn't want to put them out  
69 on the street. He explained that he and S. Hickey went through the entire list of more than  
70 several hundred properties and decided to act on every one of them. The ones from the 80's and  
71 90's are going to be acted on quickly. Councilor Freda stated that if they haven't paid taxes  
72 since the 80's how can it happen. S. Hickey explained that one of the properties was land  
73 locked; there was nothing on it so they need to look at the boundary lines and talk to the  
74 Assessor to figure out what to do. One abuts Conservation property so they need to go to the  
75 Conservation Commission to find out if they have any interest in it; if not they will have to figure  
76 out what to do with it, it is wetland. They need to do more research. D. Smith said the escrow  
77 accounts are held by Public Works (PW) and the Planning Department (PD). At the end of 2012  
78 in PW they had approximately 223 on our books and in PD we had approximately 50 accounts.  
79 They have reviewed and resolved approximately 150 in PW and 25 in PD. This reduced our  
80 liability on our balance sheet account by approximately \$300K over the past year. He thanked  
81 both PW and PD for having a more efficient process in place today. Upon completion funds are  
82 returned to the appropriate party or to the town. Today we have approximately 130 accounts that  
83 are on active status and are reviewed monthly. We established finance outreach meetings in an  
84 effort to meet with each department to talk to them about their budgets and any financial needs.  
85 The departments have been very receptive to these meetings. Councilor Freda asked if there is a  
86 system in place to notify you that an impact fee will expire. D. Smith said they have a monthly  
87 review process in place; they exchange information with PW and PD so they can stay on top of  
88 them. Councilor Freda said his concern is that once they paid the six years until it can become  
89 expended or encumbered; we should have something in place to give us a heads up so we can  
90 take action. We have a yearly obligation to look at them. If we know we are not going to use it  
91 just give the money back rather than hold onto it. S. Hickey responded they are using a series of  
92 Excel spreadsheets and have the bank accounts broken out according to category. They are  
93 moving forward to look at an access database to get the tools needed to not miss dates.

94 Councilor Butler asked if Finance goes over the P&L on a monthly basis with each department.  
95 S. Hickey responded no, most of the larger departments do it on their own on a weekly basis.  
96 The smaller departments are done by finance on a weekly basis. Councilor Green asked her if  
97 she is looking for software, S. Hickey responded other towns have an Access database to manage  
98 impact fees and they are looking into it. Councilor Green asked her to look into it and report  
99 back to the Council. Acting Town Manager/LPD Chief Hart said the impact fees have been at  
100 the forefront the past year. The audit will be finished as early as the end of this week; it will be  
101 reviewed by Attorney Ramsdell. They are looking at what personnel mechanism do we have to  
102 put in place with what process to meet the requirements for the impact fees; looking at what  
103 software we can use to manage it. Other municipalities have the same problem we have. We  
104 have to figure out how to make sure our protocol is appropriate for the ordinances/statutes; a  
105 software program is needed; what kind of personnel do we need to track impact fees and what  
106 department should handle it. There is no centralized authority; it is diffused throughout 3  
107 different departments. It is a complex and intense task of ongoing management. In the future  
108 during the upcoming budget process he foresees a planning person whose entire job is devoted to  
109 the aspects of town planning. Councilor Green said since we do not have that in place right now  
110 what kind of a risk are we at. Acting Town Manager/LPD Chief Hart said we are significantly  
111 lower than last year. Councilor Green pointed out that we haven't had financial statements on  
112 the website since Feb/March and asked for them to be updated. S. Hickey said she will put them  
113 up. Councilor Dolan said that in the past year we have gone through a period of discovery,  
114 clean-up, and process improvement. We are getting strong legal advice and strong management;  
115 he thanked the Finance Department for all their work. At that point in the meeting Acting Town  
116 Manager/LPD Chief Hart asked Council to address Resolution #2013-08 – A Resolution  
117 Appointing an Interim Town Clerk/Tax Collector under New Business.

118  
119 Councilor Dolan said during the Public Hearing he will be accepting comment about the 2013  
120 licensing only for Mr. Dudek, no other matters will be taken. If there is comment about any  
121 other matters regarding the licensing of the Junkyard they should be discussed in Public  
122 Comment only. He addressed Richard Belinski who had an issue with other business being  
123 conducted at the Hall Road location and told him that it should be discussed in Public Comment  
124 only, not during the Public Hearing under the issuing of the license.

125  
126 Pauline Caron 369 Mammoth Rd. addressed the appointment of Finance Director Sue Hickey to  
127 fill the Town Clerk/Tax Collector position. P. Caron said there should be segregation of duties;  
128 she will be collecting the money coming into the town and there is no one to oversee that; it  
129 should be separated. Another person should be appointed to fill the position for 8 months. She  
130 felt that the Council should have a Special Election to fill the position. Councilor Dolan  
131 responded that this move has been reviewed by counsel, there is no conflict of interest. P. Caron  
132 asked if Council checked with the auditing firm regarding the segregation of duties. Acting  
133 Town Manager/LPD Chief Hart said they did check with the auditors and they felt there was no  
134 issue. Councilor Freda said there is no provision for us to call for a Special Election; by statute it  
135 is an appointment by the council to fill the vacancy. P. Caron said she did not think it was right  
136 somebody else should be appointed.

137  
138 Richard Belinski, 89 Hall Rd said one issue he has with the salvage yard is the multiple  
139 businesses being done at the location. The court order clearly states if it is a non-conforming use  
140 you can only run the salvage yard according to state regulations and our town ordinance. Mr.  
141 Dudek has listed other business at the same location with the state. Mr. Dudek is not in

142 compliance. He said we are not in compliance with the rules; Council has had 6 years to look  
143 into this. Councilor Dolan asked Acting Town Manager/LPD Chief Hart to have Code  
144 Enforcement look into it. Councilor Freda asked if the business are active or just incorporated.  
145 He asked R. Belinski if they are selling wood pellets at that location. Councilor Freda said if he  
146 is running a business there then he agrees with him but if it is just in name only because it is a  
147 cooperation then he does not agree with him. R. Belinski said our ordinances are very clear, the  
148 only thing that can be there is the salvage business. Councilor Dolan stated that they will have  
149 Code Enforcement check to see if other business are being run from the site.

150

151

### **PUBLIC HEARING**

152 Councilor Green made a motion to re-open the Public Hearing that was tabled at our last  
153 meeting, second Councilor Butler. Councils vote 4-0-0

154

155 Order #2013-23 – Licensing of a Junkyard Pursuant to RSA 236-Licensing of Murray’s Auto  
156 Recycling owned by Edward Dudek, Jr. This is a continuation of the hearing which began on  
157 June 17, 2013. Councilor Dolan stated that we left the last meeting with the understanding that  
158 we were going to create an agreement that all three parties would agree to. M/M Adams just  
159 received the agreement this evening. Building Inspector/Code Enforcement/Zoning Officer  
160 Richard Canuel and Attorney Matt Serge were in attendance. R. Canuel asked all parties to  
161 come forward. Edward Dudek and his attorney Dan Corley from the McGrath Law firm; Gerard  
162 and Collette Adams were in attendance. Councilor Butler asked Mr. Adams when he received  
163 the agreement. G. Adams responded at 7:00PM tonight. Councilor Butler asked him if he had  
164 enough time look at this agreement. He responded he had not read it yet. G. Adams asked  
165 Council if they have received the information from R. Belinski yet, Councilor Freda responded  
166 yes. G. Adams said Acting Town Manager/LPD Chief Hart had the information a month before  
167 the last meeting and he found it incredulous that he did not share it with the Councilors. G.  
168 Adams said that this Town Council had been making decisions about their lives with  
169 misinformation or no information. He said he had no idea why that information was withheld.  
170 Councilor Dolan responded that the files could not be open. G. Adam responded that in a  
171 months’ time the Acting Town Manager/LPD Chief should have gotten back to either him or R.  
172 Belinski. Acting Town Manager/LPD Chief Hart explained R. Babinski’s e-mail didn’t get to  
173 him because he does not have the town manager account it goes to the police account. R.  
174 Belinski did send it to him about 3-4 months ago. He had R. Belinski send the e-mail to Margo  
175 and she forwarded it on to him and Council. He apologized for not getting back. R. Canuel said  
176 there were three issues remaining from the last meeting. Stacking vehicles behind the fence,  
177 location of the office trailer contrary to a 1997 court order that was carried forward to a  
178 stipulation of decree on an agreement between the town and Mr. Dudek, the third just had to do  
179 with updating some of the licensing agreements that are not applicable. R. Canuel said he has  
180 worked on an agreement among the 3 parties and he thinks we have an agreement that everyone  
181 can live with. Councilor Dolan said we should address the stacking of vehicles and the fencing.  
182 R. Canuel said stacking the vehicles on occasion does exceed the fence. Mr. Dudek has been  
183 reminded of the licensing condition that is why it was brought forward for a public hearing. Part  
184 of the agreement states no vehicles can be stacked above the fence. Part of the conditions is  
185 what is considered a substantial breach, that is a matter of interpretation from the Code  
186 Enforcement Office. He said he will bring it to Mr. Dudek’s attention and remind him of his  
187 responsibility and if necessary have another Council public meeting. R. Canuel said the issue of  
188 the fence is another issue. At the last meeting there was talk about leaving the trailer exposed on

189 the front lot and perhaps changing the siding. Mr. Dudek has since power washed the front of  
190 the trailer, it does look considerably better and gave the Council photos of how it looks today.  
191 R. Canuel said it comes down to if the parties can live with the trailer as it looks today or push  
192 the issue of Mr. Dudek replacing the siding or should we require Mr. Dudek to put a fence in  
193 front of the office. Councilor Butler asked Attorney Serge if there is supposed to be a fence in  
194 front of the trailer. Attorney Matt Serge responded according to the court order there should be a  
195 fence there. Councilor Freda questioned if the Adams' talked to anybody prior to tonight's  
196 meeting, they responded no. Claudette Adams sent an e-mail to R. Canuel on 7/2/13 looking for  
197 the agreement and didn't receive it until tonight. She said they have had no opportunity to have  
198 their attorney review the agreement, the town and Mr. Dudek have had the time to review it.  
199 Councilor Freda said they could ask for a continuance, they are under no obligation to agree to  
200 anything. Councilor Butler said he wants to table this until the next meeting. Councilor Freda  
201 replied since everyone is here talk about it. Councilor Dolan said we have three options tonight:  
202 we can table it, and have another meeting to allow the parties to come to an agreement; we can  
203 deny the license and stop the business or we can approve the license in absence of an agreement.  
204 G. Adams said they are going with what the court order requires, they want to see a fence and  
205 that the cars don't go over the fence. C. Adams said the hours of operation are a problem. They  
206 are operating from 8-5, six days a week totaling 54 hours a week. Now you want to increase the  
207 hours to 60 and we are going to have trucks coming in at 7AM. It used to be 9-1 on Saturdays.  
208 In 2007 the meeting minutes say that it will be 9-1 on Saturdays. She has a document signed by  
209 Mr. Dudek and the town dated back to 1999 saying that the hours were 9-1 on Saturdays.  
210 Somehow the hours were increased. Trucks are still coming in as late as 11PM. On Sunday  
211 7/7/13 a truck left at 7:26AM. If you give him more latitude for more hours it is going to get  
212 worse. Acting Town Manager/LPD Chief said he heard there was room for discussion and he  
213 suggested getting involved to negotiate the potential for an agreement. There is no agreement  
214 other than the court order. An agreement was proffered by the town and Mr. Dudek's attorney.  
215 He is suggesting all the parties involved including himself come together and see if we can work  
216 it out to closely follow the 2003 court document. C. Adams said that Councilor Freda said a  
217 moment ago that "shall mean shall" Acting Town Manager/LPD Hart withdrew his offer to help.  
218 Councilor Dolan said there is an opportunity to come to a new agreement that all parties can  
219 embrace. He encouraged the Adams' to consider Chief Hart's offer to mediate a new agreement.  
220 The court order was based on the agreement; it doesn't have to be the original agreement just  
221 something that everyone agrees to. G. Adams said he was having trouble with the premise that a  
222 side of a trailer is a fence. Councilor Dolan said the object of the fence is to shield the public  
223 from the recycling center. The building acts as a shield, to run a stockade fence in front of the  
224 building will look foolish and you would see more of the recycling center. C. Adams said the  
225 ZBA denied putting the trailer in front of the fence because it constituted an expansion of a non-  
226 conforming use. It is on page 8 of the court order. The trailer was in front of the fence, it was  
227 never moved back to the original place that housed the original trailer, that is what the order  
228 says. The front of the trailer is in front of the fence. If you go ahead and let him keep the trailer  
229 without the fence you are going against the ZBA decision of 1996 to put the trailer back behind  
230 the fence because it constitutes and expansion of a non-conforming use. The court order upheld  
231 the ZBA's decision. Attorney Dan Corley counsel for Mr. Dudek apologized for the late receipt  
232 of the agreement citing a death in his family and he was out all week. He said he thought at the  
233 last meeting that all of us agreed that Mr. Dudek's facility is better than any other facility that  
234 has been there. A lot of money has been put in there to make it environmentally friendly to the  
235 community. The court order says an "attractive façade" Mr. Dudek is willing to put vinyl siding  
236 on the building. You do have one neighbor who attended the last meeting who is looking down

237 onto the facility that has been there since the 50's and he said Mr. Dudek is constantly improving  
238 it. He said he cannot imagine going in front of a judge asking for a less attractive façade because  
239 that is what the court order says. He said he doesn't think there is anything we can do to make  
240 you happy. Councilor Dolan asked the Adams' if they want a stockade fence attached to the  
241 front of the trailer and then comply with the original court order of the trailer being behind the  
242 fence? C. Adams said if the trailer is behind the fence and you cannot see the cars stacked  
243 above the fence that would be fine. She said the trailer needs to be behind the fence. Councilor  
244 Dolan asked Mr. Dudek if he was willing to do that. Mr. Dudek said the trailer was put in the  
245 parking lot before he owned the place 16 years ago. He was told to move it behind the fence  
246 which it is behind the fence. The he was told to put the fence in front of it. Back in 2007 or  
247 2008 he asked then Code Enforcement Officer Frank Holdsworth if he put in new windows and  
248 re-sided it could he take the fence down. He got permission from F. Holdsworth but did not get  
249 it in writing. He said he would not do that if he didn't get permission from the town. Councilor  
250 Dolan again asked if he would voluntarily add fencing in front of the building. He said he is not  
251 willing to put the fence back, it will make it ugly. Attorney Corley said the court order also said  
252 the obligation is to eliminate any access or egress to the office and the junkyard except through a  
253 suitable 36" wide door installed and properly maintained in the fence and accept to the gate and  
254 behind the fence. He has that door; the only difference is that the trailer is just between the fence  
255 that is the only difference. The court order also says the intention of this order is to have an  
256 attractive façade. He said he thought they were on the right path last time. Councilor Dolan  
257 reiterated that they have 3 options: we can approve without the agreement, we can continue to  
258 the next meeting to see if the parties can come to an agreement; or we can deny the license.  
259 Attorney Serge pointed out that the Council can approve with the condition that the fence be  
260 erected in a certain amount of time. As a Councilor you are entitled to enforce the fencing per  
261 the court order. Councilor Freda asked C. Adams where the hours of operation were by court  
262 order. C. Adams said she didn't believe that was addressed in the court order. It was her  
263 understanding it was up to the Council. R. Canuel said the hours of operation were drafted as  
264 part of the conditions for the license back in 2003; it was not part of the court order. Councilor  
265 Dolan asked what the hours of operation were. R. Canuel said originally they were M-F 8:00AM  
266 to 5:00PM; Sat. 9:00AM – 5:00PM and the applicant shall be allowed to operate beginning at  
267 7:00AM to allow flatbed trailers into the facility for the crushed vehicles. Councilor Freda asked  
268 if that has ever changed, R. Canuel responded it has never changed until now. Councilor Dolan  
269 asked if this latest application has different hours. R. Canuel responded yes; this year's  
270 application has M-Sat. 8:00AM – 5:00PM. The Adams's said it has never been 7:00AM it was  
271 always 8:00AM. C. Adams said she has a document going back to 1999 and it was 8-5.  
272 Councilor Dolan said R. Canuel has a document that was changed in 2006 to 7:00AM. The  
273 Adam's said they would like to see a copy of that as well as all the prior conditions because it  
274 was not 7:00AM. R. Canuel said he will get it to the Adams. G. Adams said Mr. Freda asked at  
275 the last meeting what the zoning is. After all these years are you just finding out? C. Adams  
276 said it has been said that the junkyard has been there since the 1950's. She said she has  
277 something to clarify that it wasn't. Atty. Boutin wrote to Jim Smith on 7/28/98 that clarified it.  
278 She quoted from the letter "Bear in mind that Judge Maque found as a fact that the town has site  
279 plans and regulations in force since 1973. There was no evidence that there was a junkyard prior  
280 to 1975 and he found as a fact that the 1974 aerial photo in evidence at trial showed no junkyard  
281 use in 1974". There was no junkyard prior to 1975, it was found as a fact at the trial in 1997.  
282 The letter was part of the "Findings and Rulings" at the trial. Councilor Dolan asked the Adams'  
283 what year their house was built and they responded 1980. He asked if the junkyard was there  
284 when they built their house. G. Adams said it was a field, the junkyard did not exist, there were

285 a couple of rusty cars there and that is the way it remained until 1988. Councilor Freda said he  
286 would like to give the Adams' the opportunity to discuss it to see if they would come to any kind  
287 of agreement. Councilor Butler agreed to it. Councilor Dolan asked the Acting Town  
288 Manager/LPD Chief Hart if he would consent to mediate and he responded he would. Councilor  
289 Green said there has to be some kind of agreement and this should be the last opportunity to  
290 come to an agreement after all this time. If they can't make an agreement then the Council will.  
291 Councilor Dolan agreed that 3 meetings was quite long enough. The August meeting will be the  
292 final resolution **Councilor Green made a motion to continue Order #2013-23 until the**  
293 **August 19 meeting, second Councilor Green, second Butler. Councils vote 4-0-0.**

294 Councilor Dolan encouraged the parties to put aside their differences and try to come to some  
295 agreement. In negotiated agreements not any one side gets everything they want nor should any  
296 one side be burdened with all the problems, he urged a compromise.

297

298 **Ordinance #2013-04 – Relative to an Amendment to the Municipal Code, Title VI, Chapter**  
299 **XIII, Ambulance Fees and the Collection Thereof.** Acting Fire Chief Darren O'Brien was in  
300 attendance. He said the fees have not been updated since 2009. Medicaid has gone up each year  
301 and they base their ambulance billing on those rates. We have been 130% over Medicare as of  
302 this year. They did a study of other communities where they found they range from anywhere  
303 from 5% to 50%. We should raise our rates to 40% above Medicare. This will make us  
304 comparable to other communities. Councilor Green asked what the changes were to handling  
305 the delinquent accounts. Acting Fire Chief O'Brien said he needs direction from the Council as  
306 to whether or not they want to send delinquent accounts to a collection agency and how  
307 aggressive do they want him to be. Councilor Green said he thought the Council wanted to be  
308 more aggressive by using a collection agency. Acting Fire Chief O'Brien said the finance  
309 department is doing a trend analysis for him to see what our neighboring communities are doing.  
310 Councilor Dolan cautioned using "shall" in the wording of the Ordinance, it doesn't give us any  
311 "wiggle room". Acting Fire Chief O'Brien pointed out that the fee schedule in Article 13 will  
312 have to be adjusted in late July because that is when Medicare adjust theirs. Councilor Dolan  
313 asked if there is a way we can make it so he doesn't have to come back. Acting Town  
314 manager/LPD Chief Hart responded we can put language there to allow the rates to be adjusted  
315 to correspond with Medicare. Councilor Freda asked if we collect or charge interest on  
316 delinquent accounts. Acting Town Manager/LPD Chief Hart responded we charge interest,  
317 whether we collect it or not is a different issue. Councilor Butler asked if the other towns  
318 automatically make adjustments, Acting Fire Chief O'Brien responded he did not know.  
319 Councilor Dolan recommended wording the Ordinance so we don't have to come back every  
320 year to adjust it. Councilor Butler said the taxpayers should know the changes. The consensus  
321 of the Council was for the Acting Town Manager/LPD Chief to take the Ordinance back and  
322 make slight modifications to it and bring it back to the next meeting.

323

324 Ordinance #2013-05 – An Amendment to the Zoning Ordinance to Allow "A" Frame Sidewalk  
325 Signs for Individual Tenants in Multi-Tenant Commercial Developments – Councilor Butler read  
326 the second reading and **Councilor Green made a motion to accept, second Councilor Freda.**  
327 Open for discussion. Councilor Butler said at the last meeting he had concerns about ADA  
328 compliance which is a minimum of 36 inches. He said that he thought Building Inspector; Code  
329 Enforcement/Zoning Officer Richard Canuel had some recommendations for that. R. Canuel  
330 said you might want to add as part of that section 3.6.1.12 "the placement of any "A" Frame sign

331 shall not reduce the accessible walkway to less than 36 inches at any location along the storefront  
332 side.” It will be inserted into paragraph 3.11.6.3.9.5. Councilor Freda made a correction to the  
333 wording of the actual Ordinance underneath “Now Therefore Be it Ordained” the third sentence  
334 should be corrected from “3.6.1.12 to read “3.11.6.3.9.5”. R. Canuel said the comments by the  
335 attorney included revisions that should be reconsidered. One was a requirement for a business  
336 owner to submit a Certificate of Insurance for liability coverage. We do not do that for any other  
337 items that we regulate in our Ordinances. It is not required for business owners or property  
338 owners. One of the ideas of putting this ordinance together was to do it as simple as possible to  
339 allow them to advertise special sales without being to overly restrictive. It will also relieve the  
340 Building Dept. from doing the administrative paperwork. He asked the Council to reconsider  
341 that language. Councilor Green clarified that section 3.11.6.3.9.5.4 requiring insurance should  
342 be struck; R. Canuel responded yes. The other item that he would like reconsidered is Item 5 for  
343 a “Hold Harmless Certification Letter” again that is not done by any other ordinances and again  
344 it would be burden for the Building Dept. as well as a burden for the business owner to submit  
345 that paperwork. The requirement for the Certificate of Insurance was discussed. Councilor  
346 Butler said he would think the business owner or the building owner should have the insurance.  
347 The requirement for the Hold Harmless Letter was also discussed. Again R. Canuel said this is  
348 not something they do with provisions in our other ordinances. The Town is already indemnified  
349 by statute. Councilor Dolan asked if we know why the attorney put that in do other towns do it.  
350 R. Canuel said he did not discuss it with him. After some discussion Councilor Butler made a  
351 motion to strike both articles. Councilor Green clarified section 3.11.6.3.9.5.2 where it says to  
352 maintain a five foot passageway at all times you are saying to change it to 36 inches. R. Canuel  
353 responded no. He said our ordinance does not permit the placement of signage in the Town  
354 Right of Way for any type of sign. The intent of this amendment to the Ordinance was to allow  
355 these “A” frame signs on the private side of the sidewalk in front of the business storefront. He  
356 said he didn’t think we have a public Right of Way issue. He is recommending going back to the  
357 original language where it states that the sign shall be located on the sidewalk in front of the  
358 storefront no further than 6’ from the face of the building. Councilor Dolan asked if he was  
359 recommending striking Section 3.11.6.3.9.5.2 or changing the language. R. Canuel responded he  
360 could change to language to read “that the signs be placed on the storefront sidewalk of the  
361 establishment, not further than 6’ from the face of the building.” Councilors Green and Butler  
362 agreed to all the adds/subtracts as discussed. Councilor Freda said he is in favor of keeping the  
363 insurance and the Hold Harmless Certification Letter to minimize the town’s liability. Councilor  
364 Dolan said no to the insurance but yes to the Hold Harmless Certification Letter. R. Canuel said  
365 the Building Dept. is not in the business of regulating insurance. Councilor Freda said it is not a  
366 regulation it is just a condition. R. Canuel reiterated that he tried to keep it as simple as possible  
367 so we have a means to regulate the use of the signs without being overly burdensome on both  
368 ends. Requiring the business owner to come to the Building Dept. is difficult to manage; it is  
369 doable but it is an extra burden on the business owner as well as the Building Dept. R. Canuel  
370 said the Letter of Indemnification is not necessary the Town is already indemnified by statute.  
371 Councilor Dolan took a vote on the Certificate of Insurance and the vote was 3 for it 1 against.  
372 The vote on the Hold Harmless Certification was 2 against and 2 for it. In the case of a tie, it  
373 dies and it stays in the Ordinance. Councilor Dolan sated if the Council desires we can bring this  
374 up when we have a Councilor whose vote can break the tie. Councilor Green asked R. Canuel  
375 how the Hold Harmless Certification will be implemented. Whose responsibility is it to sign it?  
376 Councilor Dolan said it is now up to the Town staff how to implement it. R. Canuel responded  
377 there is no permit, no fee, it is just a matter of knocking on the business owner’s door asking for  
378 a Letter of Indemnification. Councilor Dolan asked the Councilors if they wanted to withdraw



379 their motion and second and made new motions with the amendment items. **Councilor Green**  
380 **withdrew his motion and Councilor Freda withdrew his second.** Open for discussion.  
381 Pauline Caron, 369 Mammoth Rd. said most of business have large signs that you can see from  
382 the street. Londonderry is not for pedestrian traffic it is vehicular traffic. These signs are for  
383 pedestrians. Under the sign ordinance for the town usually the signs come up before the  
384 Heritage Commission for review, these have not. This came from the Planning Board directly.  
385 She stated that she does not agree with the Ordinance because it will clutter up the sidewalks; it  
386 will block the walkways for disabled people. Ann Chiampa, 28 Wedgewood asked if 3.6.1.12 as  
387 listed on the Ordinance itself was corrected. Councilor Freda responded that it was corrected.  
388 She asked for clarification of where the signs could be placed on the sidewalk. R. Canuel read  
389 the item back to her. A. Chiampa said doors open up so that might interfere with the sidewalk.  
390 R. Canuel responded that 36” is the absolute minimum. Ken Diduddi, 3 Rockingham Rd. said  
391 he does not see the signs as a detriment; it is a way to do a short term advertisement for signs.  
392 Pauline Caron, 369 Mammoth Rd. said the signs should be placed only between the hours of 9-5  
393 so the zoning officer can keep an eye on them. She said we have a zoning ordinance that does  
394 not allow any flashing or moving messages. They shouldn’t have any of that on them. R.  
395 Canuel responded that is all prohibited by the Ordinance. P. Caron also stated that the person  
396 who sells the signs on her website is the one who proposed this ordinance. This is to her  
397 advantage if she sells the signs because she can make more money. Councilor Butler said there  
398 are more “A” frame portable signs in town. P. Caron said technically they are illegal now and it  
399 is not being enforced. Councilor Freda said he disagreed with that, right now we don’t need this  
400 ordinance It says you can have 1 free standing sign per parcel without a permit. The Planning  
401 Dept. says that free standing means permanently affixed to the ground, that is not what it says  
402 right now. Anne Chiampa asked about ‘A” frame business signs at residences. Are they  
403 allowed? R. Canuel responded according to the Ordinance today the contractor is allowed to  
404 post a sign on the property where they are working and when they leave they have to be  
405 removed. Councilor Dolan said the Ordinance has been amended and he was looking for a  
406 motion. **Councilor Butler made a motion to accept the amended Ordinance, second**  
407 **Councilor Freda. Councils vote 4-0-0.**

408  
409 **Councilor Green made a motion to close the public hearing, second Councilor Freda.**  
410 **Councils vote 4-0-0.**

411  
412 Ordinance #2013-02 – Relative to an Amendment to the Municipal Code Relating to the  
413 Regulation of Secondhand Dealers and Pawnbrokers – Acting Town Manager/LPD Chief Hart  
414 explained this Ordinance was being withdrawn for a redraft to address citizen concerns.

415  
416 **NEW BUSINESS**

417 Order #2013-25 – Expenditure of Maintenance Trust Funds for Various Projects. Councilor  
418 Freda read the Order **and made a motion to accept, second Councilor Green.** Open for  
419 discussion. Councilor Green and Butler were grateful for the amount of detail supplied for the  
420 Order. Councilor Butler pointed out that when someone cheapens the specifications it costs  
421 more money in the end. **Councils vote 4-0-0.**

422

423 Resolution #2013-08 – A Resolution Appointing an Interim Town Clerk/Tax Collector.  
424 **Councilor Freda read the first reading and made a motion to appoint, second Councilor**  
425 **Green. Councils vote 4-0-0.**

426

427

### APPROVAL OF MINUTES

428

429 Council meeting minutes of 06/17/13\_– **Councilor Freda made a motion to approve, second**  
430 **Councilor Butler. Council’s vote 4-0-0.**

431

432

### OTHER BUSINESS

433

434 Liaison Reports – Councilor Butler attended a Traffic Safety Meeting; Tanager Way is still being  
435 worked on. The intersection of Stonehenge and Hardy Road was also discussed. They are  
436 working with the Building Dept. to see if they can resolve some of those issues. The biggest  
437 issue on Tanager is that the Conservation Commission has a trailhead there with no provisions  
438 for parking which has created a safety problem. We should approach the Conservation  
439 Commission to see if we can close that trailhead or put no parking signs there. Councilor Dolan  
440 said another option would be to build some parking into the trailhead. Councilor said it was  
441 originally built for the residents to walk into but they can look at it. Councilor Butler said Mr.  
442 Moynihan came to the Heritage Commission and he is working with the Planning Board on  
443 conceptual plans for the esthetic value of the buildings.

444

445 Councilor Freda said at the last Planning Board meeting there was a conceptual discussion  
446 regarding a distribution facility at Pettengill Road. It has an employee parking lot projected for  
447 450 employees

448

449 Town Manager Report –

450

451 Senior Affairs Director – Acting Town Manager/LPD Chief Hart said they have made a tentative  
452 offer to a person; pending background that person will be introduced to Council at the August  
453 meeting.

454

455 Town Manager Search – We have some final interviews planned. If a decision is made  
456 background checks will be done and an announcement will be made at the August meeting

457

458 Police Department Personnel Change Update – Acting Town Manager/LPD Chief Hart said we  
459 are in the process of hiring 2 more certified officers. They changed the hiring procedure slightly  
460 by hiring only certified police officers. He explained they like to train police their way, They  
461 had a hiring process, and they anticipate a couple of personnel leaving within the this fiscal year.  
462 They are hiring two new police officers to replace the ones leaving.

463

464 Town Clerk Tax Collector Update - he stated he is looking at a few options, hopefully at the next  
465 meeting they can talk about a potential re-organization. The idea is to have more efficient  
466 management, more efficient delivery of service to our citizens at a taxpayer savings. They are  
467 looking at making some hourly changes by 9/1 in the Town Clerks Office by closing at 4:45  
468 This will allow staff to finish their work by 5:15.

469

470 The Building Dept. has been working with the Impact Fee Auditors; there has been a strong  
471 uptick with building permits. Beginning on 8/7 they will be closing on Wednesdays so they can  
472 get caught up on their work. There will be a major blitz about this. In the long term it will  
473 provide more efficient service going forward.

474

475 He passed out the tentative draft of the budget schedule; budget information will be due to the  
476 Finance Director in 10 weeks. Councilor Freda said the Deliberative Session will again be on a  
477 Monday night, we were looking into changing it to maybe a Friday or Saturday night. Acting  
478 Town Manager/LPD Chief Hart said he can look into it.

479

480 PSNH Transmission Line “Thermal Uprate” Project – He explained that they started construction  
481 and will be doing the work over the next 6 months.

482

483 Councilor Green thanked Vice Chair Tom Dolan for leading the meeting and wished him a  
484 Happy “30<sup>th</sup>” Birthday.

485

486 Board/Committee Appointments/Reappointments –

487

None

488

### ADJOURNMENT

489

491 **Councilor Freda made a motion to adjourn at 9:28PM, second Councilor Butler. Councils**  
492 **vote 4-0-0.**

493

494

495 **Notes and Tapes by:**

Margo Lapietro

**Date: 07/15/13**

496

497 **Minutes Typed by:**

Margo Lapietro

**Date: 07/19/13**

498

499 **Approved by:**

Town Council

**Date:**

500

### **Londonderry Business Consortium**

*2nd Thursday / Month @ Coffeeberries*

This group of member and non-member businesses meets regularly to identify business issues unique to Londonderry. Through seminars, events and discussions the group works together to develop a support system and corporate resources for all business owners living and/or working in the Town of Londonderry, NH.

### **Londonderry Meet the Business**

The first Londonderry Business focused event was held on March 28<sup>th</sup> at the YMCA of Londonderry. 15 businesses participated and several members of the community visited.

### **Professional Development Seminars**

Approximately every other month we bring a business education topic to the Londonderry Community to help keep interested parties up to date on technologies, business practices, networking and legal matters. Tomorrow we have a workshop hosted by Prudential Verani, facilitated by Grapevine Marketing on the *Power of Email Marketing*.

### **Brown Bag Lunches**

A format that has been successful with other area town (Derry & Windham) we are looking to further engage town officials and local business owners for an informal discussion on business topics and economic development trends on a regular basis.

#### Board Diversification

- Marie Brownell
- Lisa Fitzgerald
- Seth Fragala
- Nancy Michels
- Lauren Neves
- Bill Parnell
- Bonnie Roberts
- Bernie Ross

Harvest Festival – October 19th