

## Town Council Minutes June 20, 2012 WS

TOWN OF NEWMARKET, NEW HAMPSHIRE  
TOWN COUNCIL WORKSHOP  
JUNE 20, 2012 7:00 P.M.

### PRESENT:

Council Chairman Phil Nazzaro

Town Administrator Ed Wojnowski

Council Vice Chairman John Bentley

Councilor Mike LaBranche

Councilor Al Zink

Councilor Ed Carmichael

Councilor Dan Wright

Councilor Gary Levy

Council Chairman Nazzaro called the meeting to order at 7:02 p.m., followed by the Pledge of Allegiance.

Councilor LaBranche moved to seal the minutes of the June 20th non-public sessions #1 and #2. Councilor Carmichael seconded. Town Administrator Wojnowski polled the Council. Motion passed unanimously.

Council Chairman Nazzaro stated that item 5 of the agenda, (the use of auto gas in a police cruiser) would not be covered at this meeting as Chief Cyr was on vacation

Councilor LaBranche moved to accept the amended agenda. Councilor Zink seconded. Town Administrator Wojnowski polled the Council. Motion passed unanimously.

**PUBLIC HEARING: Resolution #2011/2012-30 Allocating \$380,173 from the Open Space Bond to Contribute Towards the Purchase of Land for a New School**

Council Chairman Nazzaro read the Resolution. Public Hearing was opened at 7:07 p.m. Rose-Anne Kwaks asked how much of the \$380,173 the town would get back if a school were not built. Council Chairman Nazzaro explained that the town would receive 28.37% back (based on its contribution to the purchase price) in either land or money if the school sold the property. Ms. Kwaks questioned using a percentage of the sales price rather than the specific amount of the contribution. She said that money appropriated in a warrant article can only be used as stated. If the school is not built, the total contribution would have to be returned, not a percentage of the sales price. Should the amount returned be different than \$380,173 it would be in violation of the warrant. She also stated the property is being bought at a price above assessed value. She stated that should a school not be built the total \$380,173 would have to be returned to the town.

William Foster questioned the validity of the new resolution as the warrant article had already been passed by the town.

He felt the stipulations changed the intent of the article, and asked if the Council had checked its legality. He said there had been Public Hearings, the issue was covered at the Deliberative Session and the majority had voted to give the funds to the school. He asked for an explanation. Council Chairman Nazzaro said that the original warrant article favored purchasing the land, but did not specify the funding sources. He said at that time the School was aware that the Council intended to release Open Space funds toward the purchase, if the warrant article passed. He said it was necessary to have a Resolution to actually release the money, and the 28.37% was added to insure that if for some reason the school were not built that the funds would revert to Open Space, which was the town's original intent for the money. Mr. Foster asked if there was a time frame allotted for the school to use the land. He said that there were really only two options: build a school or renovate the existing one. Council Vice Chairman Bentley said there was no time frame in the language, just the percentage to be returned if the school sells the land. There also is no stipulation as to what funds are used to purchase which parcel.

Ed Portyrato said that state funding for building was undependable. He asked how long the present tenants would be expected to stay on the land, and who would collect their rent. Council Chairman Nazzaro encouraged him to ask these questions of the School Board. He said there was no percentage for rent broken down in the agreement. Should the school not be built and the property be sold, the town would get back the same percentage of its contribution to the total purchase price: 28.37% in land or money for Open Space. Superintendent of Schools Jim Hayes said they were scheduled to pass papers on July 12th. He answered Mr. Portyrato's question about tenants. Each has a 2 year lease with a roll-over option, and gives the tenants the option to leave at any time. Perkins pays \$1.00 per year, and Carpenter \$1,000 per year.

Council Chairman Nazzaro closed the Public Hearing at 7:18 p.m.

Council Vice Chairman Bentley moved to adopt Resolution #2011/2012-30 allocating \$380,173 from the Open Space Bond to Contribute towards the Purchase of Land for a New School. Councilor seconded.

Council Discussion: Councilor Levy said he would advocate that, if necessary, funds returned to the town be the dollar amount contributed, rather than the percentage contributed to the purchase price. He questioned whether the percentage method was legal. Councilor Zink stated he agreed unless counsel had confirmed that this was legal. He said he would prefer that the language stated that either the dollar amount or a percentage be returned. Town Administrator Wojnowski confirmed that this had gone to legal counsel and they had determined the town could receive either their percentage in land or money for Open Space. Councilor Zink asked if legal counsel had discussed percentage versus dollar amount. Town Administrator Wojnowski stated they had not, but that the language of the Resolution could be changed if the Council wished. Councilor LaBranche wanted to go on the record as saying that this was discussed at the last meeting as a percentage and that both the town's and school's legal counsel had been consulted. He said his original intent in bringing forth the issue was that in the future the school would be aware of the appropriate uses of the money/land. He said he was prepared to move on the issue.

Town Administrator Wojnowski polled the Council.

Ayes:

Nays:

Council Chairman Nazzaro

Councilor Zink

Council Vice Chairman Bentley

Councilor Levy ( for reasons stated)

Councilor LaBranche

Councilor Carmichael

Councilor Wright

Motion passed 5 – 2.

FIRST READING: Ordinance 2011/2012-03 Close Out of the Downtown TIF Fund and Main Street Enhancement Fund, Transfer all Captured Assessed Value to the General Tax Rolls and Repeal the Downtown Business District Tax Increment Finance District as provided for in Ordinance 98-03

Council Chairman Nazzaro read the Ordinance. The Introduction date should be corrected to June 20, 2012 and the Public Hearing to July 11, 2012.

Rose-Anne Kwaks asked if she could speak on this as a point of order. Councilor LaBranche said that Robert's Rules allows only Council members to bring a point of order. Council Chairman Nazzaro stated the Public Hearing would be at the July 11th meeting, but that he would give her 5 minutes to speak. She stated she had brought up some questions about the Downtown TIF at the previous meeting specifically about \$980K that had gone into the General Fund from the sale of properties. She had asked for another right to know as she found empty spots in the information she had previously received. She said she should have received the information yesterday, but had been told that she would have the information tomorrow. She felt the Council needed more information and should correct any earlier errors in the TIF before voting on this. She also felt they needed a legal opinion before proceeding.

#### TOWN COUNCIL TO CONSIDER ACCEPTANCE OF MINUTES: JUNE 6, 2012 BUSINESS MEETING

Council Vice Chairman Bentley moved to accept the minutes of the June 6, 2012 meeting. Councilor Zink seconded. Councilor Levy asked that the word "state" on page 6, paragraph 2 be changed to "date". Town Administrator Wojnowski polled the Council. Motion carried unanimously to accept the minutes as amended.

#### TOWN ADMINISTRATOR REPORT/ALL DEPARTMENT HEADS' REPORT

Town Administrator Wojnowski said the Council had reports from Department Heads, and if there were questions, he could ask anyone of them to attend the July 11th meeting. The Larka Music Series will begin on Saturday, June 23rd at the Veteran's Memorial Bandstand. The Larry Newman Band will start off the series. August 11, 2012 is Old Home Day and the committee is seeking donations to purchase fireworks. Anyone wishing to donate can contact Adam Schroeder at the Stone Church. Town offices will be closed on July 4th, and the Council business meeting has been moved to July 11th and the workshop to July 18th.

Council Chairman Nazzaro commented on the Department Head reports. He said he would prefer to see them in a standard format. Beginning in the new fiscal year, he would like to see a graph with projected expenditures. He felt it would be easier for the Council to make determinations and be easier for the public to understand the information in this form.

#### AGENDA:

##### 1. BILL ARCIERE: UPDATE ON SOUTHEAST WATERSHED ALLIANCE

Bill Arciere, Newmarket's representative to the Southeast Watershed Alliance, gave a report on its purpose and history. The Alliance was made of area towns that joined together to study and form a unified front on the nitrogen loading issue. The year 2010 was devoted to setting up and organizing the group. In 2011, the goal was to educate Alliance members about nitrogen loading and they had experts from UNH speak on nitrogen sources, and representatives from Scotts Miracle Grow make a presentation. This year, they are beginning the implementation process. They are working on developing solutions to lower nitrogen counts.

The Alliance is applying for a US Department of Agriculture grant to assist towns in developing watershed management plans to reduce nitrogen from point and non-point sources. The Alliance is looking for towns that would be interested in

participating if the funds become available. Town Planner Diane Hardy has been asked to write a support letter to accompany the application. The funds would be used for public education and outreach programs on fertilizer management, ordinances that could be implemented, etc. all with the intent of reducing nitrogen loading from all sources. The Alliance is also seeking other funding opportunities. He said, although this was not within the Alliance focus, there also is SRF money available for still or wastewater collection systems and operation studies and updates. If the town is interested, the pre-application deadline is July 20th.

Mr. Arciere stated that, as a resident, he hoped the town would not delay long in working toward a new wastewater treatment plant as costs escalate every year, and delaying could negate any economic development. He suggested that a Citizens Advisory Committee be established to help with educating the public and moving ahead with plans. Council Chairman Nazzaro cautioned that they not comment on wastewater treatment at this time, as they were currently in discussions about this. Councilor Levy asked what Mr. Arciere meant when he said that a delay could be costly to the town. He replied that construction costs can go up approximately 4 – 5% a year.

Councilor Levy asked if this would be in theory for the whole town. Mr. Arciere said yes, as it would not depend whether a property was directly on the Bay, and could involve other towns within the Lamprey watershed. He said there might be opportunities for towns to collaborate in fixing the problem. Council Chairman Bentley asked if the Alliance report could be posted on the web site; it is posted in the Council's packet. Councilor Wright described the task as daunting, as 85% of the nitrogen in the Lamprey River is from non-point sources. Mr. Arciere agreed, but said all would have to do something about it. He expected that within 3 – 5 years there would be some progress. He stated he would like to see Newmarket in the forefront, taking some of the available money to get started, before there was more demand for those resources.

Council Chairman Nazzaro mentioned dissolved organic nitrogen as a main source of the problem, which had been identified as coming from the waste water system. Town Administrator Wojnowski asked how the Alliance intended to use the grant money. Mr. Arciere said they would begin with an inventory of what the town has for sources, some of which has been done. He said that had been on a watershed basis, but that the next step would be to break this down by town. They would have to consider what was sewered and what not sewered, and take into account impervious and turf areas to identify the sources. Then the Alliance would have to consider solutions and their costs. Councilor Levy asked if there was a direct correlation between the amount of impervious pavement and non-point source. Mr. Arciere said that was a contributing factor, along with septic systems, manure, fertilizer and storm water runoff from impervious surfaces. He said the town had made a good start by updating its subdivision requirements. He said the Alliance had received a grant to help other communities do the same thing.

## 2. TRISH SIMONS, AGREEMENT BETWEEN THE TOWN AND MOODY POINT ASSOCIATION REGARDING WASTEWATER FORCE MAIN

Trish Simmons, representing the Moody Point Association, had an attorney draft an agreement between the town and the association. The town's attorney had looked at it. She had just received the copy. She said they spoke of a wastewater collection system, rather than the town sewer line. It was agreed that this was the same thing, just different wordage, and the agreement was acceptable to the town. She asked about the easement deed, which was drafted, but was not included in what she had been given. Town Administrator Wojnowski will get this. This will be carried to the July 11th meeting. The agreement was the same as that presented at the May meeting, with the exception of terminology mentioned above. She had dropped this at the town office on May 29th. The Council will vote on this and the easement at the July 11th meeting. Ms. Simmons asked that she be contacted if she is on the agenda, as she had not been contacted about this meeting, but found out through the Council web site.

## 3. PRESENTATION OF PETITIONS AND RESOLUTIONS AND DISPOSAL THEREOF BY REFERENCE, OR OTHERWISE:

### A. RESOLUTION #2011/2012-31 WATER AND SEWER RATES INCREASE

Council Chairman Nazzaro read the Resolution. The water rates will not change, but the sewer rates will increase by \$.50. Sean Greig asked that the Resolution reflect that the sewer system charge of \$6.00 is a quarterly charge. This is not a change, but an existing charge.

Council Vice Chairman Bentley moved to adopt Resolution #2011/2012-31 Water and Sewer Rate Increase. Councilor Zink seconded. Town Administrator Wojnowski polled the Council. The motion passed 6 – 1, with Councilor Levy voting against.

#### B. RESOLUTION #2011/2012-32 GRANTING THE INTERIM FINANCE DIRECTOR TO UNDERTAKE SMALL CLAIMS ACTION AGAINST FAIRPOINT COMMUNICATIONS FOR RECOVERY OF UNPAID POLICE DETAILS

Council Chairman Nazzaro read Resolution #2011/2012 -32. The town is seeking total payment of \$1,152. Councilor Levy asked how much it would cost to file an action and how much time Mr. Angell would have to spend on this. Mr. Angell said the cost to file was approximately \$105 and he anticipated this would take about 4 hours of his time. He felt it was important to do this as the statute of limitations would run out on June 30th, and he felt the town needed to establish a strong stand in collecting invoices. Councilor Levy suggested that someone else could do this at a lower cost to the town, as having Mr. Angell do this would cost almost half of what the town hoped to collect. He said there was also the possibility that the town would not win.

Council Vice Chairman Bentley stated that the sum owed represented 6 occasions when Fairpoint had not paid the town. He felt the information presented had many supporting details, and he could not anticipate that the town would lose. Councilor Zink stated he would prefer that Mr. Angell spend his time working on immediate issues, rather than spending time on this. Councilor Carmichael said he couldn't support this either, and asked Town Administrator Wojnowski if they had any rapport with the people in the Newmarket Fairpoint office, and said that he thought they should be able to collect the money with a few phone calls. He replied that the Newmarket office did not handle scheduling or billing, and that most of the workers there were linemen. He will, however, call the office.

Mr. Angell stated that the statute of limitations ended June 30th, and going to small claims court, and negotiating a settlement would be advantageous. His understanding was that Fairpoint had been contacted in the past. Councilor Wright asked if someone else could file. Mr. Angell said the Council could appoint someone to do this. The Town Administrator, Town Clerk, a Council member or a staff accountant were all considered as qualified to do this. Council Chairman Nazzaro agreed with Councilor Zink, and further stated that since Mr. Angell was only in Newmarket 3 days a week, he didn't like his spending half a day in court. He asked Town Administrator Wojnowski if there was a way the Resolution could be passed and not specify a particular person.

Councilor Levy felt that Mr. Angell could convey the basic facts to a person in the finance office, and have that person go to Rockingham Court. He said that would cost the town much less money. Mr. Angell agreed that it was not necessary to have a high level person or attorney do this, but he felt the person going to court should be at a higher level than clerk. Town Administrator Wojnowski stated that the Staff Accountant could do this, and Council Vice Chairman Bentley offered to go to court if no one else could. He felt they should follow through in collecting the money as not do so would set a precedent.

The consensus of the Council was to remove the title of Interim Finance from the Resolution and replace it with a Representative of the Town of Newmarket.

(Authorizing a Representative of the Town of Newmarket to undertake Small Claims action against Fairpoint Communications for Recovery of Unpaid Police Details)

Council Vice Chairman Bentley moved to adopt Resolution 2011/2012-32 as amended. Councilor Levy seconded. Town Administrator Wojnowski polled the Council. Motion passed unanimously.

#### 4. UPDATE ON ROAD SURFACE MANAGEMENT SYSTEM

Rick Malasky presented the UNH inventory road assessment which included a 10 year maintenance plan. The study listed each road in Newmarket, assessed the condition, and gave costs for whatever repairs were necessary. The report also stressed the value of preventative maintenance as extending the life of roads and being less costly. The study recommended that in the first year the town spend \$487,451, in the second year \$374K, and in the third year \$365. In the seventh year of the plan, the costs would level off. He stated that some of the town's larger roads were in bad repair, and gave the example of Ash Swamp Road, which would be redone over a four year period. The town had budgeted 125K for

paving, and currently there is \$342,331 in the Municipal Transportation Fund.

Mr. Malasky stated he had spoken with John Bell from Bell and Flynn, and he had offered to extend his contract one year from the June 30, 2012 expiration date at the same price. Mr. Malasky had spoken with surrounding towns, and found the new quotes they were receiving for paving were higher than what Mr. Bell offered. He asked if the Council felt comfortable releasing some money from the Municipal Transportation Fund. He said that of the roads listed for work in the first year of the study, they could manage to do all but Old Route 108, Grant Road and Bennett Way for \$345,837. This would require releasing \$226K from the Fund and adding it to the budgeted amount of \$125K. That would leave \$116,331 in the Fund. He said the town had not used money from the Fund since 2005. He had based his prices on the offer from Mr. Bell.

Councilor Levy commented that this was a very thorough study. He referred to Table 4 that listed priorities, condition index and UID. He said he had difficulty knowing how the priorities were set, and asked Mr. Malasky for an overview of the meaning of the table. Mr. Malasky said they looked at gaps, alligatoring, rutting, etc. He gave as an example Bennett Way, which they anticipated could last another 6 – 7 years by sealing the cracks. He said that priorities can change. Councilor Levy asked if Mr. Malasky knew what all the references in the study meant, and why the priorities listed differed from Table 4. He referred to the cost of Ash Swamp Road at \$274K, which was the largest part of the \$278K. Mr. Malasky said that was only from the Ballroom to Stonewall. He said Ash Swamp Road was broken down by footage into four parts. He said they had been behind in funding for the last few years, and were in a sense trying to play catch up.

Councilor Levy said he would have thought that the priorities for year one would have followed the condition priorities from Table 4. Council Chairman Nazzaro agreed that the table does not seem to follow condition issues. Councilor Levy referred to page 19 which listed the condition priorities as Bay Road, Old Route 108, Grant Road and Hershey. This did not seem to completely line up with page 29, which listed repairs for the first year. Councilor Wright asked Mr. Malasky if the town had sealed road cracks in the past. He replied that they had not, but they had not had budgets like that recommended in the study. He said most of the repairs recommended involved full reclamation and overlay. He said the study suggested doing preventative maintenance on the new roads in town to extend their life. He did not think sealing cracks at the beginning of Ash Swamp Road would be sufficient to repair it.

Mr. Malasky thought UNH had tried to balance their recommendations to make the package more affordable. Councilor Zink stated he hoped the study was not done based on affordability. He referred to Table 4, page 19, priority #1625, and asked what that meant. Mr. Malasky did not know. Councilor Zink asked what UID meant. Mr. Malasky said he believed that was how the study identified a road. Councilor Zink said he thought those conducting the study and plan should come in to meet with the Council and Mr. Malasky to explain the priorities and define UID. He hoped the study was not based in part on affordability, as that was something to be decided by Newmarket. Mr. Malasky said that a large job, like Ash Swamp had probably been divided up and pieced in with other jobs to make it more affordable, and to ensure that preventative maintenance was done as well. Councilor Zink said there were 18, 225 priorities, and he wanted them to come in and present their findings.

Council Chairman Nazzaro agreed with Councilor Zink that they should come in and brief the Council. He said he did not understand the priorities, condition or numbers, differentiation or scale in the study. He felt it was within the scope of the study to state cost, but the Council's decision, with Mr. Malasky, was to set priorities and determine the resources they wanted to apply to the roads based on the UNH assessment. Councilor Levy agreed that they should come in to clear up the confusion, but he did not think the study had held back on price. He said the only streets he could correlate between Pages 19 and 29 of the study were Old Route 108, Grant Road and Hershey. He felt the study was elaborate and comprehensive, but that they needed to come in and get input from and the Council and Mr. Malasky so that the Council could determine priorities. Council Chairman Nazzaro asked Mr. Malasky to contact those conducting the study and ask them to come to a Council meeting. Council Vice Chairman Bentley asked that the Council receive any handouts or further information before that meeting.

Mr. Malasky asked if the Council wanted to go out to bid on paving, or if it wanted to accept Mr. Bell's offer to extend the contract for a year at the same cost. He said last year they paid \$185 per square yard for reclamation, \$71 a ton for binder, and \$73 for top coat, and \$115 for handwork. The contract at these prices is due to expire on June 30th. Council Chairman Nazzaro felt they should have known about this request earlier. Councilor Zink thought the Council would be required legally to go out to bid. Mr. Malasky said this had gone out to bid previously, but that Mr. Bell had just offered to extend that contract. To Councilor Levy's question, Mr. Malasky replied that he had conferred with towns that had recently gone out to bid and their pricing was higher. Durham, with a larger budget than Newmarket, was paying \$73 for binder. Councilor Levy asked Mr. Malasky to see if Mr. Bell would extend his offer at least until the next Council meeting when they would have more information. Mr. Malasky said they could go out to bid.

Mr. Malasky asked if the Council would consider moving money from the Municipal Transportation Fund to add to the budgeted \$125K. Council Chairman Nazzaro said they could not address that at this point. Councilor Carmichael asked how much would be saved if the Council decided to accept Mr. Bell's offer. Mr. Malasky said that would depend on what type of work was being done. Council Chairman Nazzaro stated they were required to go out to bid. He asked if Mr. Malasky could wait to go out to bid until it was decided what roads were going to be done. Mr. Malasky said he needed this information so he could determine the potential tonnage and the type of road work involved. He said the price per ton decreases as the amount increases. Town Administrator Wojnowski asked how many tons would equal \$125K. Mr. Malasky said that would be approximately 1,800 tons, enough to top coat Sandy Lane, the 108 end of Hershey Lane, Chapel Street and Johnson Drive.

Council Chairman Nazzaro said that would leave no money for crack sealing. Councilor Levy stated that, as they did not have enough information to make a decision at this point, could Mr. Malasky contact Mr. Bell and ask him to extend his offer for 30 days. Mr. Malasky will call Mr. Bell the next morning to explain that a decision has not been made and ask him if he will lock in his price for 30 days until a decision can be made. Council consensus was for Mr. Malasky to do this.

## 6. COUNCIL GOALS PRIORITY #2: TO PUT THE COMMUNITY ON A PATH TO LONG TERM ECONOMIC HEALTH, DISCUSSION OF ESTABLISHMENT OF AN ECONOMIC DEVELOPMENT COMMITTEE TO FOSTER NEW ECONOMIC DEVELOPMENT WITH THE COMMUNITY

Council Chairman Nazzaro stated that he had spoken with people in the community about the establishment of an Economic Development Committee. From suggestions he received, he thought the committee should have 9 members: 2 from Town Council, 1 from the Planning Board, 2 from NCDC, 1 from NBA and 3 at large. He said this would be a large committee for a large task, and would represent the diversity and expertise warranted. Council Vice Chairman Bentley thought this was a good start, and thought it might be good to have alternates for the at-large positions. He felt the Council needed to move ahead with this as soon as possible, and that the make-up of the committee could always be tweaked as they went on. Councilor Levy advocated having 3 from Town Council and 2 at-large members, as the Council would have to make financial decisions based on the committee's work. Councilor Wright said that if any members of the Council wanted to put the time in, they should be welcomed on the committee. Councilor Zink liked the first recommendation of the make-up of the committee, and felt that 3 Council members would give the sense that the Council was dominating the committee. He felt it was important to have residents involved as there were many townspeople with expertise in the area of economic development. He felt that if any of the components of the committee were to be expanded, it should be the at-large membership.

Council Chairman Nazzaro asked that the Council discuss whether it should have 2 or 3 members on the Committee. Councilor Wright felt there should be a minimum of 2, but they should not exclude a third Councilor if one expressed an interest. Councilor Levy said that was fine. To Council Vice Chairman's question, Council Chairman Nazzaro said the committee should meet at least monthly, although he felt with the amount of work to be done they should meet more often. Council Vice Chairman Bentley said that time had to be a consideration for Councilors serving on the committee, as they all served on other boards. Councilors serving on the committee can give regular updates to the Council, and any Councilor can attend meetings as a regular citizen. He stressed that there should be an atmosphere encouraging feedback and an exchange of ideas. He didn't care whether there were two or three Council members on the committee.

Councilor LaBranche, Councilor Carmichael, Councilor Zink and Council Chairman Nazzaro all felt there should be two voting Councilors on the Committee. Council Chairman Nazzaro added that if a third Councilor wished to attend, it would be with non-voting status.

Council Chairman Nazzaro stated that Planning Board Chairman Val Shelton had helped prepare the recommendation. Council Vice Chairman Bentley said he echoed what Councilor Zink had said earlier, and that if they had more than three interested in the at-large positions, they could perhaps start them off as alternates. He felt they should start with the recommendation, and see what happened. A resolution to establish this advisory committee, its size and direction, will be drawn up for the next meeting. Council Chairman Nazzaro also asked that any Council members interested in serving contact him. Councilor Zink felt that anyone serving as a Council member should be able to make a one year commitment. Council Chairman Nazzaro agreed.

## 7. BLACK BEAR ORDINANCE FOR CLOSURE OF TIF DISTRICT

Council Chairman Nazzaro outlined the intent Ordinance #2011/2012-04: Amend and Close Out of Black Bear TIF. The remaining funds in the TIF, \$489,104.57 would be transferred to the town's General Fund. The captured value would be returned to the general tax rolls. This could help in reducing the tax rate. He asked that the Councilors read the language of the ordinance before the First Reading on July 11th, and be prepared to discuss it at that meeting.

## 8. REVIEW OF MINUTES FROM STANDING COMMITTEES AND COUNCIL REPRESENTATIVES

### A. Councilor Carmichael

#### Planning Board

Janice Rosa was appointed as Vice Chairman. Residents of Fox Hollow attended the meeting to talk about the safety problems with Grant Road and Fox Hollow. The Board is planning a site walk before its next meeting. Council Chairman Nazzaro asked if there was any discussion about the town adopting the road. There was no discussion at the meeting, but Town Administrator Wojnowski said that Town Planner, Diane Hardy, had asked Mr. Malasky for information in steps necessary in doing this. Mr. Malasky had said that he had not yet received "as built" on this, and could not recommend the town consider adoption at this time. The town does plow the road.

Councilor Levy said that he had read there was a recommendation that the residents do the work, but he did not know if this had been decided yet. He described a new type of speed bump that had been installed recently at Pease. He said they were much smaller than the usual speed bumps and had rubber ridges going through them, so they were not as harsh on vehicles. He said that they could be felt, and he thought they would discourage speeding. He thought Mr. Malasky should take a look at them to see if they could be legally and practically used in Fox Hollow, as they would be much less expensive than redesigning the road. One of the objections to speed bumps in the past was that they interfered with plowing, but Council Vice Chairman Bentley said it sounded like they might be removable.

### B. Council Chairman Nazzaro

#### Black Bear/Highway Safety

No meeting since the last meeting.

### C. Councilor Wright

#### Conservation Commission

The commission set up sub-committees to design an action list. They are concerned with developing trails, mapping and education for the public. They had set 5 priorities, and will work on them at the next meeting.

### D. Councilor LaBranche

#### CIP/Efficiency Committee

The CIP Committee met on designing a standard form for Department Heads. CIP requests are due on July 16th. Then, the Committee will begin individual meetings with Department Heads.

He deferred to Councilor Zink to report on the Efficiency Committee. Councilor Zink said there were 12 – 14 interested citizens serving as advisors to the Committee in identifying what the appropriate next steps should be. The Efficiency Committee has identified some opportunities, but does not have the resources to fund them. They have had meetings with this community group, and the sense was that the ultimate responsibility for efficiency and cost savings was with the School Board and Town Council. Both bodies will be at a joint meeting with the Committee on Wednesday, June 27th at 7:00 p.m. in the auditorium, and will be updated on the workings of the Committee thus far. The Budget Committee has also been asked to attend, and citizens are encouraged to attend. Clay Mitchell will moderate the meeting, and it will be televised. The agenda will include updates and suggestions that have come to the Committee. He said the Committee is trying to create a way for the community, School Board and Town Council to come together in one place to discuss its goals. Don Jutton has proposed an action plan for the School Board and Town Council, and the Committee is hoping both accept it at the meeting, and define the next steps.



E. Councilor Levy

Budget Committee

No meeting. The next meeting will be Monday, June 25th at 6:30 in Council Chambers.

F. Councilor Zink

Advisory Heritage Commission

The Commission will meet in July.

G. Council Vice Chairman Bentley

Energy Committee

There was no meeting. He spoke on the police station tour that Chief Cyr had conducted for Budget Committee and Town Council members. He thanked him for the informational tour.

## 9. OLD BUSINESS/NEW BUSINESS

### A. Resolution #2011/2012-33: Write off of Uncollectible Account Receivables

Acting Finance Director Matt Angell came forward with a request for passing Resolution 2011/2012-33 to write off 5 outstanding receivables totaling \$3,229 that had exceeded the 3 year statute of limitations. He distributed a list of the 5 receivables, and said that the Council could decide this at the next meeting if they wished. Councilor Levy asked if these people had been contacted. Mr. Angell did not know, but said they would not be able to collect on them. He said these invoices ranging from 2005 to 2008 were just lingering on the books, and he was asking for permission to write them off.

Council Chairman Nazzaro asked if they were establishing systems to prevent this happening in the future. Mr. Angell said they had done that during the meeting by deciding to pursue Fairpoint in small claims court, which is less expensive than using a collection agency. He said they would be sending 3 demand notices in the future to those with long-standing bills before coming to the Council to get permission to sue. Councilor Wright thought they should train the person going to court against Fairpoint to do this in the future. Mr. Angell said the intent was to start the process to be more aggressive in getting bills paid. Council Chairman Nazzaro asked the Council if it wanted to write off the \$3,229 then or take time for further review. Councilor Levy said the two largest invoices were from November 12th and 30th of 2008. He asked if Mr. Angell had sent out updated invoices to them. He felt that even though they were past the statute of limitations, it would not hurt to ask them to pay. Mr. Angell said he could send out request for payment letters the next day. His main intent had been to get some of the uncollectible numbers off the books, but he was willing to send bills to those with the two largest unpaid invoices.

Council Chairman Nazzaro asked the Council members to state if they wanted to send those 2 letters/bills or write off all 5 invoices. Councilor Zink felt he would rather have Mr. Angell spend his time doing other things. Councilor Wright and Council Vice Chairman Bentley felt that Mr. Angell should send the two letters. Councilor LaBranche was in favor of the Resolution. Councilor Carmichael asked about a reference to an invoice to Fairwell Engineering that was to be attached. Mr. Angell said he had given them what he had received, but he had been told that the town had paid for some services at the entrance to Dunkin Donuts. Councilor Carmichael was in favor of the Resolution. Council Vice Chairman Bentley was in favor of sending letters to the two largest, as they owed a total of \$2,500.

Council Chairman Nazzaro asked if they could vote on Resolution 2011/2012-33 with the understanding that Mr. Angell would send letters to the two with the largest outstanding invoices. He was told this could be done. Council Vice Chairman Bentley moved to approve Resolution 2011/2012-33 as amended to write off Uncollectible Account Receivables. Councilor Levy seconded. Town Administrator Wojnowski polled the Council. The motion passed unanimously.

B. Council Vice Chairman Bentley said there was some public confusion about workshops. Normally, the public would not speak at workshops except during Public Hearings. However, he wanted to make a motion to allow Superintendent of Schools Jim Hayes to speak. The Council consensus was to let him speak. Mr. Hayes had placed memos on the Councilors' desktops. The first was a request that the school receive some Impact Fee money, as a portion of that is dedicated to the schools. He was requesting \$30K to reimburse the district for February payments it had made for purchase and sales agreements and security amounts placed in escrow for the owners of the properties they were to purchase. He said that would reserve the amount in the Expansion of the School's Capital Reserve Fund. He said he hadn't been aware of the impact fee system and how it could be used and the amount available to the schools. He said there was a sum of \$3,800 that was due to expire in June 23rd. He hoped the Council would approve at least that amount for the schools that evening.

Acting Finance Director Angell said the paper being handed out to the departments now was a bank statement that showed impact fee amounts and interest by parcel. He confirmed that there was an impact fee of \$3,800 that was to expire in three days, and without any action he would have to come before the Council at the next meeting to request a refund to the property owner. Councilor Levy said that in the future they should know about requests such as these ahead of time, they should be included in the packet, and this was not the way to go about this. Council Vice Chairman Bentley asked if this could be another fee, this of \$3,793.29, to be returned. Mr. Angell said that every month until the following July there would be an impact fee due to expire. He said there was no authority to ask for refunds until they lapsed. He said that Dr. Hayes was requesting to withdraw \$30K from impact fee funds, and this would remove that amount from the possible refund process as the funds would be obliged.

Council Vice Chairman Bentley said they could at least give the \$3,800 to the schools at this meeting. Mr. Angell said the next fee was due to expire on July 17th. Councilor Zink said he could approve giving the \$3,793.29 at this time, but not go any further. To Councilor Wright's question, Mr. Angell said that impact fees could only be used to expand facilities. He said that using impact fees for expansion would free up other school funds for renovations and repair. Council Chairman Nazzaro asked if the Council managed and monitored the school impact fees. Mr. Angell said they do, and that there is \$198,000 in the fund, with \$62,562 available for the schools. Council Chairman Nazzaro didn't feel they should rush at this point just because they had not monitored this, and that the \$3,800 would not severely impact the amount \$30K Dr. Hayes had requested. Councilor Levy requested that the impact fee schedule be a part of the next meeting packet.

Councilor LaBranche said he could not support this as several residents had approached him to say this request would be on this evening's agenda. He had told them it was not on the agenda, so they had not attended the meeting for a discussion on this. He also said he did not believe that impact fees could be designated for paying for things that had already happened.

Council Vice Chairman Bentley moved to take the \$3,793.29 in impact fees and send them to the school. Councilor Zink seconded. Discussion: Councilor Levy asked about the source of impact fees. Mr. Angell said they were paid by a developer to increase the capacity of facilities impacted by growth. The homeowner or owner of record gets the refund, and the funds are in a bank account. Council Chairman Nazzaro agreed with Councilors LaBranche and Levy that they needed to have information prior to a meeting in order to be able to process it. Town Administrator Wojnowski polled the Council.

#### Ayes:

Council Vice Chairman Bentley

Councilor Zink

Councilor Carmichael

Councilor Levy

#### Nays:

Council Chairman Nazzaro

Councilor LaBranche

Councilor Wright

Motion passed 4 – 3.

C. Superintendent of Schools Hayes reported on the progress in developing an educational, cable TV channel. The contract with Comcast which began in 2012 calls for \$10,000 to be provided annually for the development of a second educational channel. He said the district did not seek that money in 2010, but in 2011 they requested that money for the future. He said that with the \$20K plus some additional funding from the town they had been able to purchase equipment for a mobile studio for town and schools events. They had trained students so that they could be part of a production team. This was leading toward having an educational channel, and with the year's success and another year of work, he felt they would be able to offer a course in two years. He was requesting, in order to continue working on the program, another \$10K for 2012. He said that \$8,500 would be for equipment and \$1,500 for maintenance and supplies. He said he could come back at another time for the Council's decision.

Councilor LaBranche asked Town Administrator Wojnowski if the \$10K per year was part of the \$70K signing agreement they had with Comcast. Town Administrator Wojnowski said that was a part of the INET. Councilor LaBranche said the INET was never completed, but there was an agreement that there would be \$10K provided each year for seven years. This was signed in 2009, and they had received \$30K so far. Theoretically, the funds would run out in another four years. Councilor Levy asked that this be on a future agenda. Dr. Hayes said it was his understanding that this item would be on this meeting's agenda.

D. Councilor Levy asked what the time line was to submit forms to the state for setting the tax rate. The MS1 is due September 1st. The town can expect to receive the rate after the State Board of Education certifies certain amounts, and based upon the town and school getting their information in on time, and they could expect to receive the rate early or up until December. Councilor Levy asked that theoretically, if the TIFs are dealt with, and if that creates a surplus, would the state put that towards reducing the tax rate. Town Administrator Wojnowski said that the Council could vote to decide how much of a surplus it wanted to use to reduce taxes. Any surplus would fall into the fund balance. Mr. Angell said the TIF and any surplus funds would first go to increase the unreserved fund balance. He said that the last time he looked based on town revenues and expenditures, they would be just under the 16% unreserved fund requirement with his worst case scenario.

E. New Business: Council Chairman Nazzaro stated that there were multiple individuals in town who had levels of information of things that had gone on during non-public sessions. This was information included in sealed minutes, and he could no longer assume that this was a random act. He asked that every Councilor redouble their efforts to not share non-public information with anybody. He said he would be the first to use the full weight of the town charter against anyone sharing non-public information.

## 11. APPROVAL OF NON-PUBLIC MINUTES:

May 21, 2012 (Interview)

Councilor Levy moved to approve the May 21, 2012 minutes. Councilor Carmichael seconded. Town Administrator Wojnowski polled the Council. Motion passed unanimously.

June 6, 2012 #1 and #2

Councilor Levy moved to accept the June 6, 2012 #1 & #2 minutes. Council Vice Chairman Bentley seconded. Town Administrator Wojnowski polled the Council. Motion passed unanimously.

June 11, 2012 (Procedural Session)

This was not considered for approval.

## 12. ADJOURNMENT

Council Vice Chairman Bentley moved to adjourn and Councilor Zink seconded. Motion carried unanimously. Meeting adjourned at 9:22 p.m.

NEXT MEETING WILL BE A 6:00 NON-PUBLIC SESSION IN COUNCIL CHAMBERS PRIOR TO THE 7:00 P.M. EFFICIENCY COMMITTEE'S JOINT MEETING WITH THE SCHOOL BOARD AND TOWN COUNCIL IN THE AUDITORIUM

NEXT BUSINESS MEETING WILL BE JULY 11, 2012 AT 7:00 IN COUNCIL CHAMBERS

Respectfully submitted,

Ellen Adlington,

Recording Secretary