

# LONDONDERRY TOWN COUNCIL MEETING MINUTES

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## **Londonderry Town Council Meeting Minutes June 6, 2022**

The meeting took place in the Moose Hill Council Chambers, 268B Mammoth Rd, Londonderry, NH 03053.

Present: Chairman John Farrell; Councilors Chad Franz, Jim Butler, and Deb Paul; Town Manager Michael Malaguti; Assistant Town Manager Lisa Drabik; Executive Assistant Kirby Brown. Absent: Vice Chairman Joe Green.

### **CALL TO ORDER**

Chairman Farrell called the Town Council meeting to order at 7:00 PM. This was followed by the Pledge of Allegiance. This was followed by a moment of silence for all of those first responders who protect this community and country.

Per RSA 91-A:3 II, (a), (b), and (c), the Council entered into non-public session. Motion to enter non-public made by Councilor Franz and seconded by Councilor Butler. Chair called for roll call vote: Yes votes were Councilor Deb Paul, Chairman John Farrell, Councilor Jim Butler, and Councilor Chad Franz. Motion passes 4-0-0.

7:25 PM the Town Council returned from the non-public session. Motion to exit non-public made by Councilor Franz and seconded by Councilor Butler. Chair took a roll call vote; Councilor Deb Paul, Chairman John Farrell, Councilor Jim Butler, and Councilor Chad Franz all voted yes; motion passes 4-0-0.

Motion to seal the non-public session minutes from June 6, 2022 made by Councilor Franz and seconded by Councilor Butler. Chair called a roll call vote; Councilor Deb Paul, Chairman John Farrell, Councilor Jim Butler, and Councilor Chad Franz all voted yes. Motion passes 4-0-0.

### **PUBLIC COMMENT**

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34 The Assistant Town Manager introduced the candidate for Senior Affairs Director, Ilona  
35 Arndt, to replace the retiring Senior Affairs Director, Cathy Blash. The Council thanked  
36 Arndt and welcomed her. Motion to approve the appointment of Arndt made by Councilor  
37 Franz and seconded by Councilor Butler. Chair votes affirmative; motion passes 4-0-0.

38  
39 Chairman Farrell thanked current Director, Cathy Blash, who did so much for the Senior  
40 Center and oversaw its expansion, brought in new membership, etc.

41  
42 John Brodeur, 27 Thornton Rd, and Tim Gelais, 32 Thornton Rd, voiced a complaint related  
43 to a driveway construction plan on the Thornton Road extension. Brodeur stated that the  
44 property owner of 80 High Range Rd submitted a request for a driveway permit to build an  
45 access road from the back of the property to Thornton Road. The driveway plan would  
46 construct a gravel road, through an extension of Thornton, outside of the requester's  
47 property boundaries. Brodeur stated that the plan would directly affect his property line, as  
48 well as the Gelais property line. Brodeur stated that he was not notified of the plan. Brodeur  
49 urged the town to deny the permit due to these concerns. The property has an existing  
50 driveway. Brodeur stated that there's been a lot of history with this issue. Brodeur suggested  
51 that this driveway plan be submitted through the Londonderry Planning Board.

52  
53 Gelais stated that both neighbors received a letter from Town Manager Michael Malaguti  
54 in May 2022 stating that the Thornton Road extension was dedicated to the public with plan  
55 recording 18490-1988. However, because there has been no public acceptance of the road,  
56 it is not a public way that the town is responsible for or has jurisdiction over. Gelais stated  
57 that the town's position is that it's a private dispute between all three families.

58  
59 Town Manager Malaguti stated that the town's position is that this is a dedicated but not  
60 accepted right-of-way. Malaguti discussed a legal precedent which very clearly stands for  
61 the idea that a dedicated, but not yet accepted right-of-way can be improved at Mr. Shucks  
62 cost. Malaguti stated that the town doesn't have an interest here that is at issue and that we  
63 can't get involved in private disputes.

64  
65 Chairman Farrell clarified that each abutting neighbor owns 6 ½ feet of the right-of-way.  
66 Chairman Farrell suggested a land-use attorney be hired to have a conversation with the  
67 neighbors. Malaguti stated that he told the neighbors that if there is going to be a legal  
68 dispute about this, now is the time to bring it forward, but the town will not be inserting  
69 themselves into the issue. Chairman Farrell reiterated that both Gelais and Brodeur should

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70 seek legal counsel. Brodeur stated that he does have counsel and he will be seeking legal  
71 advice.

72  
73 The Director of Engineering and Environmental Services, John Trottier, stated that he will  
74 be issuing them an excavator permit to be working in an area. Brodeur stated that he would  
75 love to keep this out of the courts. Brodeur suggested going through the Planning Board and  
76 to require public hearings.

77  
78 Julia Brodeur, 27 Thornton Road, stated that she doesn't understand how this can be  
79 considered a driveway permit. Brodeur stated that there's a stream that passes through the  
80 area at issue. Malaguti stated that there is no Conservation overlay there. Malaguti stated  
81 that while there may be a conservation concern, it is a state concern and not a town concern.

82  
83 Jerry Shuck, 164 Millway, Marshall, MA, stated that no work has been done yet. Shuck  
84 stated that it will be surveyed, where all the wetlands are, and they will have the proper  
85 permits. Chairman Farrell asked Shuck if he would be willing to have his counsel sit down  
86 and talk with the neighbor's counsel. Shuck stated that he would be happy to. Chairman  
87 Farrell stated that he would like to everyone work together. Brodeur wanted assurance that  
88 work will not start and a permit will not be issued prior to that meeting. Shuck stated no  
89 work will begin as long as the meeting between the parties' counsel is held in a reasonable  
90 amount of time.

91  
92 Dave Wholley, Director of Public Works and Municipal Facilities, addressed the Council  
93 about a situation at Leach Library. Wholley stated that the brains that oversee the HVAC  
94 unit went down. It's old and non-replaceable. They had no ventilation. Wholley stated that  
95 the vendor he'd like to use can come out within one to two weeks. Prices have gone up since  
96 November but if they were the selected vendor they would hold our prices and, in the future,  
97 if we used them again, they would use the price they originally gave us. Wholley stated that  
98 this is an emergency event. The Council gave consensus to proceed.

99  
100 Ray Breslin, 3 Gary Drive, spoke about a resident's concern about a development on  
101 Gilcreast and asked if the sewer has been done on that property yet. Chairman Farrell stated  
102 that there has been no plan that has been put in front of the Council so he doesn't believe  
103 the soil testing has been done yet. Marge Badois, Chair of the Conservation Commission,  
104 stated that the soil testing has been done, but there are no reports yet. DES is doing the  
105 testing. It's a three-stage process and they're in stage two. Breslin asked if it was paid for

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with taxpayer money. Badois stated that they received a grant.

### **PUBLIC HEARING**

Motion to open public hearing made by Councilor Franz and seconded by Councilor Butler. Chair called vote; motion passes 4-0-0.

Chairman Farrell introduced Ordinance #2022-03, an amendment to the Londonderry Zoning Ordinance Section 4.2.1.4 relative to the keeping of poultry in an AR-1 District. Such public hearing is continued from the last meeting on 5/23/22. Town Manager Malaguti stated that if someone violates the Zoning Ordinance, there are some consequences and civil fines. Malaguti shared what can be done, if passed, in terms of enforcement.

Londonderry Deputy Police Chief, Kim Bernard, stated they do get chicken calls on occasion, but usually calls about chickens being loose or chickens versus dog issues.

Martin Srugis, 17 Wimbledon Dr, referred to the last meeting when a neighbor came forward about chickens wandering into his yard. Srugis stated that chickens get loose a lot and the setback should be increased from 25 ft to 50 ft and the coop should be at least 100ft from any well in terms of manure management. Srugis stated that hopefully people who have chickens follow USDA best practices on manure management.

Daniel Arias, 33 West Rd, stated that he moved up here from MA in 2015 in order to enjoy the outdoors and to have poultry. Arias stated that it was his understanding that so long as you have a big enough yard, you could have poultry. Arias stated that he is in favor of the Ordinance.

Quinton Schacht, 5 Dan Hill Rd, stated that he has a little petting farm and they've raised hundreds of chickens. Schacht stated that he has a lot of land to let them be free and he thinks it's a good idea to let people have chickens as long as they maintain them.

Roger Fillio, 3 Hampshire Lane, stated he is an alternate in the Planning Board and when he read about this in the paper there were some discrepancies between what was discussed

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140 at the Planning Board and what is being presented. Fillio stated that the Planning Board  
141 worked hard on this for months. Fillio stated that people are losing track of where our food  
142 is coming from and if you need protein, you will have to grow your own.

143  
144 Chris Bridges, 4 Brookview Dr, stated that he is in favor of this Ordinance. Bridges stated  
145 that someone made a comment about manure not being safe. You can go to any landscape  
146 store around and buy a bag of manure. Bridges stated that he does not agree with keeping  
147 the chickens enclosed. They should have the right to free range under direct supervision,  
148 as chickens are the most effective method to control ticks.

149  
150 Sharon Little, 2 Boyd Rd, stated that the property that she owns is a little under two acres  
151 and she would like to have chickens for her grandchildren to see and help with. Little  
152 stated that people should be able to have a few birds as long as they're enclosed. Little  
153 stated that eggs are also getting expensive.

154  
155 Ron Dunn, 12 Quincy Rd, stated that he is in support of this ordinance. Chickens are a big  
156 help in reducing the carbon footprint. Dunn stated that the cost of eggs is increasing and it  
157 could help support a lot of families right now and asked the Council not to let the bad  
158 chicken owners ruin it for the good ones.

159  
160 Marco Arredondo, 427 Mammoth Rd, stated that he used to have chickens. Arredondo  
161 suggested adding quail to the Ordinance. They are a lot like chickens, with the same  
162 benefits, and could be confined in a much smaller space.

163  
164 Chairman Farrell asked what the Council wanted to do. Councilor Paul stated she is in  
165 favor of the ordinance amendment. Councilor Franz stated that he likes the idea about  
166 adding quail and moving forward with the vote. Councilor Butler agreed. Chairman  
167 Farrell stated that the ordinance as written allows poultry on property as small as half-acre  
168 to an acre. Chairman Farrell stated that he hears all the positive things about chickens but  
169 he also has to think about all other residents. Farrell stated he can probably get to an acre,  
170 but he's not sure about a half-acre because the homes are close to each other.

171  
172 Christie Campbell, 7 Willow Lane, stated that many homes on less than a half an acre in  
173 Town are leased land. Campbell stated that her mother owned a house in the Nevins but  
174 the land was not hers.

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175

176 The Council agreed to go down to a half-acre.

177

178 Nick Codner, Code Enforcement Officer, stated that he doesn't have an opinion on the  
179 ordinance. Codner stated that in the last five years, the department has averaged three to  
180 four complaints a year with regard to chickens that they've had to act on, and they've  
181 never had to file a legal action.

182

183 Amy Agostino, 6 Willow Lane, stated that she understands the concerns about setbacks  
184 and wetlands, but to be fair there are no limitations on people owning any number of dogs  
185 or cats that defecate outside by wetlands and setbacks. Agostino stated chickens are not a  
186 concern to the environment.

187

188 Ann Chiampa, 28 Wedgewood Drive, a member of the Planning Board, stated that she  
189 hopes the Council passes this Ordinance as presented.

190

191 Councilor Butler stated that whatever decision is made, someone will be unhappy.  
192 Councilor Butler stated that three or four calls a year to Code Enforcement is not bad.

193

194 Councilor Franz motioned to amend Ordinance #2022-03 to add in twelve quail. Chairman  
195 Farrell suggested he wanted to limit the total allowed poultry to twelve birds total.  
196 Assistant Town Manager Lisa Drabik suggested that could be accomplished by simply  
197 changing the definition in the ordinance of "poultry" to include quail.

198

199 Councilor Franz moved to accept Ordinance #2022-03 as amended (by changing the  
200 definition of "poultry" to include quail), seconded by Councilor Butler. Chair calls a vote;  
201 result was 4-0-0.

202

203 Chairman Farrell introduced Resolutions #2022-08 through #2022-11, the acceptance of  
204 Police Department Grants. Justin Campo, Finance Director, presented. Campo stated that  
205 the Police Department received four separate grants for four separate reasons. One is  
206 related to overtime for officers to reach out to those affected by the opioid crisis. Another  
207 is for a long-range acoustic device, night vision equipment, and search and rescue  
208 equipment.

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209  
210 Motion to approve Resolutions #2022-08, Resolution #2022-09, Resolution #2022-10 and  
211 Resolution #2022-11 made by Councilor Franz, and seconded by Councilor Butler. Chair  
212 calls for a vote; motion passes 4-0-0.  
213  
214 Chairman Farrell introduced Ordinance #2022-05, an Ordinance creating the Londonderry  
215 Commercial and Industrial Tax Incentive Program. This public hearing is continued from  
216 May 9<sup>th</sup>. Chairman Farrell stated that the Council recently raised the veterans tax credit, so  
217 in order to drive revenue, we need to be able to provide additional revenue. Town  
218 Manager Malaguti stated that this ordinance has been discussed a great deal, and it is  
219 timely. Malaguti stated that the ordinance as presented tonight is different; he heard a lot  
220 of feedback from the public as well as the Council's concerns and he made some  
221 additional changes. First, he eliminated the lowest tier. Malaguti stated that they would  
222 like to use this tool to attract a handful of projects that will assist in building the tax base,  
223 and this is a good way to do it. Malaguti stated that the original ten-year time frame was  
224 shortened to a five-year max. Malaguti stated that he also changed the sunset (trial) period  
225 and proposed a two-year, twenty-four-month period after which the Ordinance would  
226 sunset unless the Council decides to extend it.  
227  
228 Councilor Franz asked if the Council can terminate this program at any point. Malaguti  
229 stated that the Council can terminate the Ordinance at any point, but wouldn't be able to  
230 terminate an exemption that's already been granted.  
231  
232 Councilor Paul stated that she is against this Ordinance for many reasons. Councilor Paul  
233 asked if people within their program can apply for abatements. Malaguti stated that they  
234 can. An abatement is granted only if the property is taxed inappropriately. Malaguti stated  
235 that an abatement is a correction, not tax relief. Councilor Butler stated that the town has  
236 to drive revenue.  
237  
238 Richard Belinski, 89 Hall Rd, stated that he understands what is trying to be done and he  
239 likes the changes, but he still disagrees with it. Belinski stated that if a business wants to  
240 be here, they should be here for the right reasons. Belinski stated that it wouldn't be fair to  
241 other businesses.  
242  
243 Town Manager Malaguti stated that this ordinance is only applicable to new revenue. The

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company would have to prove that there's a public benefit to obtain an exemption.

Neil Dunn, 21 Sherwood Rd, stated that he does like the new improvements but he is against it as well.

Ray Breslin, 3 Gary Drive, asked if it has to be a \$15M project or improvement or more. Malaguti stated that is correct. Breslin stated that is a fairly big project.

Councilor Paul evoked Councilor privilege because she would like to get more of the data about how such a program works in other communities like Milford, including why they adopted it and how it worked. Councilor Paul stated that she wants to know how many towns have had a success rate with this.

Malaguti stated that he is unsure how quickly and whether he could obtain such data, and that he has done a lot of tweaking to the ordinance.

A motion to continue was made by Councilor Butler and seconded by Councilor Paul. Chairman Farrell stated that the public hearing will be continued. Chair called a vote on the motion; motion passes 4-0-0.

Motion to close the public hearings made by Councilor Franz and seconded by Councilor Paul. Chair called a vote on the motion; motion passes 4-0-0.

### **NEW BUSINESS**

At 10:00 PM the Council took a five-minute recess.

The Council resumed their meeting at 10:06 PM.

Chairman Farrell introduced Order #2022-09, an Order relative to the licensing of a junkyard pursuant to RSA 236, Murray's Auto.

Councilor Deb Paul stepped down from the vote due to a conflict of interest.

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277

278 Assistant Building Inspector Bradly Anderson presented. Anderson stated that in  
279 numerous visits to the junkyard, he has had to tell the owner to put up his fence, take cars  
280 down, but that he recommends the Council issue the license.

281

282 Richard Belinski, 89 Hall Rd, agreed that at the current time, the junkyard looks fine.  
283 Belinski stated that last year the day it was licensed, it wasn't under compliance. Belinski  
284 stated that every year around licensing time, it looks fine. After that, things get worse, and  
285 it's the same thing over and over again.

286

287 Motion to approve Order #2022-09 made by Councilor Butler and seconded by Councilor  
288 Franz. Chair called for a vote; motion passes 3-1-0.

289

290 Chairman Farrell introduced Order #2022-10, an Order relative to the licensing of a  
291 junkyard pursuant to RSA 236, S&S Metals. Assistant Building Inspector Bradley  
292 Anderson presented and recommended the Council approve the license.

293

294 Motion to approve Order #2022-10 was made by Councilor Franz, and seconded by  
295 Councilor Butler. Chair called for the vote; motion passes 3-1-0.

296

297 Councilor Paul returned to the meeting.

298

299 Town Manager Malaguti discussed a military sidebar the Town proposes to enter with the  
300 Londonderry Police Association. Malaguti stated that we were approached by the Police  
301 Association to re-up an out-of-date sidebar related to reserve military service by our police  
302 officers. Currently, members who are serving in the Guard or Reserves are doing so on  
303 their own time. The Sidebar would instead provide that for the annual two-week reserve  
304 training period, the Town would pay the difference between their military pay and town  
305 pay, such that they would not be required to use vacation or sick time. The Council gave  
306 its consensus to move forward.

307

308 Chairman Farrell introduced Order #2022-11, and Order #2022-12, Cable Equipment  
309 Capital Reserve Fund withdrawal. Motion to approve both Order #2022-11 and #2022-12  
310 made by Councilor Franz and seconded by Councilor Paul. Chair called for a vote; motion  
311 passes 4-0-0.

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312  
313 Town Manager Malaguti briefly discussed, for the council and public awareness only, the  
314 Lithia Springs conservation transaction. Effective May 31<sup>st</sup>, the Town, via its  
315 Conservation Commission, signed a purchase and sales agreement to conserve the  
316 property known as the Lithia Springs property along Nashua Rd. This property is prime  
317 water and wetlands area and is threatened by development. This purchase and sales  
318 agreement reserves the right for the Town Council and Conservation Commission to  
319 approve this transaction. The Town is working to conserve this area so that it is not  
320 developed.

### APPROVAL OF MINUTES

321  
322  
323  
324 Councilor Franz made an amendment to change the list of members to read “Town  
325 Manager” instead of “Acting Town Manager”. Motion to approve the Town Council  
326 minutes from May 23, 2022 as amended made by Councilor Franz and seconded by  
327 Councilor Butler. Chair calls for vote; motion passes 4-0-0.

### ADJOURNMENT

328  
329  
330  
331 Motion to adjourn made by Councilor Franz and second by Councilor Paul. Chair votes 4-  
332 0-0.

333  
334 Notes and Tapes by: Kirby Brown Date: 6/05/2022  
335 Minutes Typed by: Kirby Brown Date: 6/11/2022  
336 Approved by: Town Council Date: 6/20/2022