

Unsealed June 27,2012 Non-Public Minutes

TOWN OF NEWMARKET, NEW HAMPSHIRE
TOWN COUNCIL NON-PUBLIC SESSION
JUNE 27, 2012 6:00 P.M.
TOWN COUNCIL CHAMBERS

PRESENT:

Council Chairman Phil Nazzaro

Council Vice Chairman John Bentley

Councilor Mike LaBranche

Councilor Al Zink (present after recess at 9:21 p.m.)

Councilor Ed Carmichael

Councilor Dan Wright

Councilor Gary Levy

Council Chairman Nazzaro called the meeting to order at 6:05 p.m. Council Vice Chairman Bentley moved to enter non-public session under RSA 91-A:3 II(b) for the purpose of hiring a town employee. Councilor LaBranche seconded. Motion carried unanimously, 6 – 0, and Council entered non-public at 6:07 p.m.

Council Chairman Nazzaro presented the order of business:

1. Present results from reference checks, if they had been done, in terms of any red flags they had found when speaking to the references Steve Fournier gave them
2. Reach a consensus on pay and possible bonus package
3. Reach a consensus on contract

Councilor Carmichael had spoken with Craig Soloman, former member of the No. Hampton Board of Selectman. He said that Mr. Soloman had raved about Mr. Fournier. North Hampton has a different governmental structure than Newmarket. The Board hires the Finance Director, whereas in Newmarket, the Town Administrator is allowed that responsibility. In the absence of a Finance Director, Mr. Fournier had been involved in that department. Mr. Fournier had been instrumental in the hiring of a police chief. Mr. Soloman said there were no grants while he was on the Board, but North Hampton did not encourage economic development for large corporations coming to their town. Mr. Soloman cited Mr. Fournier's communication skills, professionalism and political savvy. He conducted bi-weekly meetings with Department Heads and had a good rapport with employees.

Council Vice Chairman Bentley had not been able to speak with Dennis Cote, former Fire Chief in North Hampton. (They had been playing phone tag.) He had spoken with Professional Peer David Caron, Town Manager of Londonderry. Mr.

Caron had not been able to comment on some of Mr. Fournier's municipal duties in North Hampton. However, they had served on various committees together when he was in Epping and North Hampton. He said Mr. Fournier had grown in his positions and was especially good with public relations. He felt it was good that he had started on this career path at a young age, and felt he was becoming a dynamic leader.

Councilor Wright spoke with former North Hampton Chief of Police, Brian Page, who had given Mr. Fournier ones in all 25 categories. Councilor Wright was somewhat concerned that Chief Page might not have had knowledge of Mr. Fournier's performance in all the categories, and he would have expected a two rating in at least a few. Council Vice Chairman Bentley said that although this is rare, it is possible that Mr. Fournier is very good, and warned about being too cautious. Councilor LaBranche noted that the references were hand-picked by Mr. Fournier. Councilor Wright felt they should go ahead with Mr. Fournier, but perhaps consult with Don Jutton to see if he had anyone who would be a viable alternative. He emphasized that it was the Council's responsibility to set the goals and objectives for the position, and to contact references other than those Mr. Fournier had presented if an offer is made.

Councilor LaBranche had spoken with Joyce Blanchard of Epping. Mr. Fournier had arrived in Epping after major decisions had been made about large companies settling there. Epping also has a different governmental structure than Newmarket, and Mr. Fournier was not authorized to make many of the decisions affecting the town. They spoke about economic development. Councilor LaBranche said that Mr. Fournier had worked with Clay Mitchell on various planning projects in North Hampton, and he would be a good person to contact if the Council decided to move forward and make an offer pending further reference checks. Councilor Wright stated that his personal decision was to go ahead with Mr. Fournier, but expressed his concern that they make the best decision for the town.

Councilor Levy had spoken with professional peer, Keith Hickey, currently Town Manager in Salem and formerly Town Manager in Bedford, which is a bedroom community similar to No. Hampton. Mr. Hickey knew Mr. Fournier from various events, many of which were social events. He had known him from the time he started in Somersworth and stated he had grown and become much more professional. He said Mr. Fournier was smart, sociable, a hard worker, knew politics and how to make a Board happy. Mr. Hickey had added that without the proper infrastructure, economic growth would be difficult for the town.

Councilor Levy described his conversation with Susan McGeough, former member of the Board of Selectmen in Epping, as enlightening. She was on the Board for 10 years and also involved with the Planning Board. She said at the time Mr. Fournier was in Epping, the town was dealing with issues similar to what Newmarket is now, such as water supply. She further stated that Mr. Fournier had no control over employees, did not write reviews, and had no authority to hire or fire, as that was all done by the Board. Epping had hired an economic development person whose compensation came from a percentage of the taxes from the businesses he brought in, which she said was a mistake. Mr. Fournier's role was to do what he was told, as the Selectman controlled everything. She felt there was no one to protect the town. Councilor Levy suggested that his role in North Hampton was similar. Ms. McGeough said that Mr. Fournier was good on a day-to-day basis and with constituent work. She also said that there was no one in Epping to mentor him, but that he was capable of being mentored and receptive to new ideas. Councilor Levy stated he like Mr. Fournier and thought he was a straight-up and honest person and a quality candidate who would listen and grow. His only concern was that he was inexperienced in some of what Newmarket was looking to do, and asked if they wanted someone who would have to do on-the-job training. This was somewhat of a red flag, and he felt the only drawback was that Mr. Fournier had not had much experience with some of the issues Newmarket was facing. He felt the need of more feedback before the Council made an offer, and suggested that the Council ask Don Jutton to bring in a couple of candidates for comparison. He also stressed the need for a unified Council in the decision.

Councilor LaBranche said he understood Councilor Levy's concerns about Mr. Fournier's lack of experience in certain areas. However, in his conversation with Joyce Blanchard, she said Mr. Fournier was on the Board of LGC and had been in the field. She also said Mr. Fournier had instituted the process for Epping dealing with tax deeded properties. He felt the Council should come to an agreement on an initial package and enter negotiations with Mr. Fournier. This would also open the door to contacting whomever they wished for further reference checks. He felt if they waited too long it would affect the budget setting season. He said that they needed someone fully vested in the town, and he felt that going through Don Jutton would be more costly.

Council Chairman Nazzaro said they needed to decide on whether to make an offer, and then discuss money and check further references. He said they needed someone in charge who could deal with long and short term problems. Councilor Levy said he would only consider using a candidate from Don Jutton if it made financial sense. He expressed concern that Mr. Fournier did not have much experience with water, wastewater and economic development issues, as his hands had been tied in Epping. He wondered if they could hire someone for 6 months, and then offer a permanent position if

everything worked out.

Council Chairman Nazzaro pointed out that Mr. Fournier had left Epping in 2007. He had spoken with Jon Rineman, former Selectman in North Hampton. He had said Mr. Fournier was involved with the hiring of a new Fire Chief, and that had been a success. He had suggested to the Board that the Recreation Director be let go, and the Board followed his suggestion. The Board was also pleased with that decision. Mr. Rineman said Mr. Fournier was knowledgeable, and cited two of his innovations: the Town Campus concept and sharing the oil contract with the schools. He also said he owns the budget and is especially good at communicating and educating voters.

Council Vice Chairman Bentley cited examples of people, very often with experience, who had not worked out for Newmarket. He said the Search Committee, which was made up of a diverse group, had liked Mr. Fournier, and no one from that group had thought him inexperienced. He said that having a reference speak of Mr. Fournier as a future state leader was a big thing to say.

Council Chairman Nazzaro said they would not have time to discuss money in the next 8 minutes. Councilor Levy said that he had wanted a buffer for the decision, but appreciated Council Vice Chairman Bentley's examples. One of his reasons for thinking about a sub-contractor was that dismissal, if necessary, would be easier. Also, there would be no need for a severance package. Council Chairman Nazzaro said that having a cavalcade of sub-contractors also made it easier for them to leave. He then read a letter from the law firm which stated that the Council had the ability to make the contract, and a dismissal clause stricter than that provided by the Town Charter. He suggested a 1 year contract at will, and said a contract existed to protect both parties, and that both parties have to agree to the terms. Councilor Levy suggested a 1 year contract with no severance package. Councilor LaBranche said the current contract had a 90 day severance package. It was pointed out that no Councilor has a contract in his daily employment. Councilor LaBranche said that he felt Mr. Fournier was a top quality candidate, and may be under a contract now. Since he would have to break that contract to come to Newmarket, he felt they should offer him a one year contract at more than he was making, with or without bonuses.

Councilor LaBranche moved to go into recess so the Council could attend the Efficiency Committee meeting. Councilor Carmichael seconded. Motion carried unanimously, 6 – 0, and the Council recessed at 6:58 p.m.

The Council resumed the non-public session at 9:21 p.m. with Councilor Zink in attendance. He had not had the time to do his reference check. Council Chairman Nazzaro gave an update on the earlier discussions, and asked if the Council consensus was to go ahead in the process, offer the position and prepare a package for full reference checks. The consensus was to go ahead. He said the next step was to determine a base salary and bonus package and the time frame of a contract.

It was determined that Mr. Fournier was currently making \$83,232. Councilor LaBranche thought he might have 2 years left on his contract with North Hampton. He suggested that they offer a two-year contract with a base of \$90,000. The second year of the contract would not offer a raise, but instead, a bonus paid at the end of the first year based on goals met.

Council Chairman Nazzaro asked that each Council member offer their suggestions in turn, and he charted them on the white board. Councilor LaBranche suggested a 2 year contract with a base of \$87,000, and the possibility of a \$12,000 bonus to be paid at the end of the first year based upon achieving 3 goals at \$4,000 each. Councilor Zink stated that he didn't think a contract meant much, and that if the person hired did not accomplish what the Council wanted, it would be difficult to let him go. Council Chairman Nazzaro read from the attorney's letter that he had cited earlier in the meeting. Councilor Zink felt the Council did not have adequate time to prepare objectives before making an offer, and thought they should offer a straight salary of \$100,000 and a one year contract that would state clearly that this was an at-will position and that continuing in the position for the second year would depend upon a successful year-end evaluation.

Councilor Carmichael advocated a salary of \$93,000 with no bonus. He thought this should be an at-will position and questioned a severance package. Councilor LaBranche said the current contract offers a 90 day severance which only would come into play if a dismissal were not "for cause". Council Vice Chairman Bentley suggested the salary be \$93,000, as this was \$10,000 over what Mr. Fournier was currently making, with no bonus. He felt this should be an at-will position. Councilor Wright advocated that this be an at-will position with no severance package attached, with a salary of \$85,00 and the potential of \$10,000 in bonuses which would help the candidate focus on the goals the Council set. Councilor Levy was in favor of an at-will contract with no severance package with a base of \$90,000 and the potential of

\$9,000 based on attaining 3 pre-set, measurable goals. He reiterated the importance of the Council contacting more references. He said this would give Mr. Fournier an 8% raise to begin, and that in the next two weeks the Council should work toward deciding what the criteria for the measurable objectives should be. He felt there should be 2 goals set based on things Mr. Fournier had not done previously, and one that could be considered a stretch goal.

Council Chairman Nazzaro pointed out that they were fairly close in some areas. Councilor LaBranche stated he had spoken with Don Jutton, who did not favor an at-will contract. He favored a 3 year contract as the Council has the potential of changing 2 members every year. He felt they should do what the professionals suggested, and also show that they had faith in the candidate. Councilor Zink asked the meaning of a 2 year contract. Council Chairman Nazzaro said that if the candidate did not meet the goals he would not be fulfilling the terms of the contract and that would establish just cause for dismissal. Council Vice Chairman Bentley said they should offer a one-year contract and offer bonuses the 2nd year. There was further discussion on contracts. Council Chairman Nazzaro pointed out that making an offer would in essence begin a negotiation process, and Mr. Fournier can counter their initial offer. Councilor Carmichael advocated a one-year contract. Councilor Levy felt they should offer a one-year contract, as it was more difficult to dismiss someone with a multi-year contract. He felt that even though Mr. Fournier was somewhat inexperienced in certain areas, that he was eager to prove himself. At this point, Councilors Zink and LaBranche advocated a 2-year contract, Council Chairman Nazzaro, Council Vice Chairman Bentley, Councilor Carmichael and Councilor Levy favored a one-year contract, and Councilor Wright preferred that this be an at-will position.

Council Chairman Nazzaro brought the majority of the Council to a consensus on salary: \$90,000 base with a bonus potential of \$9,000 to be realized by the attainment of 3 set goals. Councilor Wright felt the base pay should be \$85,000 with the potential of an additional \$10,000 under the same terms.

Councilor Levy suggested they offer a 6 month severance package rather than a multi-year contract. He doubted there would be a reason to let Mr. Fournier go for just cause, but felt that there were certain parts of the position that would be new to him. There was a discussion on just cause and the importance of documentation. The general consensus was that Newmarket had a job to be done, and concern that it be done properly and well.

Council Chairman said based on Council consensus, he would be making the following offer:

Base salary of \$90,000

Bonus potential of \$9,000

Contract term of 1 year

Severance package of 90 days

There would also be a benefit package including vacation, health insurance, personal time and retirement contribution.

Council Vice Chairman Bentley moved that Council Chairman Nazzaro contact Steve Fournier and offer him the position of Town Administrator with a base salary of \$90,000, a bonus potential of \$9,000 for a contract term of 1 year, a severance package of 90 days, and a benefit package commensurate with the position, pending further reference checks. Councilor Carmichael seconded.

Discussion: Councilor Zink suggested that Council Chairman Nazzaro have the offer written when presenting it. He will do that and email it to the Council members ahead of time. Council Chairman expected that Mr. Fournier would have to give 4 weeks notice to North Hampton. He will, if asked about the bonus package, state that the Council is working on it.

Motion carried unanimously, 7 – 0.

Council Vice Chairman Bentley said that if Mr. Fournier made a counter offer, the Council would have to meet to discuss it. Councilor Wright said that he thought Council members should bring their goals to the next meeting. There was a discussion on the goals: that they be measurable, important to the town, be a stretch, but reasonable. Council Chairman Nazzaro asked that each Councilor email him 2 – 3 goals prior to the next meeting. He will aggregate them and have them ready for the next meeting. The Council agreed to meet on Friday, July 6th at 5:00 in non-public session.

Councilor Zink moved to leave non-public session and Council Vice Chairman Bentley seconded. Motion passed unanimously, and the non-public session closed at 10:04 p.m.

Councilor Zink moved to seal the minutes of the non-public session. Councilor LaBranche seconded. Motion passed unanimously.

Councilor LaBranche moved to adjourn and Council Vice Chairman seconded. Motion passed unanimously, and the meeting adjourned at 10:05 p.m.

Respectfully submitted,

Ellen Adlington,

Recording Secretary