

LONDONDERRY TOWN COUNCIL MEETING MINUTES

1 **April 3, 2017**

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

4
5 Present: Chairman Tom Dolan; Vice Chairman John Farrell; Councilors Joe Green and Ted Combes;
6 Town Manager Kevin Smith; Assistant Town Manager Lisa Drabik and Temporary Executive Assistant
7 Stacie Street; Absent: Councilor Jim Butler.

8
9 **CALL TO ORDER**

10 Chairman Dolan called the Town Council meeting to order at 7:01 PM. Chairman Dolan led the Pledge
11 of Allegiance. This was followed by a moment of silence to honor those in uniform, here and abroad.

12
13 **PUBLIC COMMENT**

14 Kerri Stanley, 112 Hardy Rd, started by congratulating both Councilors Joe Green and Ted Combes on
15 their newly elected positions to Town Council. Mrs. Stanley directed her 2-part question to Vice-Chair
16 Farrell, questions she felt had not been previously answered. Chairman Dolan reminded Mrs. Stanley that
17 it is customary for all questions to be directed to the Chair and then Chairman would distribute them
18 accordingly. Her question was; "If a tie vote is equivalent to a defeat, can you tell us what your motivation
19 was in calling for a point of order for a revote in the March 8th Planning Board hearing regarding the
20 MacGregor's Cut development?" and the second part of the question was, "Who has the authority to even
21 call for a re-vote other than the members of the Planning Board, assuming that they have that authority?"
22 Chairman Dolan turned over the question to Vice Chairman Farrell. Vice Chairman Farrell referred to his
23 motion/mention of a point of order. All Chairs of all Committees can deny any point of order. A point of
24 order is traditional, usually in Robert's Rules. He stated that you can bring up a question by bringing up a
25 point of order. He pointed out that it is up to the Chairperson of that Committee to either recognize, or not
26 recognize that point of order. To answer the second part of Mrs. Stanley's question, Vice Chair Farrell
27 said that a tie does not amount to a defeat, what it means is that there needs to be a motion made to either
28 deny or not deny... or they would need to move to another meeting, the next meeting or they need to have
29 the option of moving to an odd or even number of voters. He stated that almost no developer goes forward
30 with an even number of voters. Vice Chairman Farrell stated that he made the recommendation for the
31 Planning Board chair to decide what they wanted to do, because he felt that the people in the room
32 deserved an answer. Mrs. Stanley asked again, "A tie vote doesn't defeat a motion?" Chairman Dolan
33 replied, "A tie vote means it doesn't pass." Town Manager Kevin Smith interjected, "It means the motion
34 doesn't pass." Chairman Dolan suggested that what would have been proper was for the Board to ask for
35 a motion to defeat the matter that was before them. Kerri Stanley said people had been asking and she
36 wanted to understand how it worked. She thanked the Council for their answers.

37
38 Deb Paul, 188 Hardy Rd, wanted to understand that if the Planning Board votes to leave the vote the way
39 it is, what will the town do to defend the position of the board? If the Board votes to let the vote stand, to
40 still deny The McGregor Cut Developer, what will the town do? Chairman Dolan suggested there had to
41 be hypotheticals made. What would the developer do? He might do nothing...or turn his attention
42 elsewhere... or take legal action. Chairman Dolan said if the developer took legal action, we would need
43 to speak with our town lawyer to decide what is appropriate. Ms. Paul stated that she wanted to understand

LONDONDERRY TOWN COUNCIL MEETING MINUTES

44 the process before Wednesday's Planning Board meeting. Chairman Dolan spoke to the point, making
45 hypotheticals, stating that the Town had no legal responsibilities at this point because no action had been
46 taken. Ms. Paul asked if the Town Council would support the Planning Board no matter what they decided
47 to do? Ms. Paul stated that she didn't feel as though the citizens of Londonderry should have to suffer
48 because of a poorly constructed ordinance written by people who no longer work for the town. Vice
49 Chairman Farrell stated that as a Town Council, they took a stand on this project and that they were
50 separate from the Planning Board, he commented that the Town Council has been very clear about where
51 they stand in regards to this project. Chairman Dolan then stated that the Town Council does not advise
52 the Planning Board, or the ZBA, they all have their own processes they follow but they would offer legal
53 advice. He also mentioned that the Planning Board and the Town attorney would consult if legal issues
54 are brought up. This would be done in a non-meeting with legal counsel. Ms. Paul stated that she wanted
55 to be able to tell people that if it was voted for, what the next steps would be for residents to make in order
56 for their voices to be heard. Chairman Dolan referred to timing of when this Ordinance was submitted,
57 and how they are grandfathered under the old Ordinance. Chairman Dolan stated that the old Ordinance
58 was fixed but in legal fairness, they are entitled to proceed with their offering to the town based on the
59 date of their old Ordinance. Moving forward, Ms. Paul asked what their responsibilities as citizens were.

60 Vice Chairman Farrell stated as an example, if the Planning Board approves the Ordinance, it can be
61 appealed within 30 days to Superior Court. Given grounds, a citizen or an abutter can appeal. If the
62 Ordinance is defeated, the developer has the same right and can challenge our grounds for denial. Speaking
63 for himself, Vice Chairman Farrell stated that if the Planning Board received good advice and vigorously
64 defended their position, he would support them doing so. Ms. Paul stated that her question had been
65 answered but asked a follow-up question to clarify her understanding of whether or not the Council would
66 suggest getting someone with expertise in this area, another lawyer or is the town lawyer depended on?
67 Vice Chairman Farrell stated that different attorneys can be brought in but could not say whether or not
68 that would happen in this case. Chairman Farrell added that it would depend on a few things. 1. The
69 attorney's work load (we are not his only client). 2. Expertise. 3. The merits of the case. Deb Paul restated
70 that her reason for asking these questions were to have answers to the many phone calls and e-mails she
71 receives about the situation. She then stated that her biggest worry, if the decision is over turned, what, if
72 anything, can the Town Council do to help the citizens to ensure their safety. Can the Council intervene?
73 Vice Chairman Farrell added that Mike (town lawyer) is a litigator and they have never had a conversation
74 about what the Council can and cannot do. Chairman Dolan inserted that the Town Council needs to be
75 aware of their stance as appeals are brought to them on certain issues and if the Council has already
76 declared a position, it contaminates their ability to hear the appeal. This is the reason the Council does not
77 often take a more aggressive stance on certain topics. Chairman Dolan said there are 2 ways this could
78 change; The Planning Board could reconsider their vote or it could go to court where the judge decides.
79 Either party, if unsatisfied with the result, could bring this to court. Ms. Paul confirmed that it is up to the
80 citizens to take this to court if the vote is changed and the development is approved. Chairman Dolan
81 confirmed. Vice Chairman Farrell stated what the Council has done so far. It was suggested that the town
82 purchase the land. That was denied. He referred to doing a ballot, as was done with The Nevins. He said
83 building Town Houses was suggested and the developer stated that is not the business they are in. Selling
84 to another developer was also suggested and denied. Vice Chair Farrell said every scenario given to the
85 developer suggested that the development not be built. Ms. Paul then recalled how upon receiving a
86 certified letter, as an abutter, to attend a meeting with the developer where the details were discussed. She
87 mentioned a few other residents were there. After making alternate suggestions for what could be done in
88 that area, the developer stated he was only at the meeting because Art Rugg told him to be there and that
89 the development was not going to change. Deb Paul stated that she wanted to share this so that the Council

LONDONDERRY TOWN COUNCIL MEETING MINUTES

90 would understand where the animosity was coming from. Chairman Dolan shared that a few weeks ago a
91 small team was put together to approach the developer with alternative purposes for that property. This
92 was separate from the Planning board as their role is different. The Planning Board's role is to evaluate
93 plans to see if they are in compliance with our rules and regulations. The Planning Board does not take
94 community preference into account, their job is much more black/white, rules are met or they are not.
95 There is opinion in there. You do not meet the roles in the Planning Board's opinion, then approval is
96 denied. Approval is granted, if rules are met, regardless if the Planning Board does not like it. Deb Paul
97 stated that she feels bad for the people who don't understand the process and have no voice. Vice Chairman
98 Farrell Told Ms. Paul that our town attorney was instructed to go to their attorney and get a number to go
99 to the voters with, to take it to vote. Giving a number was refused. Ms. Paul suggested that a voice should
100 have been given at the Zoning Board level, when realtors were brought in but at that time she felt as though
101 what the people were saying had no validity. Vice Chairman Farrell referred to the original Ordinance that
102 Tim Thompson had written stating it had been fixed and now had the perimeters for the financial piece
103 that the state had to have. He stated that it was unfortunate that the right ordinance got denied. Ms. Paul
104 was trying to be very clear in her understanding of the process so in the future people know what they can
105 and cannot do and where they should be getting involved. Vice Chairman Farrell explained that
106 Ordinances come up through the Planning Board and there is a Public Hearing, and that is where they
107 need to get involved. Ordinances get changed in Public Hearings. Deb Paul asked if Planning Board
108 Ordinances come to Town Council and Chairman Dolan replied. He stated that Town Council approves
109 Ordinances and makes changes to them. Chairman Dolan continued with stating that the Planning Board
110 has the expertise in what changes need to be made and they will propose the changes and the Council will
111 either agree or not agree and make modifications if needed. Chairman Dolan reflected on the process of
112 Ordinance changes from +/- 20 years ago and how all the Ordinances would be voted on in a town meeting.
113 Chairman Dolan agreed that the Council typically relies on the Planning Board and their recommendations
114 for the correct path but there have been times when the Council has done differently than the Planning
115 Board recommends. Ms. Paul stated that her biggest concern is the traffic over there... suggesting it is
116 ridiculous and there needs to be a four way stop. She commented that a young child was inches from being
117 hit while walking to the bus and that something has to be done before someone gets killed (again). Deb
118 Paul thanked the Council for their time.

119
120 At this time Kevin Smith offered that prior to the Ordinance being changed, the town had the workforce
121 housing units on Mammoth Road being built, then the Wallace Farm (240 workforce housing) 50%, then
122 the Stonehenge came in the pipeline... then the ordinance was changed. Since then, there have been no
123 applications for workforce housing. This is not because it is not allowed (because we do in accordance
124 with the law) it is just more restricted now. Ms. Paul said she understood and thanked the Council once
125 more.

126
127 Tiffany Richardson, 10 Raintree Drive. Ms. Richardson stated she missed the Traffic Safety Committee
128 Meeting. Chairman Dolan stated there was a scheduling issue on when the meeting was going to happen
129 and apologized for the error. Ms. Richardson had a question in regards to the North School "school zone,"
130 was there an update about signage? Town Manager Kevin Smith offered an update. He stated that it should
131 be noticed that the 2 flashing speed limit signs that were once in the area of the Town Hall/High
132 School/Middle School have been moved up to the North School Area. More signs have been ordered to
133 replace the moved signs. Town Manager Smith stated that the school district is currently waiting on quotes
134 for the flashing school zone beacons. One sign will be added going North bound and the south bound one

LONDONDERRY TOWN COUNCIL MEETING MINUTES

135 will be upgraded so that it has 2 flashing beacons. The signs should be installed before the end of the
136 school year, and running before the start of the 2017-2018 school year. Next, Town Manager Smith stated
137 that the DOT installing one flashing yellow beacon on top of their traffic intersection sign, when
138 approaching North bound. With the passing of the rail trail, an added enhancement will be the new
139 pedestrian beacon will also be installed, also likely before the end of the year. Town Manager Smith stated
140 that there will be a lot of new ways to get people's attention to slow down up there. Miss Richardson
141 thanked the Council for all they do.

142

143 There were no more comments from the public, Chairman Dolan offered a few announcements. In regards
144 to the Fire Communications System that was voted on at the last election, there was a recount. It had to
145 have a 60% voter approval to pass because it was attached to a bond. It lost by about 30 votes. After the
146 recount, it still lost, by about 25 votes. There was some slight change but not enough.

147

148 Chairman Dolan then stated that many people have been asking about the Drop-Off Center. The Drop-Off
149 Center will be open this Saturday, April 8th from 8-4. All the same rules from last year apply, the town
150 web-site can be used for questions about what is accepted, not accepted and what the fees are.

151

PUBLIC HEARING

152

None.

153

154

OLD BUSINESS

155

None.

156

157

NEW BUSINESS

158

159 Chairman Dolan suggested we do New Business out of order, beginning with the Town Manager's
160 appointment of Tax Collector, Deputy Town Clerk and Deputy Tax Collector. Town Manager Smith
161 stated it was customary to reappoint annually. It was requested that the Council reappoint Kathleen
162 Donnelly, 29 Rainbow Drive, as Tax Collector for the Town of Londonderry, compensation \$55, 714.57
163 to be valid no longer than April 3, 2018. Vice Chairman Farrell Approved. Second Councilor Green.
164 Approved 4-0-0. Town Manager Smith stated that he was also looking for approval, as both the Town
165 Clerk and Tax Collector appoint their Deputies. Town Clerk, Sherry Farrell would like to appoint
166 Kathleen Donnelly as Deputy Tax Collector and Kathleen Donnelly would like to appoint Diane Demers
167 as Deputy Tax Collector. Councilor Joe Green Approved. Second Councilor Combes. Vice Chairman
168 Farrell abstained. Approved 3-0-1.

169

170 Chairman Dolan introduced Order #2017-08, An Order Relative to the Expenditure of Capital Reserve
171 Funds for Highway Trucks and Equipment. Town Manager Kevin Smith presented as Janusz was
172 unavailable. The Order is for regularly scheduled vehicles and equipment. The first is for snow and ice
173 removal equipment (spreader, hydraulics, plows, sensors) and the second is a 6 wheel truck with optional
174 extended warranty. Money would be taken out of the Capital Reserve in the amount of \$152,189.00. A
175 motion to approve Order #2017-08 made by Vice Chairman Farrell and second by Councilor Green.
176 Approved 4-0-0.

LONDONDERRY TOWN COUNCIL MEETING MINUTES

177 Chairman Dolan introduced Order #2017-09 – An Order Relative to the Expenditure of Maintenance
178 Trust Funds for Various Projects. Steve Cotton presented. This order is for winter maintenance of town
179 property in the amount of \$5,655.00. Councilor Joe Green made a motion to approve. Vice Chairman
180 Farrell second. Councilor Ted Combes interjected that the invoices are hard to read. Mr. Cotton stated
181 that his copied were legible. Councilor Combes referred specifically to the Green Magic invoice.
182 Councilor Green agreed that there is concern because the dollar sign looks like a 5, which causes the total
183 amount to be different. Councilor Combes suggested the order be held until the next meeting. Mr. Cotton
184 was able to present the original invoice. Total amount is confirmed correct. No further discussion.
185 Approved 4-0-0.

186
187 Chairman Dolan introduced Ordinance #2016-07A – An Amendment to Ordinance 2016-07 Relative to a
188 Restriction on Outside Water Use. Chairman Dolan offered an edit. On page 1, under the first “whereas”
189 about 6 lines down, the word should read “fine” and not “file.” Given this edit, Chairman Dolan would
190 like to receive a motion to waive the first reading and schedule a public hearing on Ordinance #2016-07A
191 at the next meeting. First motion made by Vice Chairman Farrell and second by Councilor Green.
192 Approved 4-0-0.

193
194 Public Hearing is scheduled for April 17, 2017. At the next meeting, public questions will be taken.
195 Chairman Dolan stated that this Ordinance refers to outside water use and if it is approved, it will modify
196 the restriction to an even/odd day restriction as opposed to a total ban which is what we currently have.

197
198 Chairman Dolan introduced Order #2017-10 – An Order Relative to the Distribution of Fire Equipment
199 Capital Reserve Funds. Chief Darren O’Brien presented. Chief O’Brien stated that the order was
200 requesting \$16,411.00 to replace firefighter’s turnout gear. Each firefighter has 2 sets of gear, shelf life is
201 10 years. Chief O’Brien reminded the Council of the tanker crash on Route 28, where gasoline was
202 spilled, and many firefighters had their gear contaminated. The Chief explained that the insurance
203 company from that crash paid the town for that lost gear and that money was put back into the operating
204 budget which is reflective of invoice being split. Chief O’Brien stated that the Global turn-out gear was
205 manufactured right in NH and it was the best price available for that gear. Every 3 years a committee
206 studies the options for new gear. Councilor Green asked about the gear not requiring 3 quotes and Chief
207 O’Brien stated that the fire department revisits vendors once every 3 years and that this year they will
208 begin the process. Vice Chairman Farrell motions to approve Order #2017-10. Councilor Combes second.
209 Approved 4-0-0.

210
211 Chairman Dolan inquired about whether or not the open Board positions should be advertised and pulled
212 from the current Talent Bank forms. Town Manager Kevin Smith stated that Stacie Street had already
213 advertised for it so he recommended letting the advertisement run to see if any new applications come in
214 and they can all be pooled together. Chairman Dolan stated that one current applicant is already sitting on
215 the Heritage Committee and that is a violation of a statute. Anyone wishing to sit on the Planning Board,
216 would need to resign from the Heritage Commission and vice versa. Chairman Dolan stated that at the
217 next meeting they would bring this up again.

218
219 Returning to item #1 under New Business, the discussion of a Veteran’s tax credit. As a reminder,
220 Chairman Dolan stated that the Town Council took this up as an issue last year. Currently there is a \$500

LONDONDERRY TOWN COUNCIL MEETING MINUTES

221 tax exemption that Veterans can take if they qualify with certain service requirements. The process is
222 complex, the tax collector goes through and checks the inclusive dates and if you are a Veteran and you
223 served in those dates, you may take the tax credit. Chairman Dolan stated that they were looking at ways
224 to account for how many people would take the credit under the new state guidelines, as it would affect
225 the town revenues, as they would be unpredicted. Chairman Dolan said they were trying to determine
226 how this could be handled, by offering a smaller tax credit at the start and phasing it in over 2-3 years,
227 this will be allowed with the new changes to the tax credit law. Chairman Dolan stated that this Council
228 will be faced with the decision of allowing the tax credit to other Veterans and at what rate. He also stated
229 that decisions made from previous Councils do not bind the current Council. He said to stay tuned and it
230 will be discussed when legislation passes. Councilor Green suggested to Council Chairman that this be
231 brought up again at the May 1st meeting as a check in so it doesn't get forgotten. Councilor Combes
232 asked Town Manger Smith if he knew when legislation would be finalized. Town Manger Smith replied
233 that it has passed the Senate and is currently in the House Committee right now. All House Committees
234 probably have to be out by the end of April. He also stated that if it passes with an amendment then it has
235 to go to a conference committee but otherwise if the House passes it as it came out of the Senate then it
236 could go right to the Governor's desk. Town Manager Smith suspected it would be finalized sometime in
237 May.

238
239 Deanna Mele, 8 Valley Street. Unfamiliar with procedure, she was unaware she should have spoken up
240 during public comment. She is a veteran, served during peace time, has lived in Londonderry for 45 years
241 and has never received a tax exemption. She stated that last year during tax season, she called a Councilor
242 and suggested doing a survey to see how many people in town would be eligible for this exemption. She
243 also asked in the Clerk's Office and Assessor's Office. She stated a survey was not done. She also stated
244 that if the exemption was going to be "pittance" she suggested not doing one at all. Councilor Dolan
245 thanked Ms. Mele for her comments.

246

247

APPROVAL OF MINUTES

248

249 Approval of Town Council minutes from March 20, 2017 made by Councilor Green and second by Vice
250 Chairman Farrell. Councilor Combes abstained. 03/20/17 Minutes Approved 3-0-1.

251

252 Approval of Town Council Organizational minutes from March 27, 2017 made by Vice Chairman Farrell
253 and second by Councilor Green. 03/27/17 Minutes Approved 4-0-0.

254

255 Chairman Dolan offered editorial comment in regards to recent e-mails about the Town Council minutes.
256 He stated that if anyone had concerns about the minutes they should know all minutes are recorded and
257 also kept with a DVD transcript so there is a very good record kept.

258

259

TOWN MANAGER REPORT

260 Town Manager Kevin Smith stated that last week National Grid announced a proposed project, "Power
261 Link" that upgrades existing power lines from Vermont through central and southern New Hampshire,
262 going through Londonderry. Town Manager Smith stated that National Grid did a press release along a
263 small map, both have been posted on our town web-site to review.

LONDONDERRY TOWN COUNCIL MEETING MINUTES

264 [http://www.londonderrynh.org/Pages/LondonderryNH_TownNews/I02550463.1/GSPL%20Press%20Rel](http://www.londonderrynh.org/Pages/LondonderryNH_TownNews/I02550463.1/GSPL%20Press%20Release.pdf)
265 [ease.pdf](http://www.londonderrynh.org/Pages/LondonderryNH_TownNews/I02550463.1/GSPL%20Press%20Release.pdf)

266 He explained there would be a proposed switching station in Londonderry. Town Manager Smith met
267 with officials from National Grid and was told that all of the work to be done, would be done in their
268 existing right of ways with the upgrade of their transmission towers with the addition of some possible
269 new towers on the outside of the right of way. Town Manager Smith stated that this is all a preliminary
270 and he requested that National Grid put together a map of the current right of ways and where they would
271 be proposing the new towers. Chairman Dolan asked if that information would be on the web-site and
272 Town Manager Smith said it would be once he has it. Town Manager Smith also stated that once National
273 Grid has this updated information they will give a presentation at a Town Council meeting in May and
274 community meetings will start shortly thereafter.

275

276

ADJOURNMENT

277 Chairman Dolan shared that the next 2 meetings will be on April 17 and May 1. He then accepted a
278 motion to adjourn made first by Councilor Green and second by Councilor Combes. Approved 4-0-0.
279 Meeting adjourned at 7:56 PM.

280

281

282	Notes and Tapes by:	Stacie Street	Date: April 3,2017
283	Minutes Typed by:	Stacie Street	Date: April 4, 2017
284	Approved by:	Town Council	Date: April 17, 2017