

TOWN OF DERRY

Town Council
Derry Municipal Center

October 1, 2013
Tuesday - 7:30 PM

6:00 PM Consultation with legal counsel

7:00 PM Non-Public Session under RSA 91A:3 II (c)
Minutes sealed 7-0-0

7:30 Call to order

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 arrived at 7:35 pm

Consent Agenda

13-103 Approve Non-Public Minutes – September 17, 2013

13-104 Approve Minutes Meeting – September 17, 2013

Accepted as written

Chairman's Report –

***** Collective Bargaining Workshop – October 15, 2013

Councilor Fairbanks reminded the public of requested input on strategies for this workshop

***** Upper Village Hall Update

This has been rescheduled to 10/15/13. Councilor Benson provided Council a memo with information

***** Town Council & Planning Board Meeting –
December 3, 2013

Councilor Fairbanks sought to schedule a joint meeting in January as required by the Town Charter and inform the Planning Board ahead of time to send any goals or objectives to him for this workshop. Based on Council input, the meeting was pulled forward and scheduled for the first meeting in December.

***** New Hampshire Municipal Association Workshop –
Elected Officials

NHMA will provide a workshop on Conflict of Interest. This will be a 2–3 hour workshop. Larry Budreau will coordinate schedule.

Chairman Fairbanks attended the NH DOT 10 Year Highway Plan meeting. The Drew Rd Bridge is scheduled for 2019.

Town Administrator's Report –

The Dog Park was closed the week of September 23 for re-grading and reopened Monday, September 30.

- Rockingham Road project is ongoing and on schedule.

- Transfer Station extended summer hours will end on Wednesday, October 2.
- The last Farmers Market sponsored by the town was held on Wednesday, September 25. However, they will continue for the next four weeks and the market will be held at the Derry Feed parking lot on Manning St. Food vendors will need to be licensed as this event is no longer sponsored by the Town.
- The annual Town Auction is scheduled for Saturday, October 26. Items up for auction will be listed on the website
- Town owned DiFeo property will be getting cleaned up this fall. Progress was stalled until all 11 monitoring wells on the property were located.
- DPL has converted from oil to natural gas. The Library anticipates a 50% savings of heating fuel cost.

Public Forum – Councilors Dimmock/ Osborne 7-0-0

Open public forum

Vote: 7-0-0

Mark Flattes, Linlew Dr. – He asked if the NHMA workshop should be held off until after the next election for new councilors.

Close Public forum Councilors Dimmock/Osborne

Vote: 7-0-0

Councilor Wetherbee stated that invitations should be extended to other boards and commissions for the New Hampshire Municipal Association Workshop - Elected Officials. Mr. Budreau stated that he would also like the opportunity to address the boards and committee members on the subject of record retention at this workshop.

Public Hearings –

13-99 Municipal Water Rate Increase

Tom Carrier, Public Works Deputy Director, gave an overview of this request. This rate increase is due to an increase placed upon the town from Manchester Water Works. This will increase the annual average Derry water bill 1% from \$342.12 to \$346.25. With this increase Derry, will remain 30% lower than other communities. Without this increase, it will cause a shortfall of \$10,000 to the town's water budget.

Open Public Hearing Councilors Wetherbee/Benson 7-0-0

No public input

Close Public hearing Councilors Katsakiores/Osborne 7-0-0

Council Discussion:

Questions evolved around when the rate increase was received from MWW and when was the last increase? Mr. Carrier replied that the last one was back in March 2013 from MWW but prior to that there has not been one since 2007-2008.

Councilor Benson does not support this increase due to fact the increase is coming after the budget process. Mr. Carrier stated that the Town's budget workshops are in March/April and MWW board meets in June, which is after our budget session. Councilor Wetherbee agreed with Councilor Benson.

The Derry Town council, acting as the Water Commissioners, moves to amend the Derry Water Use Ordinance rates by increasing the Municipal Retail Water Rate from \$2.50 to \$2.53 per 100 cubic feet and the minimum quarterly base charge from \$23.03 to \$23.20 per living unit or commercial metered connection effective on all water used on or after December 1, 2013.

Motion by Councilor Osborne, seconded by Councilor Cardon

Vote: 0-7-0 (motion failed)

13-100 Accept grant for three portable radios from NH
Department of Safety

Chief Garone explained the use of this equipment and its value to the department.

Moved to open public hearing Councilors Wetherbee/Benson 7-0-0

Kelly Martin, Bayberry Lane – asked if the department has this capability now.

Chief Garone replied yes.

Moved to close public hearing Councilors Wetherbee/Katsakiores 7-0-0

Move to accept the grant of 3 portable radios and associated programming, valued at \$10,613.52, to the Derry Police Department from the State of New Hampshire and grant authority to the Town Administrator to execute all contracts or agreements associated with the grant.

Motion by Councilor Wetherbee, seconded by Councilor Benson

Vote: 7-0-0

New Business –

13-105 Appointment to Derry Housing & Redevelopment
Authority

Motion by Chairman Fairbanks to appoint Kristy Baillargeon as a five year member of the Derry Housing & Redevelopment Authority to expire on 3/31/2018, seconded by Wetherbee

Vote: 7-0-0

13-106 Appointments to Zoning Board of Adjustment

Motion by Chairman Fairbanks to appoint Heather Evans to a one-year term to expire 3/31/14 as an Alternate Member of the Zoning Board, seconded by Councilor Benson

Vote: 7-0-0

Motion by Chairman Fairbanks to appoint Susan Kopetz to a two year term to expire 3/31/15 as an Alternate Member of the Zoning Board, seconded by Councilor Wetherbee

Vote: 7-0-0

Motion by Chairman Fairbanks to appoint Ann Marie Chase to a three year term to expire 3/31/16 as an Alternate Member of the Zoning Board, seconded by Councilor Wetherbee

Vote: 7-0-0

13-107 Approve PRIMEX Three Year Contract Extension

Frank Childs, CFO, presented the Primex Cap program. The current property & liability, Workers' Compensation and Unemployment Compensation coverage will expire in June 2014. Frank recommended that the Town commit to an additional three years of coverage with Primex.

Move that the Derry Town Council approve the Primex Property & Liability and Workers Compensation Contribution Assurance program Agreements for the period July 1, 2014 through June 20, 2017 and authorize the Council Chair to execute the Agreements and the aforementioned Resolutions.

Motion by Councilor Wetherbee, seconded by Councilor Benson

Vote: 7-0-0 Resolution #1 & #2 (see attached)

13-108 Energy/Environmental Advisory Committee Presentation

Maureen Reno – gave an overview of the Energy efficiency policy created by a prior Town Council. This Board was established in 2009 and their mission is to promote energy conservation and efficiency, while also exploring ways to reduce carbon emissions among the town's residents. They have successfully worked with town administrators and staff on projects such as energy saving measures for the Taylor Library and Veterans Hall. This board provides lectures educating the public on how to reduce energy costs. The next one is at the Derry Public Library on 10/26/13 10am – noon.

This advisory board seeks to be involved in vehicle purchases and projects. They would like to be informed of new purchases or projects to give advice on RFP's. They are willing to host a workshop for the Town Council.

Councilor Cardon stated his frustration as board member in the past was based on the resolution that was made by that past Town Council and the advisory board has never been requested to give advice.

Council Requests / Open Discussion

Councilor Katsakiores wanted to recognize the Derry Village Rotary for building the pavilion at the Don Ball Park and to congratulate the Benson family for their 100 year Anniversary.

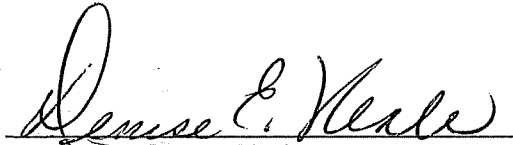
Chairman Fairbanks asked where the E911 mapping process is at. Mr. Budreau explained that Chief Klauber is away and will follow-up with him when he returns.

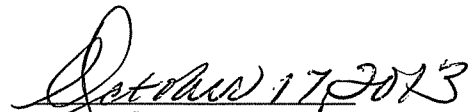
Councilor Katsakiores stated that she received an email from Mr. Burtis regarding the C.E.R.T program and was wondering if Chief Klauber could give a report on this program.

Councilor Dimmock – questioned DiFeo property issue? Mr. Budreau repeated his report from earlier.

Councilor Benson asked if there was an RFP or a marketing plan for the DiFeo property and has any timeframe been set so that the Council knows where they are at? Councilor Cardon stated that he would like to see the property developed into a park.

Adjournment 8:50 p.m.


Town Clerk


Date

Recorded & transcribed by Denise E. Neale, Town Clerk
Reviewed & corrected by Larry Budreau, Acting Town Administrator



Property & Liability Program
Contribution Assurance Program (CAP) Agreement
THIS AGREEMENT AMENDS AND EXTENDS YOUR MEMBERSHIP AGREEMENT
PLEASE READ CAREFULLY

Primex³ is offering members in our **Property & Liability Program** an opportunity to stabilize their annual contributions through participation in our **Contribution Assurance Program (CAP)**. CAP is offered to members who qualify, providing them predictability by limiting the annual contribution increase during a defined period of years (**CAP Period**). By signing this Agreement, you agree to extend your **Membership Agreement** for **three (3) years** and Primex³ agrees to guarantee that your annual contribution increase will not exceed seven percent (7%) of the prior year's contribution. Because performance matters with Primex³, you may realize an annual increase that is less than the CAP through sound risk management and stable underwriting exposures. The annual member contribution will be based upon your exposure base, members' loss experience, and the rates established each year by the Primex³ Board of Trustees.

We are offering this opportunity so that our members can extend their commitment to pooling through the Primex³ programs. Participation in CAP for each year of the CAP Period is conditioned upon a three-year commitment to participation in the Primex³ Property & Liability Program.

The following CAP Period years qualify for the Contribution Assurance Program (CAP):

FY 2015 July 1, 2014 to June 30, 2015
(maximum 7% increase over July 1, 2013 to June 30, 2014 contribution)

FY 2016 July 1, 2015 to June 30, 2016
(maximum 7% increase over July 1, 2014 to June 30, 2015 contribution)

FY 2017 July 1, 2016 to June 30, 2017
(maximum 7% increase over July 1, 2015 to June 30, 2016 contribution)

By signing this Agreement, the **Town of Derry** agrees to extend its risk pool membership and participation in the Primex³ Property & Liability Program for three coverage period years, through **June 30, 2016**. The **Town of Derry** agrees and understands it remains bound by and subject to the terms and conditions of the **Membership Agreement, Public Entity Coverage Documents and Trust Agreement, and all Trust by-laws, policies and procedures.**

The **Town of Derry** agrees that the seven percent (7%) maximum increase currently available for this CAP Period does not apply to any other year or period of years, and upon expiration of the CAP Period in this Agreement, any subsequent participation in a Primex³ CAP will be subject to underwriting review, membership criteria, CAP criteria, determination of contribution and the maximum increase in place for the subsequent CAP Period.

The **Town of Derry** further acknowledges that by extending its **Membership Agreement** for three (3) coverage period years, the **Public Entity Coverage Documents, General Conditions Section (L) ("Terminating Participation in Our Program(s)")** is suspended during year one (1) and year two (2) of the three (3) year term, as there is no right to cancel or terminate during year one (1) and year (2) but shall be reinstated for the end of year three (3).

Town of Derry
July 30, 2013

The Town of Derry agrees that failure to provide notice in strict accordance with the Public Entity Coverage Documents, General Conditions Section (L) shall result in automatic renewal of risk management pool membership and continuation in the Primex³ Property & Liability Program, but not continuation of CAP which must be separately offered and accepted.

Primex³ acknowledges that the Member is a NH public entity which receives budgetary authorization for appropriations from an annual meeting of its legislative body and pertains to a fiscal year which commences on the following January 1 or July 1, of any given year. The Member also acknowledges that it is legally required to carry insurance coverage. As such, if the legislative body, at such annual meeting for any years that are within the anticipated term of the contract, fails to approve such appropriation, and there are no other lawful means of funding the coverage, this contract may be terminated by the Member by notice to Primex³ made within 30 days of the legislative action at which such funding initiative was defeated and such cancellation shall be effective as of the commencement on the following fiscal year or on the anniversary of the policy, whichever first occurs.

The Member, however, agrees that it shall seek the requisite appropriations in good faith and that the availability of lower cost or otherwise preferable coverage alternatives during the term of this Agreement shall not constitute a good faith and permissible basis on which to fail to pursue the appropriations or assert that appropriations are unavailable. In the event of an early termination, the Member agrees to return the difference between the CAP increase and the uncapped contribution.

By affixing my signature below, I am attesting, representing and warranting that I am a duly authorized representative of the governing body of the Town of Derry with legal authority to contractually bind the Town of Derry to the terms of this Agreement, and that I understand the commitment being made to membership in the Primex³ risk management and participation in the Property & Liability Program. Attached hereto is a duly executed governing body Resolution to Enter Property & Liability Contribution Assurance Program (CAP).


Authorized Representative of the Governing Body

Council Chair
Title

10/1/13
Date

MICHAEL D FAIRBANKS
Print Name



RESOLUTION TO ENTER PRIMEX³
Property & Liability Contribution Assurance Program (CAP)

RESOLVED: To hereby accept the offer of the New Hampshire Public Risk Management Exchange (Primex³) to enter into its **Property & Liability Contribution Assurance Program (CAP)** as of the date of the adoption of this resolution, and to be contractually bound to all of the terms and conditions of Primex³ risk management pool membership during the term of the **Property & Liability Contribution Assurance Program (CAP)**. The coverage provided by Primex³ in each year of membership shall be as then set forth in the Coverage Documents of Primex³.

I attest that the foregoing is a true copy of the Resolution of the Governing Board of the Town of Derry adopted on 10/1/13.

Board: Town Council
Title of Board

Signature [Handwritten Signature]

Name: MICHAEL D FAIRBANKS

Title: Chair duly authorized

Date: 10/1/13



**Workers' Compensation Program
Contribution Assurance Program (CAP) Agreement
THIS AGREEMENT AMENDS AND EXTENDS YOUR MEMBERSHIP AGREEMENT
PLEASE READ CAREFULLY**

Primex³ is offering members in our Workers' Compensation Program an opportunity to stabilize their annual contributions through participation in our Contribution Assurance Program (CAP). CAP is offered to members who qualify, providing them predictability by limiting the annual contribution increase during a defined period of years (CAP Period). By signing this Agreement, you agree to extend your Membership Agreement for three (3) years and Primex³ agrees to guarantee that your annual contribution increase will not exceed eight percent (8%) of the prior year's contribution. Because performance matters with Primex³, you may realize an annual increase that is less than the CAP through sound risk management and stable underwriting exposures. The annual member contribution will be based upon your exposure base, members' loss experience, and the rates established each year by the Primex³ Board of Trustees.

We are offering this opportunity so that our members can extend their commitment to pooling through the Primex³ programs. Participation in CAP for each year of the CAP Period is conditioned upon a three-year commitment to participation in the Primex³ Workers' Compensation Program.

The following CAP Period years qualify for the Contribution Assurance Program (CAP):

FY 2015 July 1, 2014 to June 30, 2015
(maximum 8% increase over July 1, 2013 to June 30, 2014 contribution)

FY 2016 July 1, 2015 to June 30, 2016
(maximum 8% increase over July 1, 2014 to June 30, 2015 contribution)

FY 2017 July 1, 2016 to June 30, 2017
(maximum 8% increase over July 1, 2015 to June 30, 2016 contribution)

By signing this Agreement, the Town of Derry agrees to extend its risk pool membership and participation in the Primex³ Workers' Compensation Program for three coverage period years, through June 30, 2017. The Town of Derry agrees and understands it remains bound by and subject to the terms and conditions of the Membership Agreement, Public Entity Coverage Documents and Trust Agreement, and all Trust by-laws, policies and procedures.

The Town of Derry agrees that the eight percent (8%) maximum increase currently available for this CAP Period does not apply to any other year or period of years, and upon expiration of the CAP Period in this Agreement, any subsequent participation in a Primex³ CAP will be subject to underwriting review, membership criteria, CAP criteria, determination of contribution and the maximum increase in place for the subsequent CAP Period.

The Town of Derry further acknowledges that by extending its Membership Agreement for three (3) coverage period years, the Public Entity Coverage Documents, General Conditions Section (L) ("Terminating Participation in Our Program(s)") is suspended during year one (1) and year two (2) of the three (3) year term, as there is no right to cancel or terminate during year one (1) and year (2) but shall be reinstated for the end of year three (3).

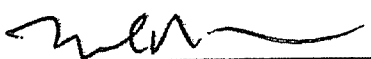
Town of Derry
July 30, 2013

The Town of Derry agrees that failure to provide notice in strict accordance with the Public Entity Coverage Documents, General Conditions Section (L) shall result in automatic renewal of risk management pool membership and continuation in the Primex³ Workers' Compensation Program, but not continuation of CAP which must be separately offered and accepted.

Primex³ acknowledges that the Member is a NH public entity which receives budgetary authorization for appropriations from an annual meeting of its legislative body and pertains to a fiscal year which commences on the following January 1 or July 1, of any given year. The Member also acknowledges that it is legally required to carry insurance coverage. As such, if the legislative body, at such annual meeting for any years that are within the anticipated term of the contract, fails to approve such appropriation, and there are no other lawful means of funding the coverage, this contract may be terminated by the Member by notice to Primex³ made within 30 days of the legislative action at which such funding initiative was defeated and such cancellation shall be effective as of the commencement on the following fiscal year or on the anniversary of the policy, whichever first occurs.

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By affixing my signature below, I am attesting, representing and warranting that I am a duly authorized representative of the governing body of the Town of Derry with legal authority to contractually bind the Town of Derry to the terms of this Agreement, and that I understand the commitment being made to membership in the Primex³ risk management and participation in the Workers' Compensation Program. Attached hereto is a duly executed governing body Resolution to Enter Workers' Compensation Contribution Assurance Program (CAP).



Authorized Representative
of the Governing Body

Council Chair

Title

10/1/13

Date

MICHAEL D FAIRBANKS

Print Name



**RESOLUTION TO ENTER PRIMEX³
Workers' Compensation Contribution Assurance Program (CAP)**

RESOLVED: To hereby accept the offer of the New Hampshire Public Risk Management Exchange (Primex³) to enter into its **Workers' Compensation Contribution Assurance Program (CAP)** as of the date of the adoption of this resolution, and to be contractually bound to all of the terms and conditions of Primex³ risk management pool membership during the term of the **Workers' Compensation Contribution Assurance Program (CAP)**. The coverage provided by Primex³ in each year of membership shall be as then set forth in the Coverage Documents of Primex³.

I attest that the foregoing is a true copy of the Resolution of the Governing Board of the Town of Derry adopted on 10/1/13.

Board: Town Council
Title of Board

Signature [Handwritten Signature]

Name: MICHAEL D FAIRBANKS

Title: Chair duly authorized

Date: 10/1/13