

TOWN OF DERRY

**Town Council
Derry Municipal Center**

**February 18, 2014
Tuesday - 7:30 PM**

Collective Bargaining Strategy Session *(not open to the public)*

Call to order 7:30 PM

Pledge of Allegiance, warning of fire exits, handicap access, & turn off all cell phones

Roll Call: Councilors Osborne, Dimmock, Benson, Wetherbee, Katsakiores and Chairman Fairbanks (Councilor Cardon absent)

Due to the weather, Councilor Osborne moved to adjourn the meeting, seconded by Councilor Dimmock

**Vote: 2-4-0 (Councilors Benson, Wetherbee, Katsakiores and Fairbanks)
Failed**

Consent Agenda

- 14-13** Approve Special Meeting Minutes – January 28, 2014
- 14-14** Approve Meeting Minutes – February 4, 2014
- 14-15** Approve Economic Development Workshop Minutes – February 4, 2013
- 14-16** Schedule Public Hearing – March 4, 2014 – Establish Adams Memorial Building Capital Project Fund and approve Supplemental Appropriation of \$130,000 from the Public Works Capital Reserve Committed Fund Balance for capital improvements, including structural repairs, to the Adams Memorial Building
- 14-17** Schedule Public Hearing – March 4, 2014 – Apply for New Hampshire Highway Safety Agency Grants for DWI Patrols, Pedestrian Enforcement Patrols, Red Light Enforcement Patrols & Speed Enforcement Patrols

Accepted as Written

Chairman's Report –

- Chairman Fairbanks asked if the Council wanted to take any action on the "House of Homeless" letter they received. No action.
- Announced that at the first meeting in April the Town Council would be appointing members to the Boards and Commissions. If anyone has an interest, they should apply with the Town Clerk. He then listed the open positions.

Melanson & Heath Audit Presentation

Scott McIntire, Melanson & Health – The audit went smoothly and everything was on a timely basis. They did not have to propose any audit entries. .

CAFR report opinion begins on page 17. Mr. McIntire summarized the opinion as the Town's financial statements are totally in accordance with generally accepted accounting principles for local governmental entities here in the US.

MDA (management discussion and analysis) which is a resource to go back to, to understand why certain key accounts balances changed throughout the fiscal year. There is a long term perspective financial statements on page 39. On page 42 is the General Fund balance sheet. The Unassigned balance is \$11.3M. Only recommendation is to improve internal controls at the Transfer Station. There was an examination performed at the Transfer Station and recommendations are being looked at for implementation.

Town Administrator's Report –

***** 2nd Quarter Financial Report

Janice Mobsby, Controller – highlighted the balance sheet stating there is an increase of \$7M from the prior year due to unspent bond and lease proceeds of \$3.5M and favorable budgetary results for FY13. The cash flow impact is due to timing of a payment to the school district temporarily impacts high cash balances as of 12/31/13. Unpaid property taxes levied for the current year decreased \$115,000 to \$3.4M reflecting successful collection of a large property tax levy.

Unpaid tax liens decreased by \$57,000. Other outstanding receivables of \$273,000 were \$156,000 lower than the prior year. Capital assets, net depreciation increased \$33,000 over the prior year. The Town's investment in capital assets exceeded annual depreciation in the several categories (roadways, vehicles, land & building, bridges & sidewalks, etc.). New investments in capital assets valued over \$10,000 during the past quarter include; Rockingham Rd & Bridge, 3 Vehicles, Don Ball Pavilion (donated) and other various assets. Fund balance totals \$140.6M; \$8M lower than the prior year. There are increases in Compensated Absences and OPEB liabilities, and restatement of capital assets as state vs. town owned and use of fund balances to stabilize the tax rate. The Unassigned general fund balance totaled \$11.3M, a \$2M decrease over last year. They are moving the money from Unassigned to Committed which is where the Capital Reserve money so that it will be available to fund Capital future projects.

Frank Childs, CFO – stated there was a Finance Committee meeting this afternoon prior to this meeting with the Town Council. The plan for the 3rd Quarter is to have a Finance Committee meeting on May 20th and bring results to the Council on the same day. He reviewed the revenue stating there are no uncommon issues for this time of the year. However the snow & ice removal budget will be over expended. There is a capital reserve fund for snow & ice if necessary after the Public Works budget is exhausted.

Councilor Osborne – asked in preparing the budget is it looking to be level funded? Larry Budreau gave overview of budget process and stated he is operating under the assumption that the Council wishes to continue the same level of services and the object of the budget preparation is to present a budget which will afford us to continue those services. Frank Childs stated the budget will be delivered to Town Council on April 1st.

Chairman Fairbanks stated that one of the Town Council goals was to look at deficiencies in town government and looking for key points to be explained by departments. He is asking for some feedback from the Councilors. Councilor Osborne

would like to look at overtime costs.

Councilor Wetherbee asked Mr. Childs what the tax cap number was for this year. Mr. Childs replied he believes that it is 2.1%.

Councilor Osborne asked what is the highest cost spent in the town? Mr. Childs replied there is a graph in the approved budget. It is clearly personnel and healthcare benefits.

Mr. Budreau and Mr. Childs will be presenting to the Planning Board Wednesday, February 19th the submission of the CIP for 2015-2020.

Old Business –

Councilor Osborne asked if the public forum could be moved after this item.

14-05 AT&T Cell Tower Site Lease Proposal

Mr. Budreau stated that the cost to have counsel review the agreement would be approximately \$1,000.00 - \$1,200.00.

Mr. Nestor, AT&T representative - stated that AT&T is investing heavily in networking. They are investing in a number of sites in Derry at this time. This would have to go to Zoning Board of for review. This site meets propagation needs. The impact to the surrounding area is minimal. The tower would be in the woods.

The Derry Town Council authorizes the Acting Town Administrator to, upon Derry Counsel review, execute an "Option and Lease Agreement" and any other documents related to said agreement inclusive of any editorial revisions recommended by counsel, with New Cingular Wireless PCS, LLC for +/- 2, 500 square feet of land upon 36 Tsienneto Road. Such approval is conditional upon New Cingular Wireless obtaining approvals from the Derry Zoning Board of Adjustment and Derry Planning Board.

Motion by Councilor Wetherbee, seconded by Councilor Benson

Discussion

***Amend to include in the legal agreement any legal fees that are incurred by the Town of Derry and the existing conditions as laid out in the agreement.
Motion by Councilor Wetherbee, seconded by Councilor Benson**

Councilor Osborne asked for the Council to vote on the amendment separately.

Move to vote on the amendment as stated above

Roll Call Vote: 6-0-0

On amendment and original motion

Vote: 3-3-0 (Councilors Benson, Osborne and Fairbanks)

Failed

Motion to move to Public Forum by Councilor Osborne, seconded by Councilor Katsakiores

Vote: 3-3-0 Failed (Councilors Wetherbee, Fairbanks & Benson)

14-10 Approve Professional, Administrative & Technical
Employees Collective Bargaining Agreement

Larry Budreau – gave a 50 minute detailed presentation of this bargaining agreement and facts relating to the employees of this union.

Mr. Budreau stressed three points

1. RSA 273-A Negotiate in good faith
2. Employees are an important asset
3. This is a good deal for Derry

Mr. Budreau reviewed the goals set out by Council in these negotiations and all goals have been met within this agreement. He gave information on how each goal was obtained and the importance of the members of this union. He asked the Council to approve this agreement.

Move that the Derry Town Council approve the collective bargaining agreement between the Town of Derry and Professional, Administrative & Technical Employees of Derry SEA of NH, Inc, SEIU Local 1984 from February 23, 2014 to June 30, 2017 and authorize the Acting Town Administrator to sign the Agreement on behalf of the Town of Derry.

Motion by Councilor Wetherbee, seconded by Councilor Benson

Councilor Osborne motioned to postpone this vote until next Town Council meeting for more time to digest the information provided by Mr. Budreau. No second heard on this motion. Seconded by Councilor Dimmock

There was discussion on whether this vote could be postponed as it had been tabled to this meeting from a previous meeting held on February 4, 2014.

However there was already a motion on the floor. Councilor Osborne's understanding of the Robert's Rules and Town Rules is that a postponement takes precedence over a motion. It was disagreed upon. Chairman Fairbanks began researching Robert's Rules. Mr. Budreau read from the Town Council's rules. The vote to table could be taken.

Councilor Osborne was unsettled by the fact that the audience could not have input on this contract.

Vote: 2-4-0 (Councilors Benson, Wetherbee, Katsakiores and Fairbanks)

Failed

Councilor Osborne made a Charter Objection stating he does not feel there would be a balanced debate. He cited Section 5.9 Derry Town Charter and the fact that the public could not give input to this item due to the lack of the public forum being placed at the end of the meeting.

Debate continued over the rules and the definition of the citation in the Town Charter. Councilor Osborne appealed the Chairman's decision that a Charter Objection does not apply. Roll Call Vote: Agree 2 Disagree 3 Order stands

Councilor Wetherbee asked to move the question.
There were comments on "Conflict of Interest" within a member of the Town Council for this vote.

**Motion to approve item #14-10 Vote: 3-2-1 (Councilors Osborne, Dimmock)
(Councilor Katsakiores abstained)**

Councilor Osborne moved to Open Public Forum, seconded by Councilor Dimmock

There was discontent in the discussion regarding town business vs. public forum. Improper remarks were made before and during the forum.

Public Forum Vote: 4-2-0 (Councilors Wetherbee, Benson)

Mark Flattes, Linlew Dr. – asked if there were any retroactive increases in the collective bargaining agreement. Mr. Budreau replied there were none. He then questioned where legal fees are in respect to the financial statement. Mr. Childs replied they were under Other Municipal Obligations.

Janet Fairbanks, Rose Ave – Asked how Mr. Budreau benefits from the acceptance of this union contract. She believes the increase is 4% for the first year in this contract. She continued to ask questions regarding the presentation made by Mr. Budreau. She then turned to the Chairman regarding Public Forum and asked why it was placed at the end of the meeting.

Dendra Abdinoor, Chester Rd – had questions and issues with clothing and cleaning uniforms in the PATE Contract. She also questioned longevity pay.

Harold Schnitzlien, Bayberry Lane – gave his experience as an employee and his loss of benefits during tough economic times.

Joshua Bourdon, Village Brook Lane – spoke on behalf of a young girl named Ava who recently was diagnosed with a rare brain cancer. A fundraiser will be held on March 8th on her behalf.

Mr. Wetherbee apologized for his comments about the Public Forum especially to Mr. Bourdon.

**Motion to adjourn as it was 10:00 p.m. was made by Councilor Katsakiores, seconded by Council Benson
Vote: 3-3-0 (Councilors Benson, Katsakiores, and Wetherbee)
Motion Failed**

Councilor Osborne made a point of order. He stated it was meant to cut off discussion.

**Motion to extend 10 minutes was made by Councilor Dimmock, seconded by Councilor Osborne
Vote: 4-2-0 (Councilors Benson & Wetherbee)**

Steve Trefethen – asked not to renew the contract for the Town's Counsel. He suggested the Town hire their own attorney. He also stated that Mr. Budreau's presentation on the union contract was a lot to digest. He is also interested in details of employees making over \$100,000 per year.

Close Public Forum

Meeting Adjourned 10:05 p.m.

13-122 Search for new Town Administrator

(The Town Council may, during this discussion, elect to move in to a non-public meeting in compliance with RSA 91A:3 Section II (b) The hiring of any person as a public employee or RSA 91A:3 Section II (c) Matters which, if discussed in public, would likely affect adversely the reputation of any person, other than a member of the public body itself, unless such person requests an open meeting. This exemption shall extend to any application for assistance or tax abatement or waiver of a fee, fine, or other levy, if based on inability to pay or poverty of the applicant.)

No action or discussion

New Business –

14-18 Waive 2012/2013 final tax bill balances

No action or discussion

14-19 Approve 2015 New Hampshire Highway Safety Grants Request ***No action or discussion***

14-20 Adams Memorial Building Project Update

No discussion

Council Requests / Open Discussion - None


Town Clerk


Date

Recording & Transcription by: Denise E Neale, Town Clerk
Reviewed & Correction by: Larry Budreau, Acting Town Administrator