

**TOWN OF NEWMARKET, NEW HAMPSHIRE  
TOWN COUNCIL REGULAR MEETING**

**December 21, 2016 7:00 PM**

**TOWN COUNCIL CHAMBERS**

**Approved January 4, 2017**

PRESENT: Council Chairman Gary Levy, Councilor Dale Pike, Councilor Amy Thompson, Councilor Toni Weinstein, Councilor Amy Burns, Councilor Kyle Bowden

EXCUSED: Council Vice Chairman Phil Nazzaro

ALSO PRESENT: Town Administrator Steve Fournier, Water & Wastewater Superintendent Sean Greig, Public Works Director Rick Malasky

**AGENDA**

Chairman Gary Levy welcomed everyone to the December 21, 2016 Newmarket Town Council Meeting and called the meeting to order at 7:09 pm, followed by the Pledge of Allegiance.

Councilor Weinstein made a motion to seal the minutes of the Non-Public Session of December 21, 2016 which was seconded by Councilor Pike.

Town Administrator Fournier polled the Council and the motion to seal the minutes of the Non-Public Session of December 21, 2016 was approved by a vote of 6-0.

Chairman Levy stated that Councilor Nazzaro was out this evening

**PUBLIC FORUM**

Chairman Levy opened the Public Forum at 7:10 pm.

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As no one from the public came forward, Chairman Levy closed the Public Forum at 7:10 pm.

**PUBLIC HEARING** - None

## **TOWN COUNCIL TO CONSIDER ACCEPTANCE OF MINUTES**

### **Acceptance of the Minutes of the Workshop Meeting of November 30, 2016**

Councilor Burns made a motion to approve the minutes of the Workshop Meeting of November 30, 2016, which was seconded by Councilor Thompson.

Changes/Corrections: Councilor Thompson corrected a typo on page 2 of the minutes to change down to “done”. Chairman Levy corrected a typo on line 118 of the minutes to change tart to “start”.

Town Administrator Fournier polled the Council and the minutes of the Workshop Meeting of November 30, 2016 were approved as amended by a vote of 6-0.

### **Acceptance of the Minutes of the Non-Public Meeting of November 30, 2016**

Councilor Weinstein made a motion to approve the minutes of the Non-Public Meeting of November 30, 2016 which was seconded by Councilor Burns.

Town Administrator Fournier polled the Council and the minutes of the Non-Public Meeting of November 30, 2016 were approved by a vote of 6-0.

### **Acceptance of the Minutes of the Regular Meeting of December 7, 2016**

Councilor Pike made a motion to approve the minutes of the Regular Meeting of December 7, 2016 which was seconded by Councilor Thompson.

Changes/Corrections: Councilor Pike questioned the use of the word “penalty” on page 9, line 67 of the minutes. After review of the tape, no changes were made to the wording. Chairman Levy questioned a statement attributed to Vice-Chair Levy on page 14 of the minutes. After review of the tape, it was corrected to read “Chairman Levy”, and the wording was adjusted to make the statement clearer.

Town Administrator Fournier polled the Council and the minutes of the Non-Public Meeting of December 7, 2016 were approved as amended by a vote of 5-0, with 1 abstention.

## **REPORT OF THE TOWN ADMINSTRATOR**

Town Administrator Steve Fournier first provided an update on the **Downtown Project**. He stated that Target Construction had closed up the project for the winter, except for any emergency repairs, as weather conditions were deteriorating. He said they had met substantial completion, but that there were still a number of items to be addressed in the spring, and said at that time the \$750/day penalty would go

down to \$500/day. He said when they reopened the project in the spring, the cracked bricks would be replaced and the crosswalks would be painted with reflector epoxy and sealed. He stated that as part of this project the Historical Society had requested signs be placed in the Downtown welcoming people to Newmarket and indicating that it was listed on the **National Registry of Historic Places**. He stated that 3 signs had been ordered and would be placed near the Library, near the Town Hall, and at the intersection of Gerry Avenue and Exeter Street.

Town Administrator Fournier next addressed the **Bennett and Sewell Well Levels**. He said there were questions regarding the drought and current water levels, and said though the MacIntosh Well was online, the Bennett and Sewell Wells were still 7 to 9 feet below normal and were not recharging and they hoped the drought situation would be relieved in the spring. He stated that the Municipal Budget Committee had adopted the **FY2018 Budget** as approved by the Town Council, and the Deliberative Session would be held with the School on Saturday February 4<sup>th</sup> at 9:00 am at the Junior-Senior High School. He stated that he did get a request from the **Superintendent of Schools** to come to the January 4, 2017 meeting to make a presentation to the Town Council of their plans, and said he would also introduce the new Finance Director at that time. The Council agreed to add this to the next meeting agenda.

Town Administrator Fournier said that with regard to the **FY2017 Budget**, 48% of the total operating budget had been expended as of the end of November. He said though this was higher than last year, there were no large areas of concern. He said the Library had expended 67% of their operating budget at this time versus 37% last year, and all other departments were on track. He explained that the Library only received a flat amount from the Town. Town Administrator Fournier stated they had closed on the **Eagles Property** last week and the new owners would be cleaning up the property.

Discussion: Councilor Thompson asked about the unusual number of water breaks, and asked if they knew the reason and what sections were involved. Public Works Director Rick Malasky said that two of the breaks involved valves that had failed and said that one was a gate valve on the Durrell Property. Water & Wastewater Superintendent Sean Greig said the valves were composite coated, and they now made sure all valves were held together with stainless steel bolts. He said the pipes were not that old, and that one of the ones that went was the fuel line to the High School. Public Works Director Malasky said the bolts on the tappet valve for that line were not stainless steel.

Councilor Thompson questioned the IT report which mentioned that the Library now had access to the Town's accounting software program. Town Administrator Fournier said this was so the Library could submit purchase requests digitally instead of dropping off paper ones. Councilor Weinstein asked the reason the Library budget expenditures were so high, and Town Administrator Fournier said the Library Trustees had recently ordered significant pay increases for their employees. Councilor Weinstein commented on the dramatic decrease in overdoses in Newmarket, and thanked the Police Department and the Fire Department for all their work on this issue.

Chairman Levy asked if the MacIntosh Well was now running fulltime, and Town Administrator Fournier said it was currently running Monday through Friday due to a glitch with one of the flow meters, and it was pumping approximately 70,000 gallons/day into the system. Chairman Levy asked if he expected the Bennett and Sewell Wells to increase now that the MacIntosh Well was online, and Town Administrator

Fournier said he did not expect that to happen. He said they needed enough rain to both sustain the wells and enough on top to recharge them, and that a substantial amount of water would need to come back. He clarified that the Bennett/Sewell Wells were sand and gravel based, and the MacIntosh was a bedrock well.

Councilor Weinstein asked for an update on the Memorandum of Understanding for the Finance Director with the School. Town Administrator Fournier said he understood that they had approved it as the Council amended, and said it had gone through and was all set.

## **COMMITTEE REPORTS**

Councilor Weinstein said that the *Budget Committee* had met on December 12<sup>th</sup> and had recommended the FY2018 Town Budget unanimously. She said another meeting had been scheduled for December 19<sup>th</sup> to review the School Warrant Articles, but that the meeting had to be rescheduled due to a mix-up in posting. She said the next meeting would be January 9, 2017 to review the School Warrant Articles and the School Public Hearing for the FY2018 SAU Budget would be held on January 12, 2017.

Councilor Burns stated that the *Planning Board* met and had approved the waivers and application for 342 Wadleigh Falls Road to divide the lot. She said that with regard to the issue with the Grape Street project, it had been found in favor of the Town to stay with the position of the Planning Board to give guidelines for design standards. Councilor Pike explained that though their design standards were not highly specific, the decision was upheld to retain the character of the Town and the developer was asked to provide elevations. He said they were also having to go back to some areas of prioritization from the Future Land Use Chapter, and said a Workshop would be held on the 10<sup>th</sup> of January with the Sub-Committee attempting to meet before the workshop as well.

Chairman Levy said he had received a letter from Planning Board Chairman Eric Botterman and they were talking about possibly having the Joint Planning Board/Town Council meeting in February. He said the Town Council would have to implement whatever recommendations were made by the Planning Board. Councilor Pike said there were a couple of items in the letter that belonged more to the Council than the Planning Board. Councilor Weinstein suggested they discuss a date for the joint meeting at their first meeting in January. Town Administrator Fournier said he thought to schedule the meeting in the second week of February on an off week, and said he would send a response to the letter.

Councilor Pike addressed the *Macallen Dam Committee*, and said that a meeting was held with the Durham Town Engineering Committee to discuss the culvert replacement project on Longmarsh Road. He said with the stability analysis for the spillway last year, they had realized there were some challenges with their model due to the complexity of the Lamprey River system, and that the Route 108 changes would need to be re-designed as a result. He said originally they thought the Longmarsh Culvert Replacement would send less water to the Macallen Dam under high flows, but that Durham was raising the road so that it actually meant more water under high flows. He said the topic of the meeting was that Durham could not send more water to the Macallen Dam and the project would require re-engineering on their part.

**OLD BUSINESS**

**ORDINANCES AND RESOLUTIONS IN THE 2<sup>ND</sup> READING**

**Resolution #2016/2017-14 Relocation of Water & Sewer Utilities as Part of NHDOT Bike Lane Project**

Councilor Weinstein made a motion to approve *Resolution #2016/2017-14 Relocation of Water & Sewer Utilities as Part of NHDOT Bike Lane Project* which was seconded by Councilor Bowden.

Town Administrator Fournier said they had already approved the project, and said that as a result of the second part of a State project they would be upgrading and relocating their Water & Sewer lines in that area, and added the water lines had already been done. He said they currently had \$600,000 in the Capital Reserve Fund for sewer relocation, and \$40,000 for water. He said they had gone out to bid and the total budget with contingencies came in at \$360,613, and said this resolution would authorize him to withdraw the funds to do the projects when the State came in to upgrade Route 108.

Town Administrator Fournier polled the Council and the motion to approve *Resolution #2016/2017-14 Relocation of Water & Sewer Utilities as Part of NHDOT Bike Lane Project* was approved by a vote of 6-0.

**Resolution #2016/2017-15 Water & Wastewater System Buildout Analysis**

Councilor Burns made a motion to approve *Resolution #2016/2017-15 Water & Wastewater System Buildout Analysis* which was seconded by Councilor Pike.

Water & Wastewater Superintendent Greig stated that he had been directed by the Town Administrator to submit an RFP to do a Water Demand Study and a Sewer Capacity Study, which was basically a 20-year buildout analysis. He said that as part of the study they would also look at the Bennett and Sewell Wells to determine the safe yield. He said the cost for Sewer was \$9,992 and \$20,468 for water, and said he had sent it out to 30 different engineers with only Wright-Pierce putting in for the project.

Discussion: Councilor Thompson said she had some questions about the math, as the prior resolution had taken \$331,000 from the Sewer Capital Reserve Fund and \$34,000 from the Water Capital Reserve Fund. She said subtracting those amounts would leave \$269,000 in Sewer, and \$6,000 in Water and they were now trying to take another \$21,000. Water & Wastewater Superintendent Greig said that there were actually some undedicated funds and that the Sewer Capital Reserve Fund currently had \$1.167 million. He explained that \$600,000 had been set aside for the North Main Street Project, \$320,000 set aside for Pump Station improvements, and approximately \$155,000 set aside for truck replacement, which left a balance of \$92,650 for undedicated Sewer Capital Reserve Funds. Town Administrator Fournier said that the Water Capital Reserve Fund had \$1,187,450 as of October 21<sup>st</sup>.

Councilor Pike, referring to the Wright-Pierce proposal with regard to Coordination with the Town Planning Department, said that some of the next potential re-zoning in the area towards New Road would be wells and not municipal water. Town Administrator Fournier said they would look at the topography and what could be built where, and also look at the landscape and the approximate location of the water

system. Councilor Pike felt there might be two aspects of what Planning would need to do at the Town level related to water: (1) determine the capacity of the municipal water supply and (2) determine how to protect their existing wells. Water & Wastewater Superintendent Greig explained that they were trying to determine the next 20-year needs of the Town through inventory of what they had, and they would help figure out how to address any discrepancies that were found.

Chairman Levy said a recommendation had been made by Strafford County and the Town to potentially look at 3-acre zoning versus 2-acre zoning. He said if those areas did go to residential, he hoped that when the buildout study was done they would get as much feedback as possible on properties that could potentially go on Town water and how that would impact if they were build out. Water & Wastewater Superintendent Greig said ideally they would look at the Town and the likelihood of things being built over the next 20 years and have a safety factor built into it. He said they would determine the amount of water needed to meet the Town's 20-year demands, and if they did not have the capacity they would try to help them figure out how to get there or curb growth because the capacity was not there.

Town Administrator Fournier polled the Council and *Resolution #2016/2017-15 Water & Wastewater System Buildout Analysis* was approved by a vote of 6-0.

**Resolution #2016/2017-16 Amending the Administrative Code: Creation of the Department of Buildings & Grounds**

Councilor Pike made a motion to approve *Resolution #2016/2017-16 Amending the Administrative Code: Creation of the Department of Buildings & Grounds* which was seconded by Councilor Bowden.

Town Administrator Fournier stated that as part of the goal to find efficiencies and share services with the School District, they had proposed hiring a Facilities Director who would oversee the Department of Buildings & Grounds and answering to him. He said he was recommending the creation of a new Department of Buildings & Grounds separate from the Department of Public Works, which would be the first step in order to go further and combine with the School. He said a Job Description and a Memorandum of Understanding similar to the Finance Director would be provided in the future. He said pursuant to the current Administrative Code the only department heads listed were the Public Works Director and the Chief of Police, and said this would allow him to create the new department and also allow him to rewrite the entire Administrative Code. He said the first step was to create the department, which would not change anything operationally at this time, and said that the Facilities Director would be the head of that department.

Discussion: Councilor Thompson said she was concerned about setting up a new department without discussing how it would actually work. She said Public Works had all the vehicles, the staff, and the administration, and asked if the Director of Buildings & Grounds would have access to equipment. Town Administrator Fournier said they already had a line-item for equipment and vehicles which would still be listed budgetarily under Buildings & Grounds. Councilor Thompson asked how the sharing of equipment would work and who would report to who. Town Administrator Fournier said they would need to determine what the load was going to be when the individual was hired. Councilor Thompson asked about

the custodians at the School, and Town Administrator Fournier said that would be the next step but he first wanted to break out Buildings & Grounds to its own department on the Town side.

Town Administrator Fournier said that the Department of Water & Sewer was broken out 3 years ago, with the Water & Wastewater Superintendent reporting directly to him, though it was never codified in the Administrative Code. He said Public Works Director Malasky would continue to head Buildings & Grounds until something was hammered out. Councilor Thompson felt there were a lot of details they did not know, as well as the School and the Superintendent's needs. Town Administrator Fournier said that taking out the School side, he would be recommending the new department be set up anyway. He said currently they did not have one person focusing on the long-term planning of their facilities and coming up with timely repairs and maintenance which was a necessity. He said having one individual and a separate department would give him someone he could go to for updates on long-range planning who would oversee everything. He said considering the number of facilities, he felt it was imperative that they do this not only for a joint position, but on their own to have a separate entity that could work on the issues.

Councilor Thompson said though she was in favor of hiring a Facilities Director, she was not sure she wanted to create another department in addition to Public Works. Councilor Pike asked if what the Town Administrator proposed would require a change in the Town Charter. Town Administrator Fournier said he could create or dissolve any department with the approval of the Town Council. Councilor Pike said he wanted to keep the momentum moving forward, and said part of what they were doing was trying to have a cooperative arrangement with the School, and said he was inclined to give the Town Administrator discretion to organize this as he was proposing. He pointed out that this was also a way of recalibrating the loads placed on the other departments, and said he felt it was a reasonable start.

Councilor Weinstein said she agreed with Councilor Pike that this was a way to start the process, and she felt the person needed to report directly to the Town Administrator. She said that clearly some details needed to be worked out, but felt separating Buildings & Grounds was a reasonable first step. Town Administrator Fournier said it was his recommendation to create the department first and then hire the Facilities Director. Chairman Levy said he agreed with Councilor Thompson, and felt a clearly defined role and responsibilities were needed along with a clarified job description. He said he understood that the Facilities Director was envisioned as a single position that would coordinate the maintenance functions in the existing framework of the Town and manage Facilities procurement contract administration and find efficiencies. He said the individual would also provide long-range planning as it related to buildings and convey any information to the Public Works Director who would then carry it out. He said he had spoken with Mr. Alan Gould of MRI who conveyed that it was not their intention to create another department. He said he had also envisioned the Facilities Director as a fairly high-level position.

Town Administrator Fournier said he was trying to cut out an additional step in having the Facilities Director, with his own department separate from Public Works, report directly to him. He said that general maintenance was part of the responsibilities, and they needed someone on the ground to do this without first needing to go through the Department of Public Works. He said the Public Works Director had a lot of different departments under him, and he was trying to take Buildings & Grounds out in order to have someone visionary for long-range planning, with individuals who could carry that out on a day-to-day

basis. He said the Facilities Director with no department would have to go to Public Works to schedule through them to have the Buildings & Grounds crew do some of the maintenance.

Councilor Burns said in the MRI draft report part of the discussion with regard to Buildings & Grounds was to alleviate some of the load on the Director of Public Works. She said that if things were still funneled through him nothing would be relieved, and she said she supported the resolution the way it was written. Councilor Thompson asked if easing the workload of the Public Works Director would require his job description to be revised, and asked how they would populate the Department of Buildings & Grounds. She said she felt they should perhaps discuss this more at their next meeting.

Town Administrator Fournier said he wanted to clarify for everyone that they already had a separate Buildings & Grounds staff who reported to the Public Works Director. He said this was just saying there would be an autonomous Buildings & Grounds Department overseen by a different director or department head. Councilor Pike stated that this was pretty close to what was observed in Cape Elizabeth with the Facilities Director who did a lot of proposals and project management. He said the hiring of the Facilities person was more important to him than whether or not he had his own department, and said he did not see a problem with proceeding in that fashion.

Chairman Levy said he could not support the resolution as written, and preferred that a Facilities person be hired and a valid job description laid out. He felt they should have adapted the Cape Elizabeth job description and applied it to the needs of Newmarket, and he said he was trying to make sure it was vetted properly to avoid unintended consequences. Town Administrator Fournier said it was his intention to have a separate Buildings & Grounds Department with the supervisor reporting directly to him, whether or not they had an agreement with the School. He said he also felt the rest of the Council should have an opportunity to talk with MRI, and suggested they hold this resolution over for a 3<sup>rd</sup> reading at their first meeting in January. He said he was always hearing that they did not have a plan when they are doing maintenance projects, and he needed one person who could focus since he had so many people trying to do the work. He said it currently fell on the Public Works Director, Finance, Building Inspection, and the supervisor of Buildings & Grounds.

Councilor Pike said that since MRI would be presenting their report at the next meeting it would make sense to have a broader discussion at that time. He said support for a Facilities Director seemed nearly unanimous, and it was just a question of how it would be organized. Chairman Levy felt it would be important for MRI to clarify their intention since it was basically their recommendation they were acting on. Councilor Pike clarified that there had also been inputs from the School and the Sub-Committee.

The Council agreed to hold *Resolution #2016/2017-16 Amending the Administrative Code: Creation of the Department of Buildings & Grounds* over for a 3<sup>rd</sup> reading at the next meeting.

#### **Resolution #2016/2017-17 Replacement of Windows at the Community Center**

Councilor Weinstein made a motion to approve *Resolution #2016/2017-17 Replacement of Windows at the Community Center* which was seconded by Councilor Thompson.

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Town Administrator Fournier stated that when the siding was replaced at the Community Center they realized the windows were falling apart and only secured by the old siding. He said they were secured for the winter and proposals were obtained to replace the Recreation Center windows. He said they received 3 bids with the lowest being Bragdon Construction at \$11,800.

Town Administrator Fournier polled the Council *and Resolution #2016/2017-17 Replacement of Windows at the Community Center* was approved by a vote of 6-0.

**ORDINANCES AND RESOLUTIONS IN THE 3<sup>RD</sup> READING – None**

**ITEMS LAID ON THE TABLE –** *Resolution #2015/2016-52 Authorizing the Designation of a Portion of Route 152 as an Economic Recovery Zone.* (This Resolution is tabled from the June 15, 2016 Council Meeting pending Planning Board action.)

**NEW BUSINESS/CORRESPONDENCE**

**Letter from the Planning Board**

Chairman Levy said he had received a correspondence from Planning Board Chairman Eric Botterman. Town Administrator Fournier read the letter in which Mr. Botterman said the Planning Board had adopted the Future Land Use Chapter of the Newmarket Master Plan, and that among the recommendations were two (2) that needed action by the Town Council: the Property Maintenance Code and Junkyard licensing procedures. He said they had decided that these would be more appropriately handled by the Town Council who had broader enforcement authority over building and property maintenance issues. He said Mr. Botterman recommended that a committee be established which would include the Code Enforcement Officer, a representative of both the Planning Board and the Town Council, and a citizen-at-large to: (1) study whether the Town should adopt a Property Maintenance Code and embark on a junkyard regulation program, and (2) draft regulations to be adopted by the Town Council to implement these concepts as deemed feasible. He said he understood that the Town Council would be holding a joint meeting with the Planning Board in February for this purpose.

Town Administrator Fournier said he would try to schedule something for the second week of February. Chairman Levy asked that the Council get a copy of the Land Use sections of the report, and the Town Administrator specify what they would be discussing.

**TOWN COUNCIL TO CONSIDER NOMINATIONS, APPOINTMENTS AND ELECTIONS -None**

**ORDINANCES AND RESOLUTIONS IN THE 1<sup>ST</sup> READING - None**

**CLOSING COMMENTS**

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Councilor Pike said he felt that the role of the Community Action Program on Abuse had been an example of the collaboration and good work being done in Newmarket. He also thanked the School for the amount of work they had put into Facilities to try to come up with something that would meet the needs of the community. He said he felt the Council had a good year, thanked Chairman Levy for his leadership, and thanked the citizens for the great deal of good work being done in Newmarket.

Councilor Weinstein said a lot of work had been done over the last year and a half by the Community Action Program on Abuse. She said the collaborative effort was not just in Newmarket but also with surrounding communities. She said it was great to see people working together and to see such a huge reduction in overdoses, and felt that it highlighted the strength of their community.

Chairman Levy wished everyone a Merry Christmas and a healthy and happy New Year and holiday season.

**NEXT MEETING:** The next regular meeting of the Town Council is scheduled for January 4, 2016.

#### **ADJOURNMENT**

Councilor Pike made a motion to adjourn the meeting, which was seconded by Councilor Bowden. The meeting was adjourned at 8:56 pm.

Respectfully submitted,

Patricia Denmark, Recording Secretary