

Unsealed July 9,2012 Non-Public Minutes

TOWN OF NEWMARKET, NEW HAMPSHIRE
TOWN COUNCIL NON-PUBLIC SESSION
July 9, 2012 5:00 P.M.
TOWN COUNCIL CHAMBERS

PRESENT:

Council Chairman Phil Nazzaro

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 5:00 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.

Council Chairman Nazzaro had sent a letter to candidate Steve Fournier offering him the Town Administrator position with a salary of 90K, a bonus program based on attaining 3 goals at \$3K per goal, a one year contract with a 3 month severance package and a vacation of 3 weeks. Mr. Fournier had verbally countered with a proposed salary of 93K, a 4 year contract and vacation time set at the maximum of 4 or 5 weeks. He had no counter on the bonus package. Council Chairman Nazzaro asked that the Council come to an agreement on what would be their final offer to Mr. Fournier. Each Councilor gave his thoughts in turn.

Discussion:

Councilor Wright did not agree with any of the counter offers. Councilor Carmichael said he could agree with the 93K salary, but felt the bonus program should be based on 2 goals at 3K each. He thought they should keep the contract to one year, but offer a 6 month severance package. Council Chairman Bentley agreed with Councilor Carmichael on salary and bonuses. He stated it was up to the Council to set definitive goals and conduct regular, documented reviews. Should there be a problem, this would establish just cause. He felt that on that basis they could offer a 2 year contract and a 3 month severance package. Councilor Wright stated he could agree with the 93K salary with some incentives. He said he thought they needed someone who would not become complacent in the position, but rather work every day to do the best in his job. For that reason, he felt they should keep the contract to a one year term, and offer either a 3 or 6 month severance package. He also felt the new Town Administrator should start with 3 weeks of vacation, rather than at the top of the scale.

Councilor LaBranche agreed with the salary of 93K, a vacation of 4 weeks and suggested that the Council establish 3 goals at 2K each for the bonus program. He stated he felt they were too concerned with the term "contract", and wondered

if Mr. Fournier would come to Newmarket if the offer was only for one year. He stated that a contract was an agreement, and as long as Mr. Fournier did his job, there would be no problem. If that did not happen, he could be dismissed for just cause by a 4 to 3 vote. He thought that if they offered a 3 year contract, the severance package should be 90 days, while if they offered a 2 year contract the severance package should be 180 days. Councilor Zink had spoken with 2 lawyers specializing in employment contracts. Council Chairman Nazzaro said he had spoken with Town Counselor Richardson, who had said that if a Town Administrator did not meet the goals set forth for his position that would establish just cause for dismissal.

Councilor Zink said this was also his understanding. He agreed with a salary of \$93K with a bonus plan, either a 3 or 6 month severance package and a 4 week vacation. Councilor Levy felt Mr. Fournier lacked experience in some of what would be required by Newmarket's form of government and in some of the issues Newmarket was facing. Partly for those reasons, he felt they should stay with the one- year contract offer. He also expressed his concern that dismissal would be more difficult with a multi-year contract, and a simple 4 – 3 vote for dismissal was a stretch. He felt that if Mr. Fournier did a good job there would be no problem in renewing the contract. He felt it reasonable to offer a 6 month severance package and a bonus package based on attaining 3 goals at \$2K each.

Council Chairman Nazzaro said it seemed the overall consensus was to agree with a salary of \$93K, a bonus package based on 3 goals at \$2K each and a 6 month severance package. He asked that they discuss the vacation time and the length of a contract. Council Vice Chairman Bentley said he could agree with a 4 week vacation. Councilor Zink supported a 4 year contract, Councilor LaBranche a 3 year contract, Council Vice Chairman Bentley and Council Chairman Nazzaro a 2 year contract and Councilors Wright, Levy and Carmichael a one year contract. Councilor Wright stated that from his research in the internet, a one-year contract for a starting Town Administrator was not uncommon, and that he considered the first year a probationary period. Council Chairman Nazzaro suggested that, as a compromise, a one-year contract could be written with the option to extend it to 2 years, as there would be an election for Council members within Mr. Fournier's first year. Councilor Levy wanted to offer a one-year contract with a 6 month's severance package including benefits, as he was concerned about Mr. Fournier's experience, and felt a contract meant a lot. He said that only 2 Council positions would be up for election in March. He felt that if Mr. Fournier earned his bonuses he could be given another year.

Councilor LaBranche read from section 4;4 of the Town Charter which stated that just cause for dismissal was based on a person not meeting or following Town Council goals and directions. He said the procedures were clearly stated in the Charter, and a contract did not mean a lot by comparison. Councilor Levy said the past Town Administrator had not followed through on Council directions, in part by not completing reviews of personnel. A past Councilor had shown him Town Administrator Wojnowski's review, and his rating was between a 2 and a 3. Councilors LaBranche and Zink said this was sharing of non-public information and that neither one of them had seen the review. They repeatedly asked Councilor Levy to say who had shown him the review. No name was forthcoming. Council Chairman Nazzaro insisted that they stop the conversation and stay with the agenda. Council Vice Chairman Bentley said it was the responsibility of the Council to hold a Town Administrator accountable and to establish a consistent review pattern of clear documentation. This would emphasize the importance of accomplishing goals. He felt they should offer a 2 year contract based on the positive reviews of Mr. Fournier's references. Councilor Zink said he could agree with a 2 year contract.

Councilor Wright said that Chief Cyr had never had a contract. He felt that Mr. Fournier should be offered a one-year contract, as he would want a chance to prove himself. Councilor Levy asked what Mr. Fournier had done that was commensurate with the experiences he would have in Newmarket. Council Chairman Nazzaro said he had demonstrated his ability to step up. Councilor Levy said that the references he had checked reported that Mr. Fournier had shown the capacity to listen and be mentored. He stressed the different responsibilities Mr. Fournier would have in Newmarket, and said that the salary and bonus package would give him an 18% increase in pay. He felt if Mr. Fournier was good, there shouldn't be an issue with contract. Council Chairman Nazzaro said the Council had to implement the review process.

Councilor LaBranche moved to offer Steve Fournier a salary of \$93K, a bonus plan for \$6K based on 3 goals of \$2K each, a 2 year contract, a 180 day severance package and 4 weeks of vacation. Councilor Zink seconded. Councilor Carmichael asked to amend the motion to read a one-year contract with a 9 month severance package including health benefits. Councilor LaBranche said he would stay with his motion.

Discussion:

Councilor Wright stated that he wanted to hire Mr. Fournier, but with a one year contract. He said he was looking for a person who would work hard, and it was up to the Council to help him succeed and adhere to its goals. Council Vice

Chairman Bentley cited two area towns that had renewed contracts for 3 years. Don Jutton had said that a multi-year contract was usual. Councilor Levy said that Mr. Fournier had not had experience in Newmarket's type of government, and he was willing to give him a chance, but not with a multi-year contract. He felt that the Council's response to Mr. Fournier's counter should be only to agree on a salary of \$93K, and to adhere to the other terms of their initial offer.

Councilor Zink asked to move the vote. The recording secretary polled the Council:

Ayes

Nays

Councilor LaBranche

Councilor Wright

Councilor Zink

Councilor Levy

Council Vice Chairman Bentley

Councilor Carmichael

Council Chairman Nazzaro

The motion carried 4 – 3. Council Chairman Nazzaro was to present the offer to Steve Fournier that evening, and express the Council's determination that this would be its final offer. He will email Mr. Fournier's answer to Council members, and said he should have an answer by Wednesday. Further references cannot be approached unless or until Mr. Fournier accepts the offer. He handed out the list of goals, and asked that the Council discuss them in non-public after the July 11th meeting.

Councilor LaBranche moved to leave non-public session at 5:36 p.m. Councilor Zink seconded. Motion carried unanimously.

Councilor LaBranche moved to seal the minutes of the non-public session. Council Vice Chairman Bentley seconded. Motion carried unanimously.

Councilor LaBranche moved to adjourn. Councilor Zink seconded. Motion carried unanimously. Meeting adjourned at 5:38 p.m.

Respectfully submitted,

Ellen Adlington,

Recording Secretary