

LONDONDERRY TOWN COUNCIL MEETING MINUTES

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 Service, 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.

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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.

PUBLIC HEARING

63
64
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

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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.

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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

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Gerry&Claudet Adams <adams.claudet1@gmail.com>

Noise Complaint

1 message

Kevin Smith <ksmith@londonderrynh.org> Mon, Jun 22, 2015 at 9:28

AM

To: 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

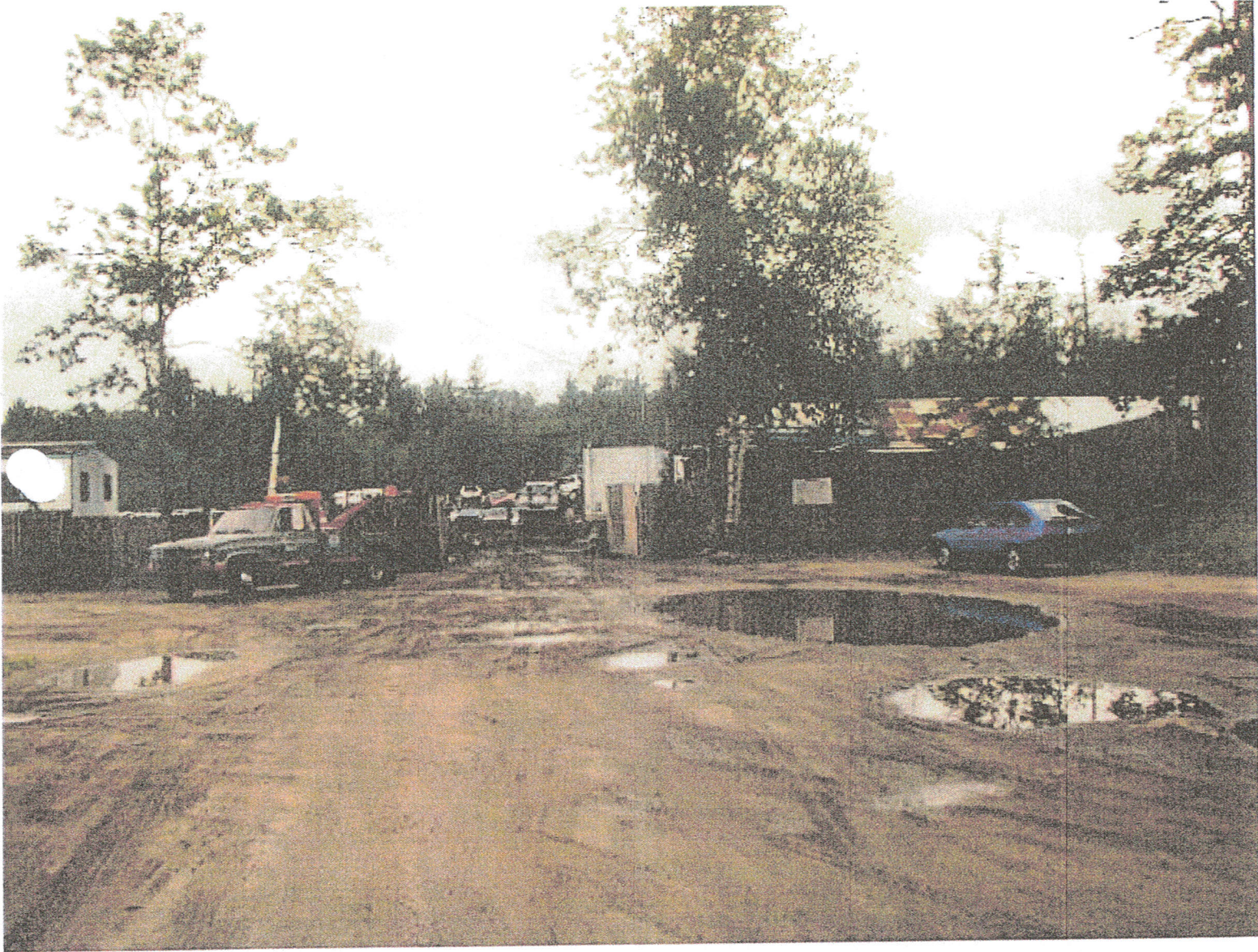
To: Richard Canuel

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



021701
1:35 P
J. Paul

November 1994



**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. 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.

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And