

LONDONDERRY BUDGET COMMITTEE

Minutes for April 27, 2023

The Budget Committee meeting is at 7:00 PM on April 27, 2023, in the Moose Hill Council Chambers, 268B Mammoth Road, Londonderry, NH 03053.

Present: Patrick Cassidy –Chair, Joseph Gagnon- Vice Chair – Maureen Hardy, Secretary-Member at Large, Ryan Cronin – Member at Large, Tim Siekmann – Member at Large, Sara Meier – Town Council Liaison, Ron Dunn, Town Manager, Michael Malaguti

1. CALL TO ORDER

The meeting was called to order at 7:00 PM by P. Cassidy

2. PLEDGE OF ALLEGIANCE / MOMENT OF SILENCE

P. Cassidy led the Pledge of Allegiance and Moment of Silence.

3. PUBLIC COMMENT

Justin Campo, Town of Londonderry Finance Director: A Resident contacted Mr. Campo with a concern about transparency when the Finance Director is answering questions. Mr. Campo would like all to know that anyone can reach out to him with questions and he will answer. P. Cassidy and M. Hardy stated that Mr. Campo has been answering their questions with no negative experiences.

4. ACCEPTANCE OF MINUTES

March 30, 2023 Minutes were presented with a minor correction. The individual motioning for adjournment was changed. Motion to accept minutes as Amended by P. Cassidy. The amended minutes passed with a 4/0 vote. At the time of this vote, Joseph Gagnon and Tim Siekmann had not yet arrived at the meeting.

5. COMMITTEE BUSINESS

a. RSA 91a, Right to Know Presentation by Town Manager, M. Malaguti

M. Malaguti provided great details around the Right-to-Know Law (RSA 91-a). He offered examples of what would be included in a right-to-know request. He explained how an individual would send a request and the typical turnaround time for the request to be completed. He discussed different scenarios regarding town email, text messages, social media, and more. See Appendix a. For notes.

Questions raised:

1. P Cassidy asked about posting the Notice of Meeting:
 - a. The Chair needs to contact Kirby Brown to post online on the Town Website and on Social Media
 - b. The Notice is also posted on wall in Town Hall
2. M. Hardy asked If a member of the Budget Committee gets a request for a document, can we provide it?
 - a. Yes, as long as there is no confidential information in the document. (i.e. Social Security number, cellphone number, attorney client privilege information. Only the Town Council can vote to remove privilege)
 - b. Can also forward the request to the Chair and/or the Town Manager if unsure.

b. Liaison Reports:

School Liaison Report:

Ryan Cronin-School Board:

Master Plan - 20-year plan

First five years focused on Moose Hill, District Office and Deferred Maintenance. Project team will be able to start discussing the plan for Moose Hill in May. Second five years will focus on LHS. Final 10 years on the elementary schools.

Portable classroom discussion. Options to buy outright, lease you own or straight lease. District leaning towards owning the unit whether it be purchase or lease-to-own. Suggestion to use FY23 surplus along with FY24 approved budget to purchase outright but Mr. Slater, the Chair, recommended against using funds from FY23 surplus that could be used on education instead. They intended to pick up the conversation on the April 18th meeting which I have not a chance to watch.

Joe Gagnon: Nothing to report.

i. Town Council Liaison Reports:

Sarah Meier - Londonderry Town Council Meeting Budget Committee
4.10.2023

- Expenditure of Maintenance Trust Funds for Various Projects
 - o Town council ordered to expend \$6,840 for repairs and improvements.

- Londonderry Police Department has been awarded a grant from the New Hampshire Department of Safety's Homeland Security Grant Program
 - o Town council has accepted the Unanticipated Revenue Under RSA 31:95-b.
 - o \$61,293.10 for purchase of equipment to assist in Search & Rescue operations
 - Town of Londonderry was awarded a grant from the NH Dept of Energy through the Energy Efficiency and Conversation Block grant program
 - o \$75,920.00
 - Expenditure of Maintenance Trust Funds for Various Projects
 - o \$34,600.00 for repairs and improvements. (Migrate & upgrade fire houses HVAC to BMS.)
 - LPD wants a new drone and upgrade dispatch center from the ARPA funding, which has all of the bells and whistles. \$75,000. Approved.
- ii. Patrick Cassidy- Town Council meeting on 4/24/2023. The town council voted unanimously to approve the acceptance of unanticipated revenue for fire department training in the amount of \$10,000 for mental health training. The town council also voted unanimously to approve the acceptance of unanticipated revenue in the amount of \$4 million for the Pillsbury pump station and force main from federal government's community project funding.

Town Hall Liaison Report:

Maureen Hardy-See Appendix b.

Department of Public Works Liaison Report:

- iii. Joseph Gagnon: Nothing to report

Police Department Liaison Report:

- iv. Patrick Cassidy-Conversation with Chief Kim Bernard on 4/25/23. He stated that the PD is about 280k under budget at this time. The staffing is currently at 60 police officers. Chief Bernard expects to seek the addition of a victim-witness advocate position in the next budget cycle.

Fire Department Liaison Report:

Ryan Cronin-

Chief O'Brien informed me the department is currently 1% under budget but dealing with numerous vehicle repairs and overtime due to vacant positions. They currently have two vacant positions.

v. Capital Improvement- S. Meier-Nothing to report at this time

6. NEW BUSINESS

- a. The Chair will set up a meeting with J. Campo for a budget cycle process presentation.
- b. The Chair will schedule a member of the School Finance team for a budget cycle process presentation.
- c. We discussed tours of departments, DPW, Fire, Police. Each Liaison will run by their responsible department.
 - i. T. Siekmann question- Which dates are best for tours? Tuesdays are tough for R. Cronin. Tuesday and Thursdays good for P. Cassidy. M. Hardy is not available on the same night as ZBA meets, the third Wednesday of each month.

7. PUBLIC COMMENT

None

8. ADJOURNMENT

Motion to adjourn by P. Cassidy, all in favor, Meeting was adjourned at 7:45 PM.

Member	For	Against	Abstained	Absent
Patrick Cassidy	X			
Joseph Gagnon	X			
Maureen Hardy	X			
Ryan Cronin	X			
Tim Siekmann	X			
Sarah Meier	X			
Pending Appointment				X

9. MEETING SCHEDULE-Fourth Thursday of every month

- a. Thursday, May 25, 2023, 7:00 PM, Moose Hill Council Chambers

- b. Thursday, June 22, 2023, 7:00 PM, Moose Hill Council Chambers
- c. Thursday, July 27, 2023, 7:00 PM, Moose Hill Council Chambers
- d. **School Tours** Wednesday and Thursday, August 23-24, 2023 **at 6:00 PM.**
There will be no regular meeting in August.
- e. Thursday, September 28, 2023, 7:00 PM, Moose Hill Council Chambers.

Appendix a. to the April 27, 2023 Budget Committee Meeting Minutes: Right to know, RSA 91-a Notes:

- Right to Know Law – RSA 91-A
 - State statute passed by the NH Legislature. Continually updated by the Legislature.
 - Part I, Article 8 of the New Hampshire Constitution reads: *All power residing originally in, and being derived from, the people, all the magistrates and officers of government are their substitutes and agents, and at all times accountable to them. Government, therefore, should be open, accessible, accountable and responsive. To that end, the public's right of access to governmental proceedings and records shall not be unreasonably restricted.*
 - The law itself has similar language: *Openness in the conduct of public business is essential to a democratic society. The purpose of this chapter is to ensure both the greatest possible public access to the actions, discussions and records of all public bodies, and their accountability to the people.*
 - Because the purpose of the statute is so clear, and because it is not just a statutory, but a constitutional, requirement, exemptions are narrowly construed and the statute is interpreted in favor of access and disclosure.
 - What this means in practical terms is that the burden is on us to justify withholding documents in response to a request. If there is doubt as to whether something is exempt or should be released, it is released
 - The Right to Know Law is not the same thing as FOIA. FOIA is a federal statute that does not apply in New Hampshire. However, it is very similar, although not identical, to the RTKL. The Supreme Court generally consults FOIA, and the cases interpreting it, in resolving issues arising under the RTKL
 - Sometimes, we get “FOIA,” “public records,” “sunshine law,” request, should be construed as a RTK request. It’s my practice not to find technical reasons to deny RTK requests. That is neither in the Town’s interest, nor is it consistent with the spirit and purpose of the RTKL.
- Two major components – public meetings and governmental records

Meeting

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- The law generally requires that the public’s business take place in the open, at duly noticed and convened meetings

- What is a meeting? *The CONVENING of a quorum of the membership of a public body . . . whether in person, by means of telephone or electronic communication, or in any other manner such that all participating members are able to communicate with each other CONTEMPORANEOUSLY . . . for the purpose of discussing or acting upon a matter or matters over which the public body has supervision, control, jurisdiction, or advisory power.*
- The Budget Committee is a “public body.”
- Why is the definition of “meeting” so important? Because with limited exceptions, it is a Right to Know violation for deliberation or discussion among a quorum of a public body to take place outside of a meeting.
- The law specifies that *a chance, social, or other encounter not convened for the purpose of discussing or acting upon such matters shall not constitute a meeting if no decisions are made regarding such matters.*
 - So if members of the Budget Committee attend Old Home Days but do not discuss or act upon anything, that’s not a meeting.
- One example of a 91-A violation: Let’s imagine a member of Budget Committee is interested in knowing where other members stand on a particular issue. He calls one after the other, separately. Technically, this is not a meeting, because a quorum is not CONVENED, nor are the members speaking CONTEMPORANEOUSLY. But it may violate 91-A in two ways:
 - Deliberation outside of a duly noticed and convened meeting
 - May violates the spirit and purpose of the RTKL, which is a separate violation

Governmental Records

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- The RTKL also provides broad public access to governmental records. Defined as: *any information created, accepted, or obtained by, or on behalf of, any public body, or a quorum or majority thereof, or any public agency in furtherance of its official function. Without limiting the foregoing, the term "governmental records" includes any written communication or other information, whether in paper, electronic, or other physical form, received by a quorum or majority of a public body in furtherance of its official function, whether at a meeting or outside a meeting of the body.*

- Governmental records must exist somewhere in physical form. This is why you can't file a RTK request demanding a governmental official answer questions, or create records to answer the request.
- There are good reasons why governmental officials should answer questions, but the RTKL doesn't require it.
- An example of a record that is not a governmental record is an email between a member of the Budget Committee and a member of the public. However, if the member forwards that email to a quorum of the Committee, it IS a public record.
- Conversely, if a Budget Committee member acting in his or her capacity as a liaison to the Police Department exchanges emails with the Police Chief about the Police budget, likely a governmental record because the liaison is acting on behalf of the Committee as a whole
- If a Budget Committee member sends themselves a recipe they found on the internet to their Londonderry email address, not a governmental record.

The Town receives RTK requests almost every day. People who typically handle 91-A requests are the Town Manager, Finance Director, Town Clerk, Police Prosecutor, and Police Records Department.

- Primary areas of focus are:
 - Elections and voting, sometimes requested by the media, sometimes by citizens, and sometimes by interest groups and political parties
 - Police records, usually requested by the media in noteworthy cases or people who have been involved in accidents or been arrested
 - Financial transactions, usually requested by commercial parties
 - Pending or contemplated litigation
 - Topics of local controversy or interest
 - Losing bidders on Town RFPs

Email

- I want to close by addressing the RTKL in one practical settings, email.

- The same principles just discussed apply here. Email is a great tool for non-substantive communications. For example, it can be used to gauge availability, disseminate meeting materials, and communicate with constituents. Town staff can use it to keep board members informed and send them information. It can be used for liaison communications. It can be used for the giving of legal advice.
- It cannot be used for discussion or deliberation.
- Based on the requirement for contemporaneous communication, I take different view than some who say the use of email risks convening an inadvertent meeting.
- I believe the greater risk is email communications being used to circumvent the purpose and spirit of the RTKL, or discussing and deliberating OUTSIDE a meeting. RSA 91-A:2-a specifically states that “sequential communications”—that’s emails—shall not be used for this purpose.
- For this reason, and to prevent the beginning of a thread or chain which invites discussion and deliberation, if there is a need to send an email to a quorum of the Committee, best practice is to blind copy all recipients. This will prevent the “reply all” function from allowing a discussion to begin.
- Emails involving town business should take place through your members’ town email address. This is because governmental records can be created on personal email servers. It’s best to keep everything town-related in one place, so that if there is a RTK request or a subpoena, it’s easily accessed and personal content is not intermingled.
- Lastly, because of retention requirements for governmental records, emails on the town’s server should not be permanently deleted. To keep a clutter free inbox, either create folders for unneeded emails, or move emails to trash, but never empty the trash folder.

The NH Attorney General’s Office provides a Manual and NHMA has training materials. Happy to supply both to the Budget Committee if desired.

Appendix b. to the April 27, 2023 Budget Committee Meeting Minutes
Maureen Hardy-Town Manager/Finance Liaison report for April 2023

1. General Budget check-in

a. I have attached and expenditure budget report through March 31st.

i. At this point the budget is on par with where would anticipate to be.

2. Over/Under Budget?

a. As of March 31st the budget should be 75.07% expended. Currently the Town is at 73.59% expended which is under budget 1.48% based on the March 31st milestone.

i. These figures however, I do not feel accurately reflect the status of the Town. Expenses for the Town are not spread out equally throughout the fiscal year. An example of this is the Town's Debt service which makes of 5% of the Town's total General Fund budget. As of March 31st, all Debt service payments have been made. This reflects an increase in the percentage expended for the Town, if Debt Service was considered separately, the Town would be 72.13% expended which is 2.94% below the March 31st milestone.

3. Points of concern

a. In Fiscal Year 2023, at this point budgetarily there is nothing that rises to the level of a concern, only items that should be watched.

b. In Fiscal Year 2024 and in general there are a couple of items that are of concern.

i. FY 2024 Concern: At the March election as you are aware the Town approved entering into a lease agreement (financing) for various DPW vehicles. I did the estimates for these vehicles at a 5% interest rate. The FED in March increased the FED rate another 25 basis points bringing it to 5%. This is what the banks are able to borrow money at, meaning an interest rate for anyone else will likely be higher.

ii. General Concern: As I have stated previously at Town Council meetings and at the Deliberative Session, the Town's Fund balance is not where it should be based on the recommended guidance from the New Hampshire Department of Revenue Administration (DRA), or the Governmental Finance Officers Association (GFOA). Fund balance allows the town to maintain cash flow as well as assist in providing assurance to our lenders. Current Fund Balance is \$5,065,709.00. Per DRA (5-17% of appropriations. JC uses 10%) We should have 5,859,033 to 11,718,065. Per GFOA (2 months expenditures) 6,262,460

1. Since Fund Balance is not at the recommended guidance level, the Town is limited in how much it is able to benefit from the interest earning side of the 5% FED rate. This increase in the FED rate means

higher interest rate in the Town's investment accounts which would typically mean more investment interest revenue to assist in lowering the burden on the taxpayers. That being said the Town is working with its banking partner to try and take advantage of every opportunity it can to help increase interest revenue for the taxpayers of Londonderry.

4. What important budget and planning items are coming up?
 - b. June 30th marks the end of the current fiscal year and July 1st marks the start of the new Fiscal Year.
 - i. Preparation for these has already started taking place.
 - b. We received news from our insurance company that the GMR (guaranteed maximum rate increase) we received during budget setting time is what the increase will be.
 - c. July and August, I will start to reach out to Departments to discuss fiscal year 2025 budgetary needs. August I will inform Mike of some of these and we will start the early discussions of the Fiscal Year 2025 budget in August/September.
5. Anything else related to Budget and spending
 - b. As you saw during the budget season, we took a large step towards a more accurate budget and we plan on continuing with the process and look forward to the assistance of the budget committee in helping do so during the FY 25 budget season.

Out of curiosity, I asked Justin Campo what MGMT services means as it is a line item in most department budgets and this was the response:

MGMT Services stands for Management Services. This account is utilized differently depending on the department, but typically is for services provided by an outside company, as an example the Fire Department's is used to pay the Ambulance billing company and the Collection agency, and General Government is utilized for various contracts like our record storage, mowing contracts and other items of that nature. I stated typically because Town Council's is utilized for Leadership Londonderry expenses, and other departments will utilize for one off expenses that don't fit into another category. For example, the finance department has used it for Cash receipt books, which last for a couple of years, as well as record requests, deed filings, and administrative fees for the town's FSA account.