

**TOWN COUNCIL MEETING**  
**January 18, 2010**

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

**PRESENT: Town Council: Chairman Mike Brown: Vice Chairperson, Kathy Wagner; Councilors: Sean O’Keefe; Paul DiMarco; Town Manager, Dave Caron; ATM/Finance Director, Sue Hickey; Executive Assistant, Margo Lapietro. Absent: Brian Farmer**

**CALL TO ORDER – PUBLIC SESSION**

**Chairman Brown opened the meeting at 7: 05 PM with the Pledge of Allegiance. This was followed by a moment of silence for the men and women fighting for our country**

Councilor DiMarco announced trash pick-up is one day behind all week due to today’s snowstorm.

**PUBLIC HEARING**

**Motion by Councilor O’Keefe to go into a public meeting. Second Councilor Wagner. Council’s vote 4-0-0.**

**Citizen’s Petition Requesting Constitutional Amendment on the Definition of Marriage**

Town Manager Caron explained that under state law 25 registered voters can submit a petition to the Council to take action. In a traditional town meeting form of government which Londonderry no longer has, all petitions are acted upon at Town Meeting. Under our Town Charter any non-budgetary petitions under this form with 25 voters’ remains with the council to approve, deny or table the action being requested. He proceeded to read the petition which requested that a resolution be forwarded to the State Representatives, State Senator, Speaker of the House and the Senate President to amend the NH Constitution that defines “Marriage”. He said this is a non-binding action for the state if the Council takes action tonight it will not require the state to put the issue on the ballot. It would be a sense of the community that that is what the community wants to happen. The final decision rests with the elected officials in Concord. With our Charter any budgetary petitions would be presented to the voters at Town Meeting in March; non-budgetary petitions are acted upon by the Council. There is an alternate process allowed under the Charter which conceivably allows voters to vote on non-budgetary items. It is addressed under section 7.1 of the Charter which requires that the Council receive a petition from at least 1% of the registered voters. The Council received a petition this afternoon containing 207 residents, of which 190 voters were verified as registered voters. The 190 exceeds the 1% threshold, which is 171. Should the Council approve the petition, a letter supporting the resolution will be forwarded to the State. If the petition is denied by the Council, pursuant to the Charter allowances are made for a referendum petition signed by 5% of voters (855); at that point the question automatically goes to the ballot. As an alternative, once the Council receives an initiative petition the Council could vote to place that issue on the ballot without further citizen participation activity under Section 7.4. To recap, Council has two petitions before it. The first one involves a public hearing tonight to deal with the traditional petition (25 signatures) that has been received which the Council will take action on; the Council’s action is final on that

petition. The Council also needs to act on the other petition received tonight which requires that once the signatures are verified which meets that 1% threshold, the Council needs to have a public hearing on that particular petition. After the hearing the Council votes to approve or deny. If the vote is to deny then Council can put it on the ballot itself or the citizens can return with another petition with at least 5% of registered voters. Once a referendum petition it received and verified, it automatically goes to the voters at either the regular town meeting or a special election.

Regardless of how the Council acts on the first petition a companion petition asking for the same action has been lawfully submitted according to our Charter, which will require a public hearing on 2/1/10. Councilor DiMarco clarified that tonight is just the initial petition with the 25 signatures and Council cannot take action on the second one because they need to schedule a public hearing for it, Town Manager Caron confirmed that was correct. Town Manager Caron recommended that since the Town Charter requires the Council to take action on the petition received today he suggested that Council dispose of the petition this evening because Council will be requested to take action on the same issue at the February 1<sup>st</sup> meeting. Councilor Wagner questioned if we progress to a public meeting on the second petition received tonight do the petitioners have to provide the petition with 800 voters that night or do they have a timeframe. Town Manager Caron responded they have 30 days after the Council takes action to submit signatures equal to 5% which would result in a special election. Councilor DiMarco noted if a vote is in the affirmative tonight it will go to the state reps and state senator requesting that the issue be put to the people to vote on it. Chairman Brown said we are obligated to have a public hearing tonight, and will vote on it tonight. We will have another public hearing on the second petition on 2/1/10. State Rep. Al Baldasaro, 41 Hall Rd. said he hoped Council will not take a vote tonight and send a letter on behalf of the people of Londonderry because he felt the people should have the right to vote on the issue. He explained the petition says that the people want the right to vote. Councilor Wagner verified if A. Baldasaro comes in with 5%, 855 signatures it will go to the voters; Town Manager Caron responded if 5% are verified it will go before the voters. A. Baldasaro questioned the time line. Town Manager Caron said if the 5% are verified the only action the Council has to take is establish a date for the election which will be at the current town meeting or a special election. Discussion ensued about how the Town Charter was written. After much discussion Town Manager Caron recommended that Council table the initial petition tonight and address the initiative petition on 2/1. **Councilor Wagner made a motion to table the petition being considered tonight with 25 signatures, second Councilor DiMarco. Council's vote 4-0-0.** Town Manager Caron suggested the Council vote to schedule a public hearing at the next meeting on the initiative petition. **Councilor O'Keefe made a motion to schedule a public hearing on the initiative petition received tonight for 2/1/10, second Councilor DiMarco. Council's vote 4-0-0.**

**Ordinance #2009-04 – Relative to Amendments to the Zoning Ordinance Regarding Workforce Housing** - Community Development Director, Andre Garron and Town Planner, Tim Thompson presented a revised draft of the Ordinance with the 5 recommended changes was reviewed in detail by T. Thompson. The Planning Board held a meeting on 1/13/10 to propose the changes. The changes were in the areas of:

Impact Fees – length of time housing must be maintained as workforce housing changed from 20 – 40 years in order to apply for an impact fee waiver.

Residential Development Phasing – language revision stating conversion of approved elderly housing projects to specify that they must be “unbuilt” in order to qualify. This was done to make it consistent with changes in the Inclusionary Section.

Growth Management Ordinance – unchanged

Inclusionary Housing - 12 items dealing with revisions, definitions and adding new sections.

Retention of Housing Affordability - Revision of all references to affordable housing to read workforce housing throughout the section.

A. Garron stated the Town needs to have a Workforce Housing Ordinance in place per the town attorney. There are two components dealing with multi-family housing: one addressed single family duplexes and the other with multi-family rental housing. Those two items needed to be included in the regulations. Councilor O’Keefe asked the question about available stock, A. Garron said currently over 51% of homes in Londonderry are consistent with workforce housing at their appraised value. Londonderry’s income guideline established by HUD is \$95,200 for a household of four. A single family house on the market for \$260K - \$280K would fall within workforce housing in Londonderry. The town attorney advised that the Town still needs an ordinance in place, particularly with multi-family housing we are short about 1K units on multi-family rentals. He said the 2005 Housing Needs Assessment is being updated by Southern NH Planning Commission. Councilor O’Keefe said he is not satisfied with the whole ordinance. Councilor Wagner asked for a summary of the major changes. T. Thompson said the major changes are the increase in the time frame from 20 – 40 years that properties have to be maintained as workforce housing; eliminated 4 different income categories for single-family and duplex in the inclusionary section, revised it to solely workforce housing meeting the statute. They have removed the elderly from the multi-family section of the inclusionary ordinance to having its own sub-section within the inclusionary ordinance. Town Manager Caron said legal counsel has advised Council not to delay approval of an Ordinance. Chairman Brown recapped the history of this Ordinance for the Public. He said that on 12/7/09 Council concluded that the Ordinance focused more on housing from a broader perspective versus meeting the spirit and intent of the new law. The recommendation at that point was to develop an Ordinance that met with the new law and it went back to the Planning Board for additional input. The Town is demonstrating a good faith effort with compliance by 1/1/10. State Rep. Al Baldasaro, 41 Hall Rd. said all 9 Londonderry state reps voted against the legislation. He asked the Council to get the Ordinance passed so the Town is protected in the future. He commended A. Garron and his staff for a job well done. Pauline Caron, 369 Mammoth Rd asked how much did the law firm charge for legal fees. Town Manager Caron said they charge about \$165/hr. P. Caron asked how many hours they spent on it, Town Manager Caron responded he did not know because he had not yet received the bill. P. Caron said she thought there was legislation to repeal the act. She suggested if is brought up again it should be repealed and this zoning ordinance should be repealed as well. Deb Paul, 118 Hardy Rd asked if the Planning Board considered using workforce housing in commercially zoned land. It would act as a buffer between industrial, commercial and workforce housing. It would keep them in the busier streets out of the residential areas. T. Thompson said it is basically allowed in AR1 and AR3 districts. If it is a conversion from an elderly project it would be allowed in the commercial district. He said they did not want to lose available commercially zoned land from tax generating business. The law itself specified it has to be allowed in the majority of residentially zoned land. It does not

address anything about commercial or industrial zoning districts. D. Paul stated she does not know why we are having this rush to develop all the available land in Town. Paul Morin, 31 Norris Rd, Weare NH who is a builder/developer said the Town has been diligent with adhering to this new law. He talked about the elderly conversion Section 2.3.3.8.1.1.6. According to that section every unit must be income qualified and price capped. This is an inclusionary article which means that some percentage of the units are either subsidized or sell for a certain level while the others are allowed to be at market rate. Section 2.3.3.8.2.1 does not provide for any density bonus to offset the cost and lower pricing for elderly conversion. He questioned minor design changes and the density bonus for elderly conversion. He asked the Council to treat the elderly changes the same as other districts. He also said there is no growth control exemption. T. Thompson responded that is incorrect; there were no additional changes from the original posting in December. P. Morin also questioned the language of “The Planning Board may allow for minor design and density changes from the approved Elderly Housing project ....”. Can he slightly modify his project or can it be redesigned in a way that he can build in a sort of savings that will allow him to get down below the price cap required by the ordinance. He asked for clarification of the language. T. Thompson explained that the Planning Board came to the decision it will allow density and design changes so long as you do not exceed the maximum density permitted in the elderly housing section. P. Morin said he would strongly recommend that the word “minor” be removed from the ordinance. He spoke about the RSA’s and asked the Council to change the ordinance to treat elderly conversions the same way that they treat other districts. Deb Nowicki, 89 Fieldstone Dr. asked if the current housing inventory is meeting the definition of workforce housing. A. Garron responded that currently with existing house prices 51% meets the definition for sale units. He said that town counsel recommended we have an ordinance in place. He said workforce housing addresses rental units, the Town does not have a big rental inventory and according to state law that has to be integrated into our ordinance. D. Nowicki asked what is the required percentage of workforce housing. T. Thompson responded there is no definition from statute or the courts. She asked if the economy changes what is the benchmark. A. Garron responded the benchmark in the statute is that the majority of the land that is zoned residential in town and made available for workforce housing. Deb Paul, 118 Hardy Rd. asked if the economy gets better and the value of homes go up does that mean we have to change to accommodate. Are we going to constantly change inventory. T. Thompson responded as long as we are providing opportunity for development of workforce housing through our Ordinance we have met the requirement of the statute. A. Garron explained that currently the Town has proposed an Ordinance that meets state statute. D. Paul questioned if impact fees were going to apply or going to be waived. A. Garron responded the Planning Board will go through the regular review process. John Curran, Faye Lane questioned the density section on the multi-family section. Why can’t that be reduced from 24. T. Thompson responded it mirrored our current R3 which is the existing multi-family zone which allows 24 units per bldg. The town attorney recommended not reducing that number any further in our workforce housing, we would run a risk of litigation because we already allow 24 in our existing multi-family housing. J. Curran stated putting that kind of larger units in a residential area changes the complexion of the residential area. He said we should have some methodology, it seems to be the same as elderly housing why not use elderly as a buffer. He said he would like us to comply with the bare minimum. Chairman Brown explained there has been a tightening already done on the Ordinance to protect the Town and to minimally adhere to the statute. Our legal counsel felt strongly that we had to get an Ordinance on the books for multi-family housing. J. Curran asked why not put this kind of development into commercial areas. T. Thompson said the basis of the statute is that the housing had to be available to the majority of the residentially zoned land and that the Board wanted to keep commercial areas open for the

commercial tax base. Pauline Caron, 369 Mammoth Rd said if you change the density in an R3 to 16 - 12 units then you can change this Ordinance to reflect that amount. A. Garron said back in the early 90's when the R3 zone was being considered the Ordinance it had an 8 units per acre requirement in the ordinance which was changed in the early 2000's because it was seen as too restrictive to allow multi-family development. He said it was not looked at however the Board can look at it in the future. P. Caron said if you look at lowering the density it would be helpful to the residences in the area. Councilor O'Keefe said he had asked the Town Manager to speak to counsel to see if the density could be reduced from 24 units/bldg. to 16. Councilor DiMarco stated we definitely could look at this in the future. Town Manager talked about a time line and suggested having a public hearing on the final version on 2/1/10. A. Garron asked for clarification on the density issue, is it for R3 zone land and downscaling that from 24 to 16 or are we looking at that for workforce housing, multi-family. He said there is an economic aspect to one, and the other is just a selection of a different number within the R3 zone. Councilor O'Keefe said he is just looking at the size of the buildings. T. Thompson said the more you downsize the building the more it costs for the building which impacts workforce housing. **Councilor DiMarco made a motion to post this Ordinance as a new Ordinance 2009-04A for a public hearing on 2/1/10, second Councilor Wagner. Council's vote 4-0-0.**

**Resolution #2010-01 – Relative to Renaming East and West Eglin Boulevard – Councilor DiMarco made a motion to adopt, second Councilor Wagner.** GIS Manager John Vogl and Town Assessor Karen Marchant were in attendance. Councilor DiMarco questioned how do mapping companies receive updates on these changes. John Vogl stated that they have a checklist of providers who are notified of the changes. Mutual aid also receives the new information. Councilor O'Keefe questioned when we change an address how does it affect deeds, etc. Town Assessor Karen Marchant explained that deeds reference lot and map numbers, those are what are changed at the registry. Open for discussion. **Council's vote 4-0-0.**

**Resolution #2010-02 – Relative to Renaming East and West Woodbine Drive Councilor O'Keefe made a motion to adopt, second Councilor Wagner.** Lisa Jennings, 14 Woodbine asked if the Post Office will be notified and will they continue to deliver the mail with the old address on it. K. Marchant said they have notified the post office, police, fire and departments in Town Hall for the past 10 year of any address changes. L. Jennings asked if each homeowner had to notify the post office J. Vogl said the post office prefers one point of contact and that will be the Town. Warren Jennings, 14 West Eglin asked how long will the post office forward mail. J. Vogl said it will be a 12 month notification to post office. Jerry Flakne, 4 East Woodbine said he would prefer changing the name of the street and leave the number of the house alone. J. Vogl said their recommendation is to combine it into Woodbine Drive and re-number. Councilor Wagner said it would be a good ideal to check to see if anyone has reached the 60 day limit to see if everything went OK for the transition. That would indicate we went the appropriate way and it is working correctly. **Council's vote 4-0-0.**

**Resolution #2010-03 – Relative to Renaming East and West Yellowstone Drive Councilor O'Keefe made a motion to adopt, second Councilor Wagner.** Open for discussion. **Council's vote 4-0-0.**

**FY11 Budget – Bond Hearing - \$1.0M Highway Reconstruction Bond** Public Works Director Janusz Czyzowski presented a PowerPoint presentation. He said this bond item was reduced from \$1.5M to \$1M over the last two years. Impact for FY12 and FY13 is 4 cents each year. He stressed the importance of the road repair cycle of shim and overlay every 12 years. He reviewed the estimated costs and repair strategies. The state block grant expected for street cleaning & maintenance was reviewed. He recommended Council insert a contingent article on the warrant if the warrant article fails on Tuesday. He had a priority list of streets to work on if the \$1M passes for 2010-2011. Councilor Wagner asked Town Manager how much of a tax impact would \$200,000 have, he responded 6 cents. She stated if the bond fails she does not want a contingent article of 6 cents. Councilor DiMarco said if the warrant article fails he wants the citizens to be able to vote on it, \$200K would be an acceptable amount. Chairman Brown asked Town Manager Caron how much leeway on the 2% budget would we have if the collective bargaining passes. He responded it would increase the budget by 2.6%. Chairman Brown said under normal circumstances it would be okay but he wants to stick to the goal of a 2% budget and would ask the community to support the bond. Councilor O’Keefe said he would like to stick with the 2% budget as well. Consensus of the Council was not to support another article just go with the bond on the warrant. Budget Member Todd Joncas, 11 Robinhood Dr. asked if we passed the bond what would the annual cost be for a 10 year bond. ATM/Finance Director Sue Hickey responded the interest rate would be about 4% for 10 years at this moment. It would be \$100K annual principal payment and interest will be calculated later. Chairman Brown explained we need a 60% approval on the ballot. **Councilor DiMarco made a motion to place the bond on the town warrant, second Councilor O’Keefe. Council’s vote 4-0-0.**

**Councilor O’Keefe made a motion to come out of public hearing, second Councilor DiMarco.**

### **PUBLIC COMMENT**

### **OLD BUSINESS**

**LAEA Factfinder Report** – Town Manager Caron explained the collective bargaining process whereby if the two parties cannot reach an agreement they engage the services of a mediator. If that fails they move to the next step where a neutral person reviews all information and produces a Fact Finder Report (FF). The Council reviews that report, votes whether to approve and it is sent to Town Meeting for their approval or non-approval. Gary Altman who wrote the report recommends retaining the current compensation system which consists of two components: Cost of Living Adjustments (COLA) and merit awards. He recommends the employees in this unit receive a 3% adjustment to their wages every 6 months for the next two years and also be eligible for merit increases up to an additional 3.5%. The Town had agreed to allow these employees to cash in one weeks vacation per year. Mr. Altman recommended in the first year the employees have an opportunity should they decide to cash in that vacation pay to apply that amount to their base salary for the first year. There appears to be a potential increase of about 10.8% in the base salary of the first year and 7.85% in the second year if an employee takes advantage of all those opportunities and does perform well which results in a 2.5% merit increase. The financial impact for LAEA is calculated to be \$121,717 in year one and \$121,486.90 in year two. This unit represents 26 full time management positions in 8 departments. Council’s vote tonight is to recommend acceptance or rejection of the FF report to the voters at Town Meeting. Per state law the voters have the final authority to approve or disapprove the FF Report. Councilor O’Keefe asked the Town Manager if passed what is the tax

impact, he responded approximately 4 cents each year. **Councilor DiMarco made a motion to reject the report, second Councilor Wagner. Council's vote 4-0-0.**

**LEEA Factfinder Report** – Town Manager Caron said this report is similar to LAEA and was completed by John Cochran. Mr. Cochran recommends that the current system of two components to pay adjustments be continued. The COLA will be increased between 3 – 4 ½% based on the changes in the Boston Area Consumer Price Index. Merit increases would range from 0 - 5%. He also recommends continuation of the transitional provision of the last contract that allowed employees to cash in sick leave to offset the cost of increasing the employee share of health from 15% to 20%. The cost impact of this contract is \$25,180 in FY11, \$24,958 in FY12, and \$25,842 in FY 13. It is a 1 cent impact on the tax rate for each of those 3 years. **Councilor Wagner made a motion to reject the report, second Councilor O'Keefe. Council's vote 4-0-0.**

**FY11 Budget – Warrant Review** A copy of the draft warrant was reviewed which represents the Council's current position on all budget items. Town Manager Caron said he needs to post the warrant for the final public hearing on Thursday, Feb 4; any changes need to be completed tonight. Councilor O'Keefe said on Article 3 the Council vote should be changed to reflect his vote of tonight, as well as numbers 10 and 11. **Councilor Wagner made a motion to reconsider Article No. 10, second Councilor DiMarco Councils vote 3-0-1, with Councilor O'Keefe abstaining. Councilor Wagner made a motion to support Article #10 second Councilor DiMarco. Council's vote 4-0-0.** Town Manager Caron said that Councilor Farmer will have the opportunity to add his vote on the warrant at the public hearing. The Town Manager reviewed the warrant and said on Article No. 6 the Town Council vote should be changed from 3-0-0 to 5-0-0. Article #7 the Council vote should be changed to 5-0-0. Article 8 will have the bid results by the 2/4/10 meeting which may also impact the recommendation on Article No. 9. The consensus on the Town Council vote on Articles 8 & 9 will be verified, should be 5-0-0. Article No. 10 is now 4-0-0. Articles 11 and 12 votes will be inputted according to voted taken earlier in this evening's agenda. This article might be expanded by 2/4/10 to reflect receipt of any petitioned articles received by the 2/2/10 deadline. Councilor DiMarco asked if we can change the order of the warrants, Town Manager Caron responded yes.

### **NEW BUSINESS**

**Order #2010-01 – Relative to the Expenditure of Recreation Impact Fees - Councilor O'Keefe made a motion to accept, second Councilor DiMarco.** \$55K of impact fees will be used to install lighting. Recreation Director Art Psaledas said installing lights at the softball field would allow the women's league and other leagues to use the field allowing them more playing opportunities. Councilor DiMarco asked about who pays for the electricity to run the lights. A. Psaledas said the cost of electricity will be paid for by the leagues. Chairman Brown asked for clarification of the location of the field, A. Psaledas responded it is the girl's high school softball field. Chairman Brown asked who repairs basketball hoops and paints the lines on the court. A. Psaledas said it is just cosmetic and will be repaired, he is trying to make it last a little longer. Chairman Brown said it is nice that the costs are shared by recreation and school. **Council's vote 4-0-0**

**Order #2010-02 – Relative to Expenditure of Maintenance Trust Funds - Councilor Wagner made a motion to adopt tonight, second Councilor O'Keefe. Council's vote 4-0-0.**

**APPROVAL OF MINUTES**

**Minutes of Councils Public Meetings of 01/04/10.** Councilor O’Keefe made a motion to adopt, second Councilor DiMarco. Council’s vote 4-0-0.

**OTHER BUSINESS**

**Liaison Reports –** Councilor Brown said he met with the Solid Waste Advisory Committee last Thursday and talked about the continuation of the Beautify Londonderry program. They had to discuss if they want to have it run as long as it has been done in the past and talked about the idea of forming a sub-committee for the following year.

Councilor O’Keefe said there was supposed to be a Traffic Safety Committee meeting but it was cancelled due to lack of a quorum. Next meeting is in April.

**Town Manager Reports –** Town Manager Caron reminded the public that there will be a one day delay in the trash pick-up this week. The filing period for local offices starts this Wednesday and runs through 1/29/10. He listed all the openings and said that candidates have to be registered voter by 1/19/10 and listed the Town Clerk’s hours.

Chairman Brown said the final public hearing on the Budget is 2/4/10. Councilor Wagner asked when the citizens petitions are due, Town Manager Caron responded by 5:00 PM on 2/2/10.

**Board/Committee Appointments/Reappointments -**

None

**ADJOURNMENT**

Councilor DiMarco made a motion to adjourn at 9:45PM , second, Councilor O’Keefe Council’s vote 4-0-0.

Notes and Tapes by: **Margo Lapietro** Date: **01/18/20**

Minutes Typed by: **Margo Lapietro** Date: **01/21/20**

Approved; **Town Council** Date: **02/01/10**