

Town Council BM Approved Minutes May 2, 2012

TOWN OF NEWMARKET, NEW HAMPSHIRE
TOWN COUNCIL BUSINESS MEETING

MAY 2, 2012
7:00 P.M.
COUNCIL CHAMBERS

PRESENT:

Council Chairman Phil Nazzaro

Council Vice Chairman John Bentley

Councilor Mike LaBranche

Councilor Ed Carmichael

Councilor Dan Wright

Councilor Gary Levy

Town Administrator Ed Wojnowski

Council Chairman Nazzaro called the meeting to order at 7:00 p.m., followed by the Pledge of Allegiance.

It was decided to begin with item 1 on the agenda.

1. LINKED TOGETHER KIDS; OVERVIEW OF ACTIVITIES AT THE POCKET PARK AND

REQUEST TO SET UP A LEMONADE STAND IN THE POCKET PARK

There were 11 children present from Linked Together Kids. Each in turn read a statement about activities and the amount of money each had raised. Sam thanked the Council for allowing them to speak at the meeting. Cate Geier said that the lemonade stand the previous summer had raised \$213.26 for flowers for the park. She asked the Council for permission to have the stand again. Paige Bosworth said they made \$53.00 on crafts they had made during Old Home Weekend. They also sold cookie and soups. Maddie Geier reported that the penny harvest had raised \$320: \$210 was used for an easel for the art teacher at the elementary school, and the remainder will be donated to the Food Bank. Gabrielle Madore reported that they had come before the Council and received a proclamation declaring the week of October 17 – 21 as Make Your Mark Week. The grand opening of the park was on October 18th, and a pin oak was planted.

Caitlin Temple reported on the family literacy event. They had applied for a \$250 grant for the event, but unfortunately, they did not receive the grant. They plan a book exchange of gently used books. This was based on a 2008 – 2009 study which identified Newmarket Elementary as needing improvement in reading skills. Skylynn Anderson reported on a Thanksgiving play which they had presented to the residents of the Pines on November 21st. The residents asked them

to return in the spring with another play. They also presented the play to Head Start. Katie Morgan talked about decorations the group had done to honor past and present servicemen. Mia Smith said they had made snowman ornaments and written thank you notes to all who served as volunteers on town committees. Jaden Moore reported that they were working on PSAs for waste water management. He said they had made a commitment to work on an educational study for Channel 13, but as they had not had the time to complete the program, Channel 13 was fulfilling the commitment. Riley Anderson spoke about their planning stages for the upcoming Star Wars Carnival, and asked the Council if they had any questions.

Council Chairman Nazzaro thanked the group for their presentation. Councilor Levy asked about the grant that they had not received. The Linked Together Kids leader will contact him by email.

Councilor LaBranche moved to allow Linked Together Kids to have a lemonade stand in Pocket Park on Wednesdays, and to waive any fees. Councilor Levy seconded. Town Administrator Wojnowsky polled the Council. The motion carried unanimously, 6 – 0.

Council Chairman Nazzaro again thanked the group and its leadership for all the services they provide the community.

PUBLIC HEARING: ORDINANCE #2011/2012-2 REGULATING THE LICENSURE OF A STAND

LOCATED ON PUBLIC PROPERTY WITHIN THE DOWNTOWN

Council Chairman Nazzaro opened the public hearing at 7:10 p.m. As there was no comment, the public hearing was closed at 7:10 p.m.

PUBLIC HEARING: RESOLUTION #2011/2012-23 CLOSING OUT OT THE NEW VILLAGE PROJECT AND WITHDRAWAL OF \$14,621 FROM SEWER CAPITAL RESERVE FUND FOR FINAL PAYMENT COSTS

Council Chairman Nazzaro opened the public hearing at 7:11 p.m. As there was no public comment the public hearing was closed at 7:11 p.m.

PUBLIC FORUM: NON-AGENDA ITEMS ONLY

Ed Portyrato spoke on payroll costs to the town and the school system. He was encouraged to discuss the school payroll at a School Board meeting. Council Chairman Nazzaro stated that the only group of unionized town employees is the police department. Mr. Portyrato had a list of town employees and expressed concern as to the number of people on the list. Town Administrator Wojnowski explained that of the 200 or so on the list, only 52 were full time employees. To Mr. Portyrato's questions of benefits, Town Administrator Wojnowski said that accrued vacation time could only be carried over for one year, and that it would take 7 years to accrue 90 days of sick time. Acting Finance Director Angell provided some clarification of the list Mr. Portyrato had. Some of the items represented what an employee had been paid, rather than what had accrued. Mr. Portyrato asked if overtime pay figured in calculating pensions. Town Administrator Wojnowski stated that it was. Council Vice Chairman Bentley noted that the list included approximately 20 people who work one day a year at the polls.

Burt Allen spoke on collective bargaining, specifically police unions. He then spoke about the entrance to

Newmarket Industrial Park, which he said already existed at the end of Forbes Road.

He suggested that installation of a natural gas station and train station be considered. He asked that the town check to

see if its name was on the deed. He stated that some municipalities were charging for fire department services on the property part of homeowner's insurance. He then spoke about nitrates in the

Great

Bay. He said that introducing schools of fish would make the problem worse, and that removing the dam would reduce even further the numbers of endangered white cottontail rabbits around the bay. He added that fertilizers should not be used within 300 feet of the bay, and that large trees growing in the clay soil could not absorb nitrates before they reached the bay.

G. Philip Blatsos, a resident of

Goffstown,

NH, introduced himself as a retired member of the NH Department of Revenue, where he worked for 32 years. He retired in 2008 as Commissioner. The verbal consensus of the Council was to let him speak. He stated that he had come to

Newmarket as he had been approached by townspeople who asked him financial questions about TIFs in

Newmarket. He cited

Peterborough and the office of OEP as resources on the proper management of a TIF. He handed out a short bulletin on the requirements of TIF districts as listed under the RSA 162-k plan, and cited the areas where

Newmarket had not been in compliance. He said that the valuation and other numbers on the spread sheets for the TIF districts were changing, and the Council needed hard facts when considering transferring funds and closing TIF districts.

In 1998, articles 7 and 8 were passed, creating bonding authority dependent upon a developer being selected with the ability to amortize the town debt. Article 9802 was passed that year creating a new TIF, based on a conceptual plan. No one had been able to produce a copy of the actual or financial plan. He stated that there was no evidence that the financial plan required by law had been submitted. This would be basis for any budgeting of the plan. The conceptual plan stated that excess taxes beyond the bond payment be directed to the General Fund. There was no evidence that the duration of the plan had been established. It also appeared as though details of the TIF were not reported in the town's Annual Report, as is also required by law. The law at that time stated that boundaries of TIFs not be changed after 5 years, but the boundaries of the Black Bear TIF had changed shortly before the law had changed.

He referred to a 2006 spreadsheet on the Black Bear TIF. Council Chairman Nazzaro asked for a summation. Mr. Blatsos stated that the TIF law had not been followed and that funds were being held within the TIF, and had been appropriated without the vote of Town Council. In 2004, he stated that bonding had been created to purchase the

Wilson property. The bond required the signature of a developer. There was no signature, but the Council authorized the bonding. There was no record of the vote to loan funds from the General Fund to the TIF to pay for this. He said the only way he knew of to correct these past problems, was to ask for a town vote under omissions and corrections. He also said that surpluses should be looked at, as without a town vote to retain these funds, they should have gone into the town's General Fund. He felt they could dissolve the TIF and go forward to establish a new TIF.

TOWN COUNCIL TO CONSIDER ACCEPTANCE OF MINUTES:

APRIL 18, 2012 WORKSHOP

Council Vice Chairman Bentley moved to approve the minutes of the April 18th workshop. Councilor LaBranche seconded. Councilor Levy asked that a clarifying sentence be added to paragraph 2 on page 2. His comment was based on the fact that the voters had voted to utilize the open space funds for the school.

Town Administrator Wojnowski polled the Council. The motion passed unanimously,

6 – 0.

APRIL 25, 2012 SPECIAL WORKSHOP

Council Vice Chairman Bentley moved to approve the minutes of the April 25th special workshop. Councilor LaBranche seconded. Town Administrator Wojnowski polled the Council. The motion passed, 5 – 0 – 1, with Councilor Levy abstaining as he had not been at the meeting.

TOWN ADMINISTRATOR'S REPORT

Town Clerk Becky Benvenuti reported that the town was on track with last year in the collecting of property taxes and that revenue was 2% over what had been expected. She asked to speak with the Council in non-public session on 4/16 concerning 2009 tax liens. She mentioned that the state's primary election filing period this year is June 6 – 15.

She announced that the town will be changing its third party provider to Invoice Cloud for electronic (on-line) payments of water, sewer and taxes. She stated that they were a progressive firm and would provide the town better service. The House and Senate had passed legislation allowing paperless bills to be sent with payer approval. There is a 2.95% convenience fee for credit or debit card use. Councilor Levy thought the rate for using a debit card should be lower. The cost for one using an e-check payment coming directly from a checking account is a flat 40 cents. There is no cost to the town. Council Chairman Nazzaro stated that Ms. Benvenuti had been instrumental in crafting the legislation that had recently passed. She said that the town had been accepting credit and debit card payments for six years. Town Administrator Wojnowski said that \$600,000 had been collected by these methods this year.

Town Administrator Wojnowski announced that Acting Finance Director Angell will speak at the next meeting about administrative accounting. A list had been provided of times for the Town Council and Budget Committee to visit department heads. He announced a seminar on the Lamprey River Flood Zone to be held on June 1st from 8 – 1 at the

Raymond
Baptist

Church function hall. The phone number is 659-9363. DOT will be conducting assessments of street lighting on state roads to see if all are necessary. If not, they will meet with Town Council to see if the town wishes to take over their payment.

A bicycle race, beginning at the mills, will be held on June 17th. It is expected to draw 200 – 400 participants. He had placed notices in Councilors' mailboxes of 2 Right to Know workshops to be held for newly elected officials on Saturdays. He called for volunteers to help with water sampling of the

Lamprey
River. Those interested may call 659-9363.

2. DOUG POULIN, IT; REQUEST OF THE PURCHASE OF A NEW SERVER WITH FUNDS FROM

THE TECHNOLOGY CAPITAL RESERVE FUND

Doug Poulin stated that he needed to replace 2 eight-plus year old servers which are part of the town's information network. MRI, when conducting an audit of the system, had said that the servers should be replaced every 4 – 5 years. After that time period it becomes increasingly difficult to find replacement parts, and warranties expire. He said that although the town has 3 servers which are 8 years old, he would be able to stack one of them to keep it running. He stated that leasing equipment was not as cost effective as buying. He had received 8 quotes for the 2 servers, and Government Connection had come up with the best: just under \$12,000 for both. He asked that the money come from the Capital Improvement Fund.

Council Discussion: Mr. Poulin will make competing quotes available to the Council. Councilor Levy asked what other upgrades could be expected in the near future and what the total amount in the CIP was. Mr. Poulin stated that he had worked with Acting Finance Director Matt Angell on future expenditures, and a spread sheet had been sent to the

Councilors on Tuesday. The recommendation was that \$20,000 be added to the CIP each year until 2014-2015, when the amount could drop to \$10,000. Currently, there is \$46,000 in the fund.

Councilor LaBranche moved to authorize the purchase of 2 IBM X servers from Government Connection for a total of \$11,789.85, with the funds coming from the Technology CIP. Council Vice Chairman Bentley seconded.

Council Chairman Nazzaro expressed the need to have a standard packet developed for CIP requests, as it would be easier for the Council to find pertinent information. As the purchase requires a Public Hearing, the motion is to move this along to that effect. Mr. Poulin stated that he had listed the servers on his report by department.

Town Administrator Wojnowski polled the Council. The motion passed unanimously, 6 – 0.

3. DIANE HARDY, TOWN PLANNER, APPROVAL OF DUBOIS & KING ENGINEERS, FOR

DEVELOPMENT OF THE

PEDESTRIAN

SKY

BRIDGE OVER ROUTE 108/MAIN STREET

Diane Hardy came before the Council to request a sum of \$52,400 for Dubois King to conduct a feasibility study. This would partially come from the Transportation Enhancement Fund. The cost of the project is estimated at \$550,000, and originally there was \$20,000 set aside for preliminary engineering. The town has received a state/ federal grant of \$440,000 which requires a 20% match. The town TIF and Newmarket Mills LLC will each be responsible for \$55,000. Federal requirements state that the town has to go through a competitive qualification process in hiring a firm for the project.

Newmarket had received four proposals, and the consultant selection committee had selected Dubois King Engineering with DeStephano Architects and Ward Geo-tech because of its extensive experience with similar projects.

The committee had negotiated the scope of services for the project. The committee will also solicit input from the community. The state Department of Transportation had helped prepare an estimate of costs for comparison with those proposed by Dubois King. The cost for design came in at \$77,000, which was above the original estimate. She recommended that the Council vote to hire Dubois King for the project.

Councilor LaBranche noted that the additional \$8,095 was listed as coming from the Municipal Transportation Fund, and asked if this was an allowable use. Ms. Hardy said that it was, and that there was over \$300,000 in the fund, which comes from a \$5.00 surcharge per vehicle built into the registration fee. She was hoping to go through the CIP process and come before the Council to arrange for the additional funds. The Department of Transportation had requested on behalf of

Newmarket an additional \$61,000 in state transportation money for the project. Both the town and Newmarket Mills would have to match the funds at 10% each. She noted that with the additional funds they should be able to finish the project for the \$630,000. Currently the project is six months behind schedule.

Councilor Wright asked if the project would be ADD compliant. Ms. Hardy said it would as that was a requirement of federal funding. The costs had risen from the original 2009 estimate because of additional federal requirements. Councilor Levy noted that the plan had been estimated at \$19,000, but that it was now \$100,000. Ms. Hardy stated that the state had revised the figure on the basis of similar projects. The original estimate used for the grant application did not include certain federal requirements, such as federal wage rates and full time engineering resident. She said that the state felt the additional costs were reasonable, and had requested additional funds for the town.

Councilor Levy felt that the engineering costs were very high. Ms. Hardy said the contract is for \$52,000 for preliminary engineering. The actual construction would come out of the line item budget. The revised budget of \$77,000 was prepared by D.O.T., and the committee had negotiated a lower figure, in part because some preliminary work had been

done as part of other projects. Councilor Levy questioned the 12% commission to sub-contractors and for reimbursables. He felt this was not reasonable. Council Chairman Nazzaro agreed that the 12% on reimbursables didn't make sense, but that since there was a cost to administer individuals, the 12% on labor might be alright.

Councilor LaBranche moved to approve \$5,240 from the Downtown TIF for the scope of the work to Dubois and King for preliminary tasks 1 – 5. Council Vice Chairman Bentley seconded.

Discussion: Councilor Levy questioned a line in the proposal that stated the engineering firm would own documents associated with the project for six years, but would make these available to the town at a charge. Ms. Hardy said she would get more information about this, and the state is in the process of reviewing the language of the contract. and may make recommendations. She said the \$52,400 should be sufficient for this scope of the work, and the \$100,000 in the revised state budget would allow a cushion in case further costs such as for archeological studies were necessary.

Town Administrator Wojnowski polled the Council. The motion carried unanimously, 6 – 0.

Ms. Hardy announced that the Zoning Board of Appeals had not been able to vote on the application of an animal crematorium since there was no quorum: only two members were able to vote, and the variance needed three votes. She asked the Town Council to appoint two more members to the committee for this one vote to be taken on May 21st after the re-scheduled Public Hearing. One application had been received, and Town Administrator Wojnowski suggested that anyone interested fill out a form by May 11th.

ADDITIONAL AGENDA ITEM: SEAN GREIG ON WATER ISSUE

Sean Greig had received a phone call that day from the representative of the Department of Environmental Services Water Division who had conducted the town's sanitary report. He expected follow up paper work by the beginning of the week concerning this report which is done by the state every three years. The department reviewed the town's records, infrastructure, operations, etc. to see if they would meet the needs of the town. Based on the results of the report, the representative would be recommending a moratorium on additional building. Mr. Greig stressed that he would know more details once the actual report arrived and he was scheduled to meet with the department the next week.

He said that the results of a 1998 EPA study had concluded that the town was over-pumping its two wells, the Bennett and Sewell, and had recommended developing an alternate water source.

In 2004, a study was done which said the town needed to improve its surface water supply. At that point the water surface plant was being discontinued as it did not meet water quality standards. The back wash was adversely affecting the operation of the waste water treatment facility. At that point the town decided to look for ground water sources. In 2006, the town was told to increase its water storage facilities. In 2002, the town had voted for a water tank, but it had not been built. A 2010 study had stated that the town needed an additional water supply as well as additional water storage.

The final reason for the representative's recommendation was that although SRF funding for the MacIntosh Well and water lines had been offered with grant money incentives, the town had voted the projects down. Mr. Greig felt that this was interpreted to mean that the town was not moving ahead on these issues. There would be meetings with DES to develop an action plan. Such plans place milestones on specific actions, which if not met can incur fines to the town.

Councilor Wright asked what the total amount would be to solve the deficiencies. Mr. Greig stated that to move ahead with the MacIntosh Well project a pilot study would cost about \$150,000. A study would give direction for them to develop a plan for a bond issue vote in March. Councilor Wright asked if there was a way to blend the water to give the town breathing room and show good faith. Mr. Greig stated that he had been told in the past by DES that the town should at least blend water from the MacIntosh Well, but that it could not be considered an additional supply. He said that the test for sufficient water supply was based on the adequacy of the town having enough water for one day if the largest supply source was off line.

Newmarket did not meet the criteria.

Councilor Wright asked how much money was in the Water Fund. Mr. Greig said there was \$361,000 in the CIP and \$360,000 would be added next year. Council Vice Chairman Bentley asked if this related to the insurance company saying the town needed 50% more water in case of a fire. Mr. Greig said that fire fighting was part of the analysis, whether the source was from a well or ground surface. Councilor Levy asked when the town could expect the results of a pilot study. Mr. Greig stated that if the study could be started in July, realistically the result should be available in November/December. The main goal of the study would be to run the well and monitor the results.

Councilor LaBranche expressed shock that he was unaware of these past studies and said that had these results been known, they would have helped with the votes which turned down the projects by small margins. He thought the only action the council could take without a town vote would be to construct a water tank, as the bonding was already in place. Mr. Greig agreed, and further stated that starting on the pilot project should give DES reason to believe the town was moving ahead. Councilor LaBranche asked him if he thought there would be SRF funds available. Mr. Greig said probably not, but that the MacIntosh Well was next in line to receive money even though it would be less than last year. Council Chairman Nazzaro asked that if the \$1,000,000 were available, would it have to be moved to a CIP. Town Administrator Wojnowski said that it would. Councilor Levy, referring to the upcoming discussion of Resolutions, thought the Council might be able to use some of that money if the vote were unanimous by the method Acting Finance Director Matt Angell had pointed out. Mr. Greig pointed out that nothing could be done until the beginning of the new fiscal year on July 1st. He will return to the Council after meeting with DES. Council Chairman Nazzaro pointed out that solving water issues has to be high on the list of Council established goals.

4. TOWN COUNCIL APPOINTMENT TO THE EFFICIENCY COMMITTEE

Councilor LaBranche moved to nominate Councilor Zink to the Efficiency Committee as a Council representative. Council Vice Chairman Bentley seconded. Town Administrator Wojnowski polled the Council. The motion carried unanimously, 6 – 0.

Councilor LaBranche pointed out that any Councilor can apply to the Committee as a citizen. Councilor Wright indicated he would.

5. PRESENTATION OF PETITIONS AND RESOLUTIONS AND DISPOSAL THEREOF BY

REFERENCE, OR OTHERWISE:

a. Resolution #2011/2012-24; Return of Excess Black Bear TIF Captured Assessed Value to the

Town's General Fund

b. Resolution #2011/2012-18; Transfer of \$535,425 of Water Fund Balance to the

Main Street

Phase II Water Improvement Capital Reserve Fund and Naming the Town Council as Agents

To Expend

c. Resolution # 2011/2012-19; Transfer of \$535,425 from the

Main Street Phase II Water Capital

Reserve Fund to the Downtown Enhancement Fund

Acting Finance Director Matt Angell handed out a report on the background and details of each Resolution/Scenario. He reported on the accounting system set-up and programming issues that still have to be resolved. As some reports are not totaling correctly, he was unable to present balance and income statements at this time. While the software company is working on the problem, he is pulling out data and running it through his audit software. He said that before his next presentation, if the Council has any ideas on funding issues/sources he could run them through the software to see the impact on each fund.

Background: In 2008 and 2009, the Town Council had instituted a fund policy that recommended 16% or 2 months of operating expenses be reserved. Using the 2013 budget as a basis works out to a reserve amount of \$985,115. Closing the Downtown TIF and releasing its captured assessment would realize a tax rate reduction of \$.18 per \$1,000 of valuation. His report had two columns: the left hand column showed the impact on the General Fund; the right hand column showed the impact on the Water Fund. To the ending April unreserved balances, he added estimated revenues for May and June, and subtracted estimated expenditures. From that figure he made adjustments according to each scenario.

Scenario 1, Council approval of all 3 resolutions: He reported that the Water Fund would take the brunt of this, while the General Fund would have an excess of \$71,317.21 which could be used to reduce the tax rate. This would be the best for the General Fund. The unreserved balance in the General Fund would be \$1,056,432.21, while that of the Water Fund would be \$397,467.62

Scenario 2, Council deny all 3 resolutions: He reported that this would be the worst for the General Fund, as it would retain an unreserved fund balance of \$128,870.21 and incur a deficit of \$856,244.79 which would have to be made up. The Water Fund would have an unreserved fund balance of \$932,892.62. The General Fund would become the default payer for the Main Street Enhancement adjustment.

Scenario 3, Fund ½ from TIF and ½ from Water Fund: He reported that the General Fund would have an unreserved fund balance of \$860,363.71, but would have to make up \$124,751.29 to meet the policy. The Water Fund would have unreserved funds of \$665,180.12.

Mr. Angell asked the Council to come up with ideas which could be brought forward as alternative resolutions. Council Chairman Nazzaro asked to set up some ground rules. He felt that the Council should not vote on this unless all Councilors were present. He then asked what other sources of revenue would be within the Council's authority. Councilor LaBranche asked about the policy recommending 16% be retained for unreserved funds. Mr. Angell said that this was a DRA recommendation. Councilor LaBranche stated that Scenario 3 would put the fund reserves at 8 – 12%, and Mr. Angell felt this would put the Council within reach of the 16%. Councilor LaBranche said the Council could reduce the reserve requirement or keep it at 16% and wait for the figures to unfold. He stated he could not support Scenario 2, but would consider either 1 or 3.

Acting Finance Director Angell stated that Scenario 2, by not closing the Downtown TIF, would result in a \$.72 increase in the overall tax rate, while 3 would have no impact. Closing out the Downtown TIF under Scenario 3 would reduce the tax rate. Councilor Wright asked about figures relating to the Black Bear TIF. Mr. Angell stated that he didn't have a firm gauge on this as he was unsure as to how the Council would vote. However, he said that under Scenario 3, they would be fully funded. Councilor Wright asked about the figures in relation to Sean Greig's report. Mr. Angell said that the report pointed to acceptance of a compromise. He stated that the excess funds in the Black Bear TIF could not be used to close the gap. The Council did not have the authority to do this as the money had been raised to fund the Black Bear TIF only. The Council could move the excess money to the General Fund, but did not have the authority to move it out. Only a Town Meeting vote could accomplish that. He referred to a statement made by Rose Anne Kwaks at a previous meeting. He agreed with her that according to the RSA's, money could not be moved in this manner without town meeting vote.

Councilor Levy stated that he did not agree and felt the report was not accurate. He listed two issues with the Black Bear TIF: the boundaries had changed when the

Exeter Street and

Wilson properties had been purchased; the calculations that had been done which changed from \$340,000 at the March 7th meeting to \$123,000 a few weeks later. He felt it was difficult to determine how much had been properly captured by Black Bear TIF when the boundaries had changed and all was included. Mr. Angell stated that the Black Bear figures were a compilation done by many people. Councilor Levy said that what he didn't agree with was Mr. Angell's statement

that the money could only be moved by town meeting vote. Mr. Angell asked him how he proposed to use Black Bear TIF funds outside of its district, especially since town meeting had voted to raise the money for the district.

Councilor Levy stated that if the statute says the excess moneys in the Black Bear TIF go to the General Fund, it was his understanding that the money could be used in a similar way to that of the Downtown TIF as the General Fund paid for the water. Mr. Angell stated that the water was paid for out of a Capital Project account, not the General Fund. The system has about forty separate funds. Each can be looked at as separate businesses with separate balance sheets and income statements. Councilor Levy referred to a budget committee meeting in which Mr. Angell had said the water had been paid for either from the General Fund or with a loan from the Downtown TIF. Mr. Angell stated that either would be a loan rather than a transfer, as there was no bank account associated with the project. He made a distinction between a loan and a transfer:

With a loan, the Council doesn't have the authority to transfer money back from the General Fund without Town Meeting vote.

Councilor Levy stated that he was not comfortable with the \$123,000 figure at this point, and that he felt the Council did not have enough information as the Black Bear TIF boundaries had changed over the years. Mr. Angell pointed out that he was presenting the 3 scenarios based on the Downtown TIF. Council Chairman Nazzaro stated that Councilor Levy was looking for more places for revenue. Councilor Levy reiterated that he was unsure of the \$123,000, but for the sake of argument, he asked Mr. Angell if that would be the figure improperly captured by the Black Bear TIF. Mr. Angell said that the figure was not his alone, and that it was the original minus the assessed value multiplied by the tax rate. The spread sheet for the \$308,000 was based on another's updated information which was not perfect. He emphasized that he was not a tax assessor. He encouraged Councilor Levy to sit down with him to go over the spread sheets.

Councilor Levy asked for agreement that the latest number for the Black Bear TIF was \$123,525, and for the Downtown TIF. He felt another option would be to combine both towards the \$535,000, reserving \$55,000 for the

Sky

Bridge, and then only another \$60,000 would have to be found. He said the water fund would be paid off, but the funds would stay in the General Fund. Mr. Angell said the \$535,000 was not in the General Fund, but was in the Water Fund, and at the present time there was no funding for it. The funds would go to the Main Street Reconstruction Fund, as they cannot go through the General Fund. The money would close out a deficit in the Capital Fund and close the Downtown TIF. It is the Capital Fund which has the \$535,000 deficit. The money would be moved from either the Water Fund or the TIF to close out the Main Street Capital Project Fund and the Downtown TIF as the project has been completed. Mr. Angell stated that the \$535,000 would have to be raised either through taxes or through the water surplus fund.

Town Administrator Wojnowski asked Mr. Angell where the balance goes to at that point. Any excess from the Downtown TIF would go to the General Fund on Council authority after the \$55,000 for the

Sky

Bridge was removed. Council Chairman Nazzaro pointed out that the Fund with a deficit needs a revenue source to zero it out. Mr. Angell said it was not cash that was moving, but basically retained funds that were moving from one corporation to another. Councilor Levy said that at the end of the day the funds would go to the fund balance, but he asked that this be explained in plainer language.

Town Administrator Wojnowski explained that he wanted the community to understand that a few years ago the town had received \$70,000 from Comcast for updates. This money went into the General Fund balance and Town Meeting had to vote to move the funds to the Capital Reserve account. By procedure only Town Meeting can vote to move funds from the General Fund. Town Council has no access to funds once they are placed in the General Fund. In light of the discussion, he said that the Council needs to appropriate \$535,000 from the Water Fund to close out the TIF project. The captured assessed value of the TIF then goes into assessed value of the town to reduce the tax rate by \$.18. Councilor Bentley said that this was what the Council had tried to do earlier.

Council Chairman Nazzaro asked and Mr. Angell confirmed that the Downtown TIF could be used for the downtown water project. This would leave a deficit of approximately \$125,000. He asked Mr. Angell what would be the down side of doing this. Mr. Angell said this would leave less than 16% unreserved, approximately \$600,000, and it would take about 4 years to catch up. However, there would be more in the Water Fund to help with Mr. Greig's projects that he had reported on earlier. Councilor Levy asked if the excess Black Bear TIF money could be used toward the balance. Mr.

Angell explained that this could not be done without a Town Meeting vote. Councilor Levy suggested that the Council seek another opinion and that if necessary there should be a Town Meeting. He expressed concern about depleting the Water Fund, and felt the Council should consider moving excess money from the 2 TIFs, and by his calculations this would give between 1.2 and 1.3 million to the balance and a surplus for the year. He said he based this on approximately \$400,000 in the Black Bear TIF and \$470,000 in the Downtown TIF and the \$370,000 Mr. Angell thought would be a surplus for the year minus the \$55,000 for the

Sky

Bridge. Council Chairman Nazzaro noted that the Council would never come to a resolution on the issue as different numbers were being used.

Mr. Angell said he could only make transfers on the authority of the Town Council and Town Meeting. Council Chairman Nazzaro asked if there were any restrictions on Council expenditures based on Town Meeting vote. Mr. Angell said there probably were, but he had not calculated that and was using the figures approved by the 2008 Council. Council Chairman Nazzaro said he would always defer to Town Meeting as the legislative body and that it was a good thing if the Council was restricted in spending.

Councilor Levy stated he had always understood the unrestricted reserves to be between 12 – 16%. He asked why money from the Downtown TIF could be used to pay off the \$535,000 and not money from the Black Bear TIF which should have gone to the General Fund. Mr. Angell stated that the Council only had the authority to move TIF money to the General Fund, but to move it out required Town Meeting vote. In this case, only the Downtown TIF money could be used, as the water projects took place in the downtown. The Black Bear TIF was not a part of the downtown, and those funds were restricted by Town Meeting vote to that area. It would require another Town Meeting vote to use the funds for another purpose. He stated that Sean Greig's report now needed to be considered when putting together a compromise action.

Councilor Wright also expressed concern about Mr. Greig's report and sufficient water funds. Mr. Angell said funds could be moved for this from the Water Surplus Fund to the Water Capital Reserve Fund for Mr. Greig's project. Council Chairman Nazzaro stated that until Mr. Greig has spoken with DES and has a plan in place, the Council will not know how much it can safely take from the Water Fund. Mr. Greig said that he had drawn up plans both with and without SRF funds, and the best way to pay for the items would be to bond them, rather than paying cash. Doing it this way would allow other items to be added as some are paid down.

Mr. Greig stated he felt the well was the most important issue. Council Chairman Nazzaro asked how much needed to be moved into the Capital Reserve Fund for the projects. Currently, there is \$361,000 in the fund with \$360,000 soon to be added. There is \$960,000 in the Water Surplus Fund, and he wants to have between \$400,000 and \$500,000 in the account for cash flow. He wants to level fund the CIP to keep rates steady. He felt the Council could take some funds from the Water Fund, but not a lot. He would pay cash for the first step and second step in his project; the Pilot Project would cost about \$150,000 coming from the CIP and the electrical would be about \$250,000 and come from the Water Surplus Fund. He felt that with electricity rates escalating, it would be important to complete that part of the project as soon as possible. He hoped the Pilot Project could be completed in time to prepare for a

March

Town Meeting vote.

Council Chairman Nazzaro referred to Scenario 3 which shows \$267,000 coming from the Water Fund balance. He asked if this would leave enough for projects which had to be done to meet DES operational conditions. Mr. Greig said that right now the answer was yes, but he would know more once he met with DES. He said that he felt at this time, funds could be moved into the CIP on July 1st.

Councilor Levy said he felt the Council needed to know definitely if a Town Meeting was necessary, and if the over captured funds in the Black Bear TIF could be verified as \$123,000. He also asked what the Council intended to do with the funds. Council Chairman Nazzaro said that the Council only had until June 30th to fix the problem. Councilor Levy said that this was taxpayer money that was being held improperly, and its release could help in the end of the year fund balance.

Councilor LaBranche asked Mr. Greig if the \$665,000 remaining in the Water Fund under Scenario 3 could be used for other engineering or site plan work. Mr. Greig said it could if the Council voted 7 – 0 to move the funds to the CIP.

Councilor LaBranche thought that the Town Meeting not to fund the MacIntosh Well precluded the Council from funding the Pilot Project. Town Administrator Wojnowski stated that Town Meeting votes are binding for one fiscal year, and that after July 1st the Council can vote to appropriate funds from the CIP for the project. Councilor LaBranche respectfully disagreed and said that he thought another Town Meeting vote should be held as the last vote had been to turn down the project. He didn't agree with the process. Town Administrator Wojnowski said he would speak to DRA.

Council Chairman Nazzaro said there were two legal issues on which the Council disagreed: whether the Council can expend funds without Town Meeting authority and Councilor Levy added that the other was whether the bill could be paid off with either of the two TIFS. Council Chairman Nazzaro said that, rather than Councilors consulting their own lawyers, the Council should go with the legal opinion of the Town Attorney. Councilor Levy said that the Town Meeting vote turned down over 3 million for an entire project including a treatment plant and testing. The Pilot Project would only be approximately \$150,000. Council Chairman Nazzaro stated that the Council needed a legal opinion as testing had been included as part of the Warrant article. He felt the Council needed legal opinion on issues before it could make a decision.

Councilor Wright asked if there was a chance that after the Pilot Program was completed that the town would not need a treatment plant. Mr. Greig said he felt the result would be that the water would have to be treated or blended into the system. However, he wanted the results before making a determination. Town Administrator Wojnowski stated that blended water could not be counted towards the requirement that the town had sufficient water to meet its daily needs.

Council Chairman Nazzaro asked to put the issue involving the \$123,000 on the next agenda. Councilor Levy said that the Resolution about licensing had not been voted on, but that he had a question. Council Chairman Nazzaro asked that it be brought up under Old/New Business.

6. DISCUSSION OF STRATEGIES TO ACHIEVE COUNCIL PRIORITIES

Council Chairman Nazzaro expressed the need for the Council to develop cohesive strategies to reach its goals and vision. Council Vice Chairman Bentley stated that even with goals and vision the Council tended to get side tracked. Council Chairman Nazzaro said the strategies are necessary in part to drive the agenda. The item will be carried to the next agenda.

Councilor LaBranche stated that past Councils had drawn up goals, but had difficulty meeting them. A past Council had developed a chart for every meeting, and the Town Administrator would comment on each item. Councilor LaBranche felt it was important to prioritize and keep striving to meet the goals. Unfortunately, a problem could arise which was bigger than the item at the top of the list. He felt that with 2 meetings per month for 3 hours apiece, it was difficult to focus on 1 – 2 items per meeting. He felt that strategies were important, but first the Council needed to identify issues in order of importance.

Town Council Chairman Nazzaro felt the first priority related to that. He used the example that if the Council had been tracking past reports on town water needs, it could have anticipated the problem presented earlier in the meeting. He stressed the need for planning, and said that had the Council been receiving monthly financial reports, it would not be in its present position. He felt that Council needed to get beyond operating basics, and receive information in a standardized format so that it could plan for the future.

Councilor Levy gave as an example that the Scenarios 1, 2 and 3 had been handed out during the meeting, and should have been made available earlier and been the first item on the agenda. He also expressed frustration that the Council had been given different numbers over the last 6 weeks. Council Chairman Nazzaro stated that Mr. Angell had been hired to fix the books, and he could realize his frustration in dealing with years of problems. He appreciated that the Council was kept up to date as to the process. Councilor Wright suggested that Mr. Angell email his completed reports to the Council prior to the meetings.

Councilor LaBranche said the first priority would be to do the basics right. He said there were 4 answers to every question: a right, a wrong, I want to hear or I don't want to hear. He said they had people trying to do the best they could with the information they had. He felt the Council was working within the first priority on the community, water, school and town goals. Council Chairman Nazzaro asked the Council to focus on what actions would be necessary to do the basics right for the next meeting.

7. OLD/NEW BUSINESS

Council Vice Chairman Bentley reported that he had spoken with Mr. Chinberg, and that he was receptive to having the Gilbert bench in his area. Council Vice Chairman Bentley said he would contact the Gilberts and get their input on the four sites that were suggested. Those sites were

Arbor Park, Pocket Park, Riverwalk or near the dock. He will also consult Mr. Malasky to ensure that the placement of the bench not interfere with plowing, etc. He will then come back to the Council for direction.

Council Chairman Nazzaro brought forward questions that he had been asked by two townspeople, who wondered if the Town Planner was spending more time on dam removal than in economic generation.

Councilor Levy asked who would enforce the violation rule in Resolution 2. Town Administrator Wojnowski said that the Code Enforcement Officer would approach the violator if he saw a problem, and violations could affect license renewals the next year.

Council Chairman Nazzaro asked for a motion to approve amendments to Ordinance #2010/2011 – 2 regulating the licensure of a stand located on public property within the downtown. Councilor LaBranche so moved. Council Vice Chairman Bentley seconded. Town Administrator Wojnowski polled the Council. Motion carried unanimously, 6 – 0.

Councilor Chairman Nazzaro asked for a motion to approve Resolution # 2011/2012 – 23 Close out of New Village Project and withdrawal of \$14,621 from Sewer Capital Reserve Fund for final payment costs. Councilor LaBranche so moved. Council Vice Chairman Bentley seconded the motion. Town Administrator Wojnowski polled the Council. Motion carried unanimously, 6 – 0.

Councilor LaBranche moved to extend the meeting beyond 10:00 p.m. Council Vice Chairman Bentley seconded. Motion carried unanimously.

Council Chairman Nazzaro reported that Council members had received a letter from a resident who said he had been told by a Recreation Department representative that he was not allowed to play in their facility because of a legal liability. Head Start was on the playground at the time, and because the area was built with federal grant money, this was true. Councilor LaBranche suggested that Mr. Hilton publicize the restriction, and Town Administrator Wojnowski thought a sign could be put up during the 30 – 45 minute recess periods. Council Vice Chairman Bentley also thought alternative areas should be suggested. It was also felt that a better explanation should have been given the resident. Council Chairman Nazzaro will respond to the resident and relate the information just received.

8. APPROVAL OF NON-PUBLIC MINUTES

April 18, 2012 #1

Councilor LaBranche moved to accept the non-public minutes of April 18, 2012 #1. Council Vice Chairman Bentley seconded. Town Administrator Wojnowski polled the Council. Motion passed unanimously, 6 – 0.

April 18, 2012 #2

Council Vice Chairman Bentley moved to accept the non-public minutes of April 18, 2012 #2. Councilor LaBranche seconded. Town Administrator Wojnowski polled the Council. Motion passed unanimously, 6 – 0.

April 25, 2012

Councilor LaBranche moved to accept the non-public minutes of April 25, 2012. Council Vice Chairman Bentley seconded. Town Administrator Wojnowski polled the Council. Motion passed unanimously, 5 – 0 – 1, with Councilor Levy abstaining as he had not been present at the meeting.

9. ADJOURMENT – NEXT MEETING DATE
MAY 16, 2012 WORKSHOP

Council Vice Chairman Bentley moved to enter non-public session under RSA 91-a:3, II(e) for the hiring of a person as a public employee. Councilor LaBranche seconded. The motion carried unanimously, and the Council entered non-public session at 10:04 p.m.

Respectfully submitted,

Ellen Adlington, Recording Secretary