

TOWN OF DERRY

Town Council
Derry Municipal Center

December 1, 2015
Tuesday - 7:30 PM

6:30 PM Consultation with legal counsel – *Not open to the public*

7:30 PM Call to order

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

Roll Call: Councilors Tripp, Fischer, Osborne, Bourdon, Dimmock, Katsakiores and Chairman Cardon

Consent Agenda –

15-159 Approve Minutes – November 17, 2015

15-160 Schedule Public Hearing – December 15, 2015 – NH Highway Safety Agency DWI Enforcement Patrol Grant

15-159 Approved as written

Consent Agenda - approved

Chairman's Report – Tom Cardon

Ms. Hickey is going to be speaking about the bike path in a few minutes.

He has spoken with the developer for Exit 4A and they discussed the bike path. He asked for an easement on the property that the developer owns. He explained to Councilor Cardon that when the project is completed it would have to be turned over to State. We have a verbal agreement.

Town Administrator's Report – Susan Hickey (Interim)

- Request for Proposal for the Professional Consulting Services for Town Administrator search are due by 12/14/15. It has been placed in local papers, on websites and emailed to prior groups used before.
- The Advertisement for a Human Resource Director/Asst. Town Administrator has been posted to newspapers and various websites. There have been 15 resumes received to date.
- Ms. Hickey asked the Council for feedback regarding placing an Ad for a part-time Economic Development Director. ***It was agreed to move forward by Council.***
- The Town's new website will go live on 12/31/15 and will be mobile friendly.
- At a prior meeting it was asked what monies had been spent from the Capital Land & Acquisition Improvement Fund:
Derry Public Library \$20,900 – 2015, Rail Trail \$380,000 – 2011, Rail Trail \$225,000 – 2008, 3 Central Ct \$225,000 – 2008, and Recreation Facility \$45,000 - 2007.

Councilor Fischer asked for what kind of improvement projects & estimated costs are needed in town. Ms. Hickey stated that this would be brought forward to Council when the CIP for FY17 is presented.

Ms. Hickey presented a slide on the 2015 Tax Rate Comparison History. (*Note: this can be viewed on the website under Assessing*).

Mike Fowler presented for the purpose of discussion the two segments of the Derry Rail Trail. Segment #1 is easy to construct as it has flat slopes and the land is cleared which Derry owns. Segment #2 has a culvert crossing under Madden Road and would need reconstruction of a bridge section. There is concern looking at the North High St intersection as it is a busy part of the road where it would be continuing north. The estimate to grade and pave is \$125,000 for Segment #1. There may be a need to also install a split rail fence over the hood pond dam. Segment #2 is approximately \$275,000 - \$300,000 due to the culvert replacement bridge deck repair.

Council Discussion:

Councilor Fischer would like to know what other Improvement projects would be needed in Town first as it's important to consider the priorities for the Town.

Councilor Tripp asked if there was any consideration to an alternate route.

Councilor Katsakiores would like to move the project forward.

Councilor Dimmock asked if it was known what Exit 4A will do to this section.

Councilor Bourdon – supports paying for the segment #1 from the Capital Land & Acquisition Improvement Fund. He asked if there was anything slated for acquisitions. Ms. Hickey replied not at this time.

Ms. Hickey thanked Dawn Enwright, Tax Collector, for getting the Customer Self Service Tax & Utilities information online. You can now view your tax & utility bill information.

Michael Layon, Derry Survey Committee Chair, gave a report on the survey which was developed and will be available to Derry residents from December 2 – December 31 on the website or in Town Hall. He thanked the committee for their work to simplify the feedback for the survey. Derry businesses provided gift certificates for the residents who participated in the survey which will be randomly drawn at the end. The survey is open to residents and business to provide feedback.

Public Forum - *30 Minutes*

Open Public Forum – All agreed

Marc Flattes, Linlew Dr – commented on the November 3rd minutes regarding the Rail Trail which has a discrepancy. It states, "The second section will cost \$300,000 including land acquisitions", it should be "not including". He asked the chair to have them corrected. *Council Chair will take it under advisement.*

Nashua selected a firm for a feasibility of an arts center for their downtown he asked if Derry could piggyback in on their study. He also asked if Rail Trail donations could be made or maybe a solar path.

Mark Connors, Cabot Dr – The Rail Trail is mostly interested in Segment #1. You can ride a bike on any road in NH. The Rail Trail is trying to get donations. Regarding the Town Survey, he feels the Council should look at it before it gets released to the public.

Mike Layon, Lee Circle – Explained statements he made at a prior meeting to clarify and apologized. Using the projector is helpful to the citizens.

Marion Schnitzlein, Bayberry Lane – questioned why the \$400,000 in funds are not going back into the residential tax payers pocket. Surrounding towns tax rates have gone down. Derry's tax rate will go up next year for sure. The school district is asking for a \$2M-5M increase due to a Federal funding loss since Derry is losing children.

Melanie Davis Co-Owner Rail Trail – is happy with the extension of the Rail Trail. She doesn't see too much pushback on Rail Trail as it's a smart fit.

Close Public Forum -All agreed

Public Hearings –

15-133 2nd Public Hearing – Disposition of Town owned properties

Dawn Enwright followed up to answer questioned asked at the 1st Public Hearing.

19 Elm St - there are no hazmat issues in the land; however, there are some issues in the building of this property which there may be assistance from the government for cleanup.

Chancellor Dr, 83 Rockingham - are landlocked and have, wet lands & bordering forest. These properties prompted a meeting with the DPW, Conservation and the Assessing Departments.

One parcel was actually donated to the Town, the others will be held for open space and future highway improvements. There are 18 properties for disposition and 17 parcels will be retained by the Town.

Open Public Hearing - Councilors Katsakories & Dimmock – 7-0-0

Mark Connors – questioned 83 Rockingham Rd.

Mike Layon – asked if an Economic Impact statement had been done on these properties.

Steven Prue, Featherbed Lane – is interested in this parcel as it abuts his property. Since this property has been up for auction before he asked for a bid process for this property to eliminate it being returned for auction again. He doesn't feel he has a chance with the auction process.

Ms. Enwright stated a sealed bid or auction is the process under the RSA. However the sealed bid process has not been successful in the past.

Close Public Hearing – Councilors Tripp & Dimmock – 7-0-0

“Move that the Derry Town Council vote to authorize the Town Administrator to take any and all actions to dispose of the tax deeded properties as described in Attachment A and vote to retain the parcels in attachment B for Conservation Commission and DPW.”

Council Discussion:

Councilor Tripp questioned why some properties go on and off since the Conservation Commission asked to retain them. Will they be designated?

Ms. Enwright explained that some properties had not been designated on the property cards and she has created a system so that these properties will not be put up for auction until such time Council asks them to.

Councilor Cardon was concerned about 157 Warner Hill Rd because it could open up a large parcel of land for development.

Motion to remove Parcel Id #07033 from auction list. Moved by Councilor Cardon, seconded by Councilor Katsakories

Vote: 7-0-0

Move that the Derry Town Council vote to authorize the Town Administrator to take any and all actions to dispose of the tax deeded properties as described in Attachment A and vote to retain the parcels in attachment B for Conservation Commission and DPW.

Motion by Councilor Osborne, seconded by Councilor Fischer

Vote: 7-0-0

15-154 Hazardous Mitigation Plan

Mike Gagnon & William Gills, Derry Fire and John Mund of SNHP presented this plan. This update is imperative to obtain mitigation funds from FEMA. This plan looks at risks in the community and develops strategies. This is a continuation of ongoing efforts and it is used as an advisory document.

Open Public Hearing – Councilors Katsakiores & Tripp – 7-0-0

No public input

Close Public Hearing – Councilors Cardon & Dimmock – 7-0-0

**Move that the Derry Town Council accept the 2015 Updated Hazard Mitigation Plan for the Town of Derry. Motion by: Councilor Cardon, seconded by Councilor Katsakiores
Vote: 7-0-0**

15-155 Approval of NH Department of Transportation Memorandum of Agreement, Exit 4-A

Mike Fowler & Chris Bean, CLD - Presented

Mr. Fowler explained the shift of the project and details that had to be worked out with NHDOT, Derry/Londonderry & CLD and how to resurrect and move forward with the project. Signing the agreement binds NHDOT, Derry & Londonderry to work cooperatively toward completion of the project. At this point the project is estimated at \$53,500,000, each town will receive credit for \$1.7M which has already been spent.

Open Public Hearing – Councilor Cardon & Bourdon 7-0-0

Mark Connors – is concerned CLD has made no accommodation up to this point for the Rail Trail. He feels now is the time to negotiate for the trail project. A bridge, underpass needs to be added in.

Close Public Hearing – Councilors Katsakiores & Cardon 7-0-0

“The Derry Town Council MOVES to approve the terms and conditions of a Memorandum of Agreement between the Town of Derry, the Town of Londonderry and the New Hampshire Department of Transportation for State Project #13065 to proceed with the design and construction of Interstate 93 Exit 4A. The Council further Moves to authorize the Interim Town Administrator to sign the agreement on behalf of the Town Council.”

Council Discussion:

There were comments on amending the document to add verbiage for the Rail Trail to cross, upgrade to the culvert and if it would be helpful for the town to make that request now. Chris Bean stated the 2007 plan did show replacement for an existing pipe culvert and there was a plan for it to be a rail trail.

Mr. Fowler stated there will be plenty of chance for these matters to be noted. The state kick-off meeting is on 12/17/15 for hearings. The Council could submit a letter for consideration of the Rail Trail.

Councilor Katsakiores gave a history of the 4A project from her time as a State Representative and Derry Councilor/Selectman. She feels it is about time and Councilor Dimmock commented to “get it done”.

Councilor Bourdon – questioned if the Town was only responsible for \$5M and questioned if the project goes over what happens.

Mr. Fowler read Section F of the agreement - Neither Londonderry nor Derry shall be responsible for funding in excess of \$5M each for a total combined contribution of \$10M without its express written authorization prior to the costs being incurred.

Mr. Fowler will ask Keith Cota of NHDOT to incorporate language into the agreement which would insure that the future design for the access road at Madden Road/North High Street would include accommodations for the Town's future bike path. He will provide feedback to the Council Chair.

Chairman Cardon was concerned and wanted to include the Rail Trail into the contract. He questioned if the contract should be accepted this evening.

Chairman Cardon made a motion to amend the contract to include the crossing of Rail Trail into the design. He then withdrew his motion.

There was general discussion on adding the Rail Trail clause.

Chairman Cardon: Amendment to include route access on North High St to the Londonderry line. Motion withdrawn

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Vote: 7-0-0**

15-156 Exit 4-A Supplemental Appropriation – Amendment #6

Mike Fowler – explained in an effort to move the layout of the Exit 4A project forward for the "Record of Decision", the EIS statement has to be reworked. The EIS will need to be revised as a significant portion of data collected for the EIS is outdated. This is the first part of a two phase approach designed to deliver the final EIS and achieve a "Record of Decision" from the Federal Highway Administration. The cost for Amendment #6 is \$208,743.77, 000 with Derry's share calculated at 50% which is \$104,371.89.

Chris Bean – there will be meetings to gather decision makers in a room to come up with a process of the plan. There will be a proposal presented with input to develop a scope for the cost of the changes that everyone has agreed to and what the needed updates are for the entire document. Amendment #6 includes those meetings and also includes an additional \$100,000 to allow some of the phase 2 work to begin. It's retainage for the initial work to start and to keep moving forward, it was suggested by NHDOT.

Mr. Fowler explained the documentation on the staff report was from 3 weeks ago. This recommendation to put in \$200,000 is part of Amendment #7. This new information was presented to him on November 25th.

He is asking for an amendment to the motion to increase the dollar amount requested from \$11,000 to \$111,000. This is in the interest of keeping the project going instead of asking for another supplemental appropriation.

Open Public Hearing – Councilors Osborne & Bourdon 7-0-0

Mark Connors – need to incorporate Rail Trail in writing.

Mike Layon – has anyone considered the “Overrun Insurance” if the cost goes over?

Close Public Hearing – Councilors Cardon & Dimmock 7-0-0

Council Discussion:

There was discussion on the timeframe, how much time it will take for the issues to be identified, assurance that more money isn't going to be needed in the future for CLD, what land will be used for the mitigation, where the money is coming from for the additional on \$100,000.

Chairman Cardon said to vote on the \$11,000 and then after that figure out where the other amount will come from.

Councilor Fischer is concerned his report only shows \$11,000 and believes there was a typographical or intentional error in the documentation.

Mike Fowler explained the information provided to Council is given three weeks in advance. The information added was given to him on 11/25; this is not a typographical error. The discussion was if you want to put in a retainer to move forward with items as identified. The proposal vetted by NHDOT was brought forward by CLD on 11/25 is for an additional \$100,000. It was too late to change all of the documents. You can vote on the motion in front of you or you can make an amendment to the motion.

Councilors asked where the money was coming from, wondering why eminent domain was not explored and questioned costs associated with the amendment which reference the \$5M if this is an additional amount.

Motion to extend 10 minutes – all agreed

**Move to amend the motion that Council appropriate \$11,000 from the Unassigned Fund Balance. Motion by Councilor Tripp, seconded by Councilor Osborne
Vote: 6-1-0 (Councilor Bourdon)**

On the original motion: *The Derry Town Council moves to appropriate \$11,000 for the purpose of proceeding with additional engineering required to revise the Environmental Impact Statement (EIS) on the Exit 4A project. Vote: 7-0-0*

15-157 Demolition 19 Elm Street and Supplemental Appropriation
Not taken up

New Business –

15-161 Economic Development Committee
Not taken up

15-162 3 Nutfield Court – ZBA

Lynn Perkins – requested the Town Council to ask the ZBA for an appeal & rehearing on 3 Nutfield Court variance. There is only a 30 day timeframe to request this rehearing. He cannot suggest to Council how to proceed with this request.

Bob Mackey – to clarify the issue for the Council. This parcel of land is zoned industrial surrounded by MHDR zoning. Town has left parcel as industrial because of businesses that have continued there. The Zoning Board approved a variance for this parcel for a condominium

project. Because the zoning variance was granted on 11/5/15 there needs to be a request for a rehearing under RSA 677:2 which state all the reasons why this decision was unreasonable or unlawful. He explained the process.

Motion to extend 10min – all agreed

Council Discussion:

Had various question & discussion regarding a basis for rehearing, timeframe, & granting the variance of use for this zoning area.

Move that the Derry Town Council requests the ZBA appeals for a rehearing for the usage of the 3 Nutfield Ct. property.

Motion by Councilor Cardon, seconded by Councilor Dimmock

Vote: 6-1-0 (Councilor Bourdon)


Council Requests / Open Discussion

Councilor Fischer – requested to be put on the next meeting agenda for the Town Council to discuss the preliminary FY17 budget.

Adjournment 10:20 p.m.



Town Clerk


12/16/15

Date

Recording & Transcription by: Denise E Neale, Town Clerk