

**TOWN OF DERRY**

**Town Council  
Derry Municipal Center**

**December 17, 2013  
Tuesday - 7:30 PM**

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**7:00 PM Non-Public Session RSA 91A:3 II (c)**

**7:30 PM** Call to order

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

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

Chairman Fairbanks asked the Council to move the agenda items for the Public Hearings first so that the citizens present could leave. All agreed

**Consent Agenda**

- 13-132** Approve Minutes – Goals Setting Workshop – November 25, 2013
- 13-133** Approve Non-Public Minutes – December 3, 2013
- 13-134** Approve Minutes Meeting – December 3, 2013
- 13-135** Approve Workshop Minutes with Planning Board – December 3, 2013
- 13-136** Request for Refund
- 13-137** Schedule Public Hearing – January 7, 2014 – Amend the Code of the Town of Derry, Chapter 150, Traffic Ordinance Article I, Section 150-4 Prohibited Parking – South Avenue
- 13-138** Schedule Public Hearing – January 7, 2014 – NHDES Household Hazardous Waste Agreement
- 13-24** Schedule Public Hearing – January 7, 2014 – Proposed Amendments to the Town of Derry Zoning Ordinance, specifically relating to signs

**Accepted as written**

**Nonpublic session minutes were not sealed. The vote to seal failed.**

**Public Hearings –**

- 13-130** Release of Public Servitude 15-17 Schurman Drive

Alan Cote – David and Rebecca of Zbieg, Schurman Drive seek to obtain this right of way. Alan gave the history of this paper road right of way. Highway Safety and Department Heads have reviewed and agree it may be released with a stipulation that the petitioners furnish a 20 foot wide easement for maintaining the drainage line. All costs will be borne to the abutters.

**Open Councilor Osborne/Councilor Dimmock 6-0-0**

No public input

**Close Councilor Katsakiores/Councilor Osborne 6-0-0**

There were a few questions asked of Mr. Cote in relation to the right-of-way. The Zbiegs stated the Turcotte's are in agreement of this petition but were unable to attend due to the weather conditions. Some of the Councilors felt uncomfortable without the Turcotte's either written or voiced agreement.

**Councilor Osborne moved to postpone the vote until the next meeting and during that time ascertain a letter from the Turcotte's indicating their complete and expressed consent, seconded by Councilor Cardon.**

**Vote: 6-0-0**

**13-131 Accept New Hampshire Department of Health & Human Services Grant – Critical Care & Supplemental Oxygen Program**

Chief Klauber-stated that as part of the FY2008 US Homeland Security Grant, the DHHS was awarded specific funds earmarked for Critical Care and Supplemental Oxygen Program. Hospitals and Municipal Emergency Medical Services were selected to participate in this program. The DHHS has requested the Derry Fire Department accept four (4) HT70 Portable Transport Ventilators. The equipment will be used by EMS providers during certain emergency responses to help improve clinical outcome during transport. In the past twelve months, 25 advanced life support patients transported by the DFD could have benefitted from this technology. The grant requires that the municipality agree to accept this equipment. If agreed upon, Director of EMS Chuck Hemeon will train personnel, deploy equipment, track the inventory and provide routine maintenance as needed.

**Open Councilor Katsakiores/Councilor Dimmock open 6-0-0**

Mark Flattes, Linlew Dr. – Questioned the operating costs.

Chief Klauber- stated the operating cost would depend on usage. Based on the 25 times, it could be used there would be some disposable equipment that would need to be replaced. He anticipates the cost to be approximately \$1250.00 per year, based on 25 usages per year. Those funds would come from current funds dedicated in the budget for disposable supplies. It is anticipated that over a three year period there will be \$600 in expenditures for routine calibration for this equipment.

**Close Public Hearing Councilor Katsakiores/Councilor Dimmock 6-0-0**

Councilor Katsakiores requested background on how important it is for the town to have this and how it came in contact with this equipment.

Chief Klauber said It was a state grant that the DHHS received and it was intended for clinics that may open for medical surges where hospitals would not be able to accommodate. This equipment has been sitting on a shelf and the thought was to get it out into the communities to utilize for training and familiarity of use.

Councilor Dimmock referred to the cost and asked who pays the \$1250.00. He then asked if the person in transport who used the equipment would be billed.

Chief Klauber responded saying the there is a line item in the budget for disposable medical supplies. These costs are offset by the ambulance fees charges and some

through taxes. It would be bundled in the ambulance fee. It cannot be charged separately.

**Move to postpone by this vote until January 7<sup>th</sup>, based on a request from Councilor Wetherbee at the last meeting. Motion was made by Chairman Fairbanks seconded by Councilor Benson.**

**Vote: 3-3-0 (Councilors Cardon, Osborne, Dimmock) *motion failed***

There was discussion over the agreement made at the last meeting to postpone this vote. It was debated as this item was on the agenda at this meeting.

Chairman Fairbanks explained that the reason it was on the agenda was to go through the public hearing and to postpone the vote.

Some Councilors feel that the meeting is set, the agenda is set and there should be no postponements due to Councilors not being able to attend a specific meeting or not.

Chairman Fairbanks stated that he would try to make it beneficial for every council member he could.

**Move that the Town of Derry accept four (4) HT-70 Portable Transport Ventilators as part of the federal Fiscal Year 2008 U.S. Homeland Security Grant award to New Hampshire Department of Health and Human Services (DHHS) for a Critical and Supplemental Oxygen Program, and authorize the Town Administrator to execute the agreement with the DHHS. Motion made by Councilor Osborne, seconded by Councilor Katsakiores**

**Vote: 2-4-0 (Councilors Cardon, Osborne, Dimmock, Benson) *motion failed***

#### **Chairman's Report –**

A Purchase & Sale Agreement has been executed for 13 Manchester Rd, in the amount of \$225,000.

**Chairman Fairbanks made a motion to unseal nonpublic meeting minutes of Purchase & Sale agreement, seconded by Councilor Osborne**

**Vote: 6-0-0**

On the January 7, 2014 they will continue as Old Business item on the Town Administrator hiring process. He would like to achieve the following at this meeting,

1. Summarizing the Town Council goal.
2. Defining the Town Administrator qualifications.
3. Previewing the previous Town Administrator Profiles.
4. Start defining our selections.

Section 4.8 of the Town Charter the Council states that it is required to meet with the chair of each board and commission in the month of January and would like to set up a workshop on January 21<sup>st</sup> to spend 10-15 minutes per board to present what they need from the Town Council to better perform their function and update the Town Council of; what their outlook is over the next year. He would like the Town Council to gather their thoughts of what they would like to see from the different boards by January 6<sup>th</sup>.

As part of the goal setting session, you will find in your packet a "Moved Derry Forward" document for review regarding the downtown revitalization. Also in the packet is the Charter Commission Report from 2009 looking for options of Derry's government. He

will try to make it a point to report on the goals. These are in the packet for everyone to review.

**Town Administrator's Report –**  
\*\*\*\*\* 1<sup>st</sup> Quarter Financial Report

Franks Childs and Janice Mobsby presented this report. Frank stated historically there is not a lot of activity. Janice addressed the balance sheet. As of 9/30/13, the financial position continues to remain strong. There are higher amounts of cash than the prior fiscal year due to the fact that there are some unspent bond proceeds that were taken out in May for Rockingham Road and Transfer Station projects. Taxes and Tax Liens: there has been a better job under our new Tax Collector in collecting the taxes. There has been a decrease in unpaid property taxes. This a good sign as there are lower foreclosures. When there are higher foreclosures, the town collects more taxes so this is a good sign in collections. It is a positive sign for the economy. Capital Assets in the report are listed in terms of how we are spending from one year to the next. We have invested in land and improvements in roadways and vehicles. On the other hand we did not keep pace with depreciation in regards to building improvements, machinery and equipment and bridges and sidewalks. There is a list of changes of assets in the last quarter. In terms of general fund cash we hold cash for other divisions of the town including Water & Wastewater. There is a list of larger funds and the balances available. A key indicator or shift comes in the liabilities, other post-employment benefits. Between this year and last year the increase is \$1.1M. as anticipated. This change will be every year for the next 25 years adding \$1.1M to the liabilities of the Town. Government wide in this past year it has decreased the position of the Town. All the assets liabilities are your net position. As a result the Town had a \$375,000 net decrease in position in the past year. There are new laws that are coming about that will require the Town to also include the pension liability on the books. Fund Balance there is an unassigned fund balance of \$11.1M it is a decrease of \$2.1M over the past year. This is not a problem as directed by Council we have shifted funds from unassigned to assigned fund balance to fund Capital Improvements.

Mr. Childs mention that in respect to the liabilities, this is a planned amortization of the OPED liability over a 30 year period of which we are 5 years into. NH Retirement System unfunded liability will be required to record the Town's share of that. Frank met earlier with the Finance Committee and reviewed these results as well. Revenue and Expenditures there is detail on variance. Summary is there is nothing alarming to report. There are a few areas where revenue is up slightly. There are no issues in the area of expenditures and we are on track to meet the budget. On February 13<sup>th</sup> the Finance Committee will meet to review the second quarter Financial Report and will bring it to at your meeting.

Councilor Osborne asked questions regarding OT expenditures? Councilor Cardon asked if pension costs continued to rise and asked if employees increased what they pay into the pension funds.

Mr. Childs replied there is no increase in this line. The pension fund has some increase as compensation increase and there was an increase but that is set by the State law not by the Town.

Mr. Budreau asked to take a moment as he was disappointed and felt bad for the employees by a letter to the editor in the Derry News and Nutfield News this past week that inappropriately labeled our Annual Employee Recognition Luncheon as an annual

employee Holiday Party. This Employee Recognition Luncheon was started by Town Administrator Carol Granfield in 1999. It is an inconvenience every year despite our best intents and advertised in a number of places. He apologized to the public for this. Mr. Budreau read to the Council and public his opening remarks he made to the employees at the luncheon. These remarks highlighted the contribution each department within the Town makes and what the public doesn't recognize in their day to day lives as citizens. The challenges of providing the community the services of which they are accustomed has become difficult but together the Town Council and employees delivered a fiscal year 2014 budget that maintained an excellent level of service and resulted in a zero percent increase in the municipal tax rate.

Mr. Budreau said that with Chief Garone and Councilor Katsakiores they presented the awards to the employees. Chief Garone was recognized as one of the longest sitting Chiefs of Police in the United States.

Mr. Budreau reiterated that he apologizes to those people who came to the Municipal Center during this one time of the year.

Councilor Katsakiores stated she was proud to participate honoring the Town Employees.

Councilor Cardon agreed.

#### **Public Forum –**

#### **Open Public Forum 6-0-0**

Marc Flattes, Linlew Dr. - Wished everyone a Happy Holiday. He was dismayed that the meeting was not cancelled due to the weather condition. He was disappointed that the Town Council can't work together stating that team work is missing. He was concerned that the minimal expense for the acceptance of the grant for EMS was denied. He asked that they reconsider this decision.

Councilor Osborne thanked Mr. Flattes for attending this evening. He addressed two points Mr. Flattes had made. First he referred to the remark of the Council getting along better. He stated that 80% of the time the Council votes similarly. Governing is about making choices and debate. Things are getting done. Secondly with respect to the grant, he doesn't disagree that the equipment wouldn't be beneficial but his rational was the acceptance of this grant would cost the town some money. It may not be a significant amount; however, it's called a U.S. Homeland Security grant as and as an American and a voter he is offended as to what is now consider Homeland Security. The Federal Government is about to do some cuts to military benefits as they don't have enough money to honor their commitment to military families and yet the Homeland Security Department has money to give away in the form of grants. It bothers him and this is the only mechanism to stand against is to vote against and to have some say. It's taxpayer money regardless. This town does not have a bridge to nowhere, its little expense that add up and there needs to be financial restraint.

Mr. Flattes stated that it's already bought and paid for and you can't get a refund on it.

Bob Gray, Forest St – He just wanted to say that if what you would receive from the grant was needed you would have made it part of your budget. Why take something that you don't need. Secondly what types of obligations does it put the Town under by

accepting grants? Whether or not you would take this and become accustomed to having this piece of equipment and should it break, it then becomes an expectation to replace it.

Denise Neale, Town Clerk – Asked the Town Council if they had read the minutes of December 3<sup>rd</sup> which they accepted during the Consent Agenda. In these minutes it was agreed upon that the vote of the grant would not be made until the January meeting. She felt frustrated by the disregard of the Councilors on their own word which was approved and listed in the record of this meeting.

### **Close Public Hearing 6-0-0**

### **Council Requests / Open Discussion**

Councilor Osborne – One of the Council agreements was to start talking about what their priorities will be regarding the FY2015 budget. He doesn't know if any input has been sought yet. The tax rate increase was zero in FY 2014 and no town services have been compromised. He would like to see the tax rate have a zero effect in FY2015. This is his input regarding the next budget. He won't vote for a budget with an increase and looks forward to working with everyone.

Councilor Dimmock – Would like the Council to review a citizen's request for no smoking in the parks. He would request Mr. Budreau to look into "No Smoking" within 30ft of playground apparatus". He is asking the board to consider this ordinance. He has spoken to Councilor Osborne. Councilor Katsakiores agrees.

Councilor Benson – Voted no on the grant so he can bring it up at the next meeting. He fully supports this grant.

Councilor Cardon – stated that when he sees something on the agenda he will vote on it. If it had been changed to January, it would have been a different story. If it's on the agenda and has been advertised then he will make his decision.

Councilor Osborne – If something is put on the agenda and advertised to the Town, our agenda is a promise and a commitment to the entire Town at large. If it is put on the agenda, he will also act on it as he was elected to do. There are issues that are important to him but he would never ask to defer a vote, not put something on the agenda or cancel a meeting because he could not attend.

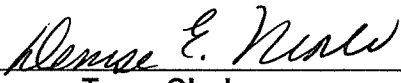
Councilor Dimmock- doesn't care what was agreed upon it's on the agenda.


Chairman Fairbanks –he takes responsibility for the agenda item as his intent was he thought it was a time sensitive issue and to at least have the public hearing and afford to postpone the vote as has been done in the past. He understands it is not the will of this board to postpone any votes so this will not happen again for anybody. To postpone this vote, there were no adverse consequences in order for everyone to be here. He will continue to try to accommodate all wishes of the Council as far as he can on agenda items as long as there is no adverse consequence of that decision for anybody no matter who it is. They will also have the meetings on the 1<sup>st</sup> and 3<sup>rd</sup> Tuesday because it is important unless there is some reason they can't.

Chairman Fairbanks requested an update on the Transfer Station from Mike Fowler.

Mr. Budreau asked to speak, as a participant he cautioned all the Councilors that, in his opinion, it probably isn't a good idea to be adamant that they are always going to vote following a public hearing. There have been a number of times where there has been a lot of public input that and deserves thought from what has been presented. The Town Council might be better served not striking a pose on this situation. He then explained the process of a public hearing notice. Sheila Bodenrader said she needed to call the paper and pull the notice since the agenda had already been submitted to the paper. He then called the Chair and suggested to go ahead with the public hearing and then the chair said he would ask to postpone the vote. This was a practical solution and he feels responsible because the Chair accepted the responsibility for a practical workaround which he suggested. He apologized to the Chair.

**Adjournment 9:05 p.m.**

  
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Town Clerk

  
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Date

Recorded and Transcribed by: Denise E Neale, Town Clerk  
Reviewed by: Larry Budreau, Acting Town Administrator