

## Town Council Approved Minutes September 19, 2012 WS

TOWN OF NEWMARKET, NEW HAMPSHIRE  
TOWN COUNCIL WORKSHOP  
SEPTEMBER 19, 2012 7:00P.M.  
TOWN COUNCIL CHAMBERS

### PRESENT:

Council Chairman Phil Nazzaro

Town Administrator Steve Fournier

Council Vice Chairman John Bentley

Councilor Mike LaBranche

Councilor Al Zink

Councilor Ed Carmichael

Councilor Dan Wright

Councilor Gary Levy

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

### 2. TOWN COUNCIL TO CONSIDER ACCEPTANCE OF MINUTES

Council Vice Chairman Bentley moved to accept the minutes of September 5, 2012. Councilor Zink seconded. Councilor Levy asked that a sentence be added to the minutes. As he could not find the specific omission, the motion and second were withdrawn.

Councilor Levy then asked that a sentence be added to the second paragraph on page 7 of the minutes: Town Administrator Fournier had emphasized that they hold off signing any documents until technology and liability questions had been answered. Town Administrator Fournier confirmed that he had said that.

Council Vice Chairman Bentley moved to accept the minutes of the September 5, 2012 Business Meeting. Councilor Levy seconded. Town Administrator Fournier polled the Council. Motion carried unanimously, 7 – 0.

### 3. DEPARTMENT REPORTS – MACALLEN DAM – DIANE HARDY

Town Planner Diane Hardy gave an overview of the Macallen Dam removal feasibility study. In February, 2012 she had come before the Council to set up a Steering Committee to work with staff on this project. The Council had appointed 3 citizens at large, Ms. Hardy, DPW Director Rick Malasky, and a representative from each the Watershed Association and the Conservation Commission to serve in this capacity. In 2011, the town approved a warrant article to allocate \$46K to

study the feasibility of removing the dam in an attempt to help ameliorate flooding.

The Steering Committee had received 4 responses to its July request for proposals: Wright-Pierce Engineering, GZA, Gomez and Sullivan and URS Corporation, all qualified firms. The Committee will meet on Monday, September 24th to begin evaluating the proposals using a prepared evaluation matrix. Also, they have enlisted assistance and expertise from DES, NOAA and Fish and Game. The Committee hoped to have interviews with the firms in the first week of October, and be able to come to the Council in November with a recommendation to authorize one of the firms to carry out the work. Ms. Hardy said that one member at large had resigned, but the Council would be asked to approve Eric Botterman, an engineer, to this position later in the meeting.

In June, they had received a \$15K grant from the Gulf of Maine, bringing the total amount available to \$100K. Ms. Hardy said the proposal for consultants clearly stated that they were not looking for recommendations as to dam removal or repair, but for a full analysis based on hard data so the town can make informed decisions in the future. The decision would have to be approved by Town Meeting.

Ms. Hardy asked the Council for any questions. Council Levy asked about the composition of the funding. Of the \$100K available, \$45K came from the town, \$15K from the Gulf of Maine and \$40K from a Conservation Law Foundation grant. He asked if the decision would be qualification- based or predicated on price. Ms. Hardy said the decision would be qualification- based as required by both the state and federal government. The proposals and approach are presented, while the fees are submitted separately in sealed envelopes. The Committee will review and consider the proposals first. Once a decision is reached, they will open negotiations on the costs. If negotiations are not successful with the first firm, they will continue through the list until agreement can be reached.

Councilor Levy asked if DES would help with the grading system. Ms. Hardy said the Committee members would use the matrix to prepare their individual evaluations, as will representatives from DES, NOAA and Fish and Game. The results will be combined. The Committee will then meet with DES to understand its viewpoint prior to the interview process. She hoped there would be a recommendation from the Steering Committee for the Council's October Workshop. Councilor Zink asked if the results of the study would be presented to the residents and Town Council, so that they would make decisions based on hard facts. Ms. Hardy said, yes, and that the Watershed Association would be helpful in outreach and educating the public. The public would have the opportunity to give its input as to repair or removal of the dam, and it would be up to the Council to decide when to place an article before Town Meeting for its decision. She said there might be questions that were not answered by the initial study.

Councilor Zink asked where the ultimate decision about removing the dam lay. Ms. Hardy said the town owns the dam, and this could be considered disposition of town property so the town would have to make the decision. They have a letter from DES citing deficiencies in the dam and suggesting structural repairs, but as long as the town is proceeding with discussions and considering alternatives, there will be no administrative fines imposed. She said eventually a decision would have to be made, and she hoped they would have enough information for the voters to decide whether to repair or remove the dam.

Councilor Zink asked for clarification as to whether the Town or Town Council would make the decision. Ms. Hardy said that from what she had been told, because it was disposition of town property and the town would have to either appropriate or find the funds to remove or repair the dam, it would be the town's decision. Town Administrator Fournier said he believed she was correct as the appropriation would have to go to the voters, but he would check into it. He said in traditional town government, the town has to vote on removal of town property, but the Council also has the authority to buy and sell property.

Council Chairman Nazzaro said the warrant article had appropriated \$45K for this study, and he said someone from DES was working on the project and that was called in-kind service. Ms. Hardy said that they had identified in-kind services from staff, consultants and volunteers for each of the 50% matching grants, but in cash they had \$100K. The labor leading up to the study counts against the grants. She said they had \$45K in cash from the town plus the in-kind labor contributed, adding up to more than the \$45K from the town.

#### 4. TOWN COUNCIL TO CONSIDER REPORTS FROM COUNCIL REP COMMITTEES

The Planning Board had met on Tuesday, September 18th. They had conducted a site walk of Newmarket Mills for a revision to the site plan related to parking spaces. There was a continuation of the site plan review for the Angelview Pet Cemetery and Crematoria on Wadleigh Falls Road. The plan was approved with a couple of conditions. The Board also met with Arcadia Engineers, who withdrew their application for a major site review of 13 Water Street. They will be submitting a new application.

B. Councilor Nazzaro Highway Safety

There was no meeting.

C. Councilor Wright Conservation Commission

Councilor Wright had been away during the last meeting.

D. Councilor LaBranche CIP/Efficiency Committee

Councilor LaBranche had not attended the last CIP meeting, but he understood that they had finished with all departments. The Committee will meet the following week to start reviewing the requests before final presentation to the Budget Committee and Council.

Councilor LaBranche said there was nothing to report on the Efficiency Committee at this point.

E. Councilor Levy Budget Committee

Councilor Levy, said they had not received the final figures at the last meeting, though he thought the final fund balance would be somewhere between \$100 and \$200K. He said the school was returning some money that had not been used for renovations. He hoped that by the next meeting in October, the committee would have a much better sense of how much money they actually had. Then they could potentially decide how much could be available for tax relief. He said the budgeting process would be at its peak in November. The first Council meeting on the budget will be late October. He said Committee members who had attended the LGC training course had found it very helpful and brought back literature for other members.

Council Chairman Nazzaro asked Town Administrator Fournier to put a discussion of fund balance on an up-coming agenda.

F. Councilor Zink Advisory Heritage Commission

Councilor Zink said Chairman Jerry O'Connell had made a presentation on the history and purpose of the Commission. The Commission had a resignation, so there were only 3 members in attendance and he felt it especially important now that they have more members. The Commission's responsibility is to establish guidelines for those coming into town and settling in historic areas, and to distribute those guidelines prior to citizens coming before the Commission.

Council Chairman Nazzaro said that as a member of the Veteran's Memorial Trust Committee, he wanted townspeople to know that they planned a re-dedication of the George Gay Civil War Memorial (across from Rocky's) at 9:30 a.m. on Saturday, September 22nd.

G. Councilor Bentley Energy Committee

(7:26 p.m.) Council Vice Chairman Bentley said the Committee now was comprised of 2 people, and they had not met for 4 – 5 months. He questioned whether the Committee should continue, and asked that a discussion be added to the next agenda. Council Chairman Nazzaro asked that all the Committees/Commissions be reviewed at the same time. Councilor Zink added that Exeter had backed away from its Energy Committee for similar reasons.

## 5. TOWN COUNCIL TO CONSIDER NOMINATIONS, APPOINTMENTS AND ELECTIONS

### A. Resignation from Advisory Heritage Commission – Anita Mohan

On behalf of the Council, Council Chairman Nazzaro thanked Anita Mohan for her service.

### B. Approve Appointment of Steve Fournier, Alternate to Strafford Technical Advisory Committee

Town Administrator Fournier would be an alternate to Town Planner Diane Hardy on the Committee, which reviews projects in the 10 year plan, determining their priorities for funding, throughout the regional planning commission.

Council Vice Chairman Bentley moved to appoint Steve Fournier as Alternate to the Strafford Technical Advisory Committee for the 2012 – 2014 term. Councilor LaBranche seconded. There was no discussion. Town Administrator Fournier polled the Council. Motion carried unanimously, 7 – 0.

### C. Approve Appointment of Eric Botterman to the Macallen Dam Removal Committee

Council Vice Chairman Bentley moved to appoint Eric Botterman to the Macallen Dam Removal Committee. Councilor LaBranche seconded. Discussion: to Councilor Levy's question, Mr. Botterman was the only one who submitted an application. He is an alternate on the Planning Board. Town Administrator Fournier polled the Council. Motion carried unanimously, 7 – 0.

## 6. OLD/NEW BUSINESS

### A. New Business

i. Resolution #2012/2013-12: Relating to the Purchase of a Ford Police Cruiser for the Police Department to include the costs associated with replacement of emergency lighting, equipment set-up and to withdraw said funds from the Police Vehicle Capital Reserve Fund (first reading prior to a Public Hearing and action vote) Council Chairman Nazzaro read the Resolution. Police Chief Kevin Cyr briefed the Council on the request. They had opted to replace one, rather than two vehicles the previous year. They had spent between \$4,300 and \$4,400 in repairs during the year on the vehicle with 128K miles, more than they had expected. He said the amount in the Resolution was at the high end of what they could expect to spend for a new vehicle and was based on the state-bid price for a Ford Interceptor. Ford had stopped making Crown Victorias in 2011, and now made the Interceptor, which has a higher state-bid price. However, a Massachusetts dealer had some 2011 Crown Victoria police cars for sale at about \$2K less than the price of the Interceptor. He did not know how long these would be available or how long it would be before the Council could come to a decision.

In addition, he said they would not be able to use any of the equipment from the old Crown Victoria on an Interceptor. He said that if he was able to secure a Crown Victoria, he could come in much lower than the \$43K requested, but he would not know that for sure until a decision was made. He said he had 2 quotes, but would have a third, if it could be a Crown Victoria, before set-up. He requested that the Council approve up to the \$43K amount.

Discussion: Councilor Levy asked if the \$17,861 set-up would be significantly less for a Crown Victoria, because some parts could be transferred. Chief Cyr said the cost would go down by 25 to 30%, conservatively, but that most of the electronics could not be reused. He felt he could get better figures for the computer. The old car would be auctioned off unless another town department needed it. He said they usually received \$1,200 to \$1,500 at auction. Councilor Wright

asked if the new vehicle would be converted to propane. Chief Cyr said from the warranties he had read, he would not recommend it. Ford offered a 100K mile warranty on the power train for police cruisers, but both Detroit and local dealers had told him that if the propane conversion apparatus is added after market, anything it attaches to is not covered. He had read the warranty information from the propane company, and it covers only its own equipment.

Councilor Carmichael asked, with the next reading and Public Hearing for the Resolution scheduled for 3 weeks later, if the dealer would hold a Crown Victoria. Chief Cyr said that, if the Council had a straw poll in favor, he felt they would hold one on his word. Council Vice Chairman Bentley expressed his support. Council Chairman Nazzaro asked about the \$17,861 in set-up, and Chief Cyr said that figure was based on nothing being moved over from the replaced vehicle. The general feeling of the Council was for Chief Cyr to try to hold a Crown Victoria pending public hearing.

iii. Resolution #2012/2013-14: Withdrawal of an amount not to exceed \$3,015 from the Dispatch/Radios Capital Reserve Fund for the purpose of replacing the Motorola

Digital mobile radio for the new police cruiser (first reading prior to a Public Hearing and action vote)

Council Chairman Nazzaro read the Resolution. Police Chief Cyr said that usually they move radios from a replaced vehicle to a new one, and they usually get 2 – 3 life spans from a radio. The Astro radio in the vehicle that is being replaced is no longer made and Motorola is not making parts for repair. The \$3,015 for the radio is based on a state bid including installation. He said money to cycle out the old radios had been put aside in the CIP.

Discussion: Councilor Levy read that the life span of the Astro radio was 12 – 15 years, and that the one to be replaced had been used in 3 vehicles. Chief Cyr said that although it still worked, if it did stop operating it would not be repairable; it would take 3 – 4 weeks to get a replacement, during which time a vehicle would be off-line. He intended to keep the radio to replace parts for the other Astros they had. He said they did not have back-up radios because it was too costly. He felt the radio was about 12 years old, but did not know for sure since they had started getting the radios 15 years ago when the state offered a grant to replace all the radios in the state.

Council Chairman Nazzaro asked how much they would save by purchasing the radio and having it installed now, rather than buying the radio later and paying for removal of an old radio in addition to installation. Chief Cyr said there would be a savings in labor costs, and he will get the figures for the next meeting. Councilor Levy said he did not see why if the radio was working, they could not use it.

ii. Resolution #2012/2013-13: New Village utility agreement principal payment

Council Chairman Nazzaro read the Resolution, which does not require a second reading and Public Hearing. Sean Greig said the work had been done and the town had entered into an agreement with the state for a \$940K loan with \$470K principle forgiveness for a total loan amount of \$470K plus a locked-in interest rate of 3.104% of which 2% goes for administrative fees. The Council had to decide if it preferred level payments or level principal, which would save the town \$11,887.04 over the 20 year life of the loan.

Discussion: Council Chairman Nazzaro said that the Resolution was based on the assumption of the dollar having the same value in future years as it has now. He said having level principal payments would save them a nominal sum, but questioned what it would save them in real money, or whether it would actually cost them more. Paying by this method would require them paying more upfront at today's value, while the value of money has historically decreased. He questioned if this would save them real money or a number on a piece of paper. Town Administrator Fournier said he thinks they will still save money as they will benefit from lower payments in the future after the initial first year payment spike. He said the benefit of level payments is budgetary consistency. Mr. Greig added that if they were to take on more debt in the future, for example with a wastewater treatment plant, they would have lower payments on the new Village Utility loan. Town Administrator Fournier said the state needed the Council's response by October 1st, which is the reason that he asked for a vote during a Workshop session.

Councilor LaBranche moved to adopt Resolution #2012/2013-13 as read. Councilor Levy seconded.

Discussion: Councilor Zink asked for Acting Finance Director Matt Angell's point of view. Mr. Angell said he had spoken with Town Administrator Fournier and Water and Sewer Director Greig about this, and they agreed that over the long term they should save the rate payers what they could. He agreed with Mr. Greig's point about the town having more capacity to borrow with lower future payments on this loan. The payment amount is in the current budget. Council Vice Chairman Bentley said that \$11K did not seem like much over the course of a 10 year loan, but it was a savings and he supported it. Council Chairman Nazzaro and Councilor Zink both wanted an opinion from Mr. Angell as to what the future value of money would be before deciding. Mr. Angell said he realized that the value of the dollar would be less, but the meeting would be adjourned before he could calculate the figures. Based on the 2 payment schedules, he said they would save the \$11K.

Town Administrator Fournier polled the Council. Motion carried 5 – 2, with Councilor Zink and Council Chairman Nazzaro voting against.

#### iv. Resolution #2012/2013-15: Approval of 2012 MS-5 Financial Report

Acting Finance Director Matt Angell said the MS-5 was in a new format; the main difference is that DRA is looking at budgeted revenues versus actual revenues. Page 2 shows budgeted appropriations versus actual expenditures. He said the budgeted appropriations on the first few pages of the report include all fund activity in addition to the General Fund. Page 6 shows a General Fund unreserved fund balance of \$1,362,628. Mr. Angell said that Town Administrator Fournier had asked him for help in analyzing of all the town's fund balances. He will be coming to the Council with a Resolution concerning what fund balances should be. The current ordinance includes only the General Fund, and Town Administrator Fournier would like to be able to expand including other funds. Page 10 of the report includes estimated and actual revenue for all other funds. The town's entire general ledger is included in this one document.

This form gives the state an understanding of the fiscal health of the town by comparing actual revenues and expenditures against budgeted appropriations. The form is the last report the town has to submit to get into the queue to set the tax rate. Any delay in accepting the form will delay setting the tax rate. Mr. Angell had included an updated financial statement for the town along with a statement about how the MS-5 is prepared.

Discussion: Council Levy asked specifically about the Open Space revenue of \$971 and expenditures of \$380K, with a balance remaining of \$83K on page 10. Mr. Angell said this was fund balance, not cash in the bank. There was \$971 in interest and \$380K was spent for the school department land purchase. At the beginning of the year the fund had a balance much larger than \$400K and the remaining balance is \$83K. The form does not include beginning balances for funds. Mr. Angell said there was no reason for this, but it was the first year of a new form. Town Administrator Fournier said that traditionally this form is what the state considers a town's audit, but that municipalities do conduct their own independent audits.

Councilor Levy asked when the Council was going to decide what percentage it would keep in reserves and how much could be used to reduce taxes. Town Administrator Fournier said he was reviewing the current fund balance policy in light of common practice, and should have revisions by the October 3rd meeting so that the tax rate could be set later in October, and the bills be sent in November for collection in December.

Councilor LaBranche moved to approve the 2012 MS-5 Financial Report. Councilor Zink seconded.

Discussion: Town Administrator Fournier said that Newmarket was the only municipality he had heard of that had the policy of reserving 16% or 3 months of the operating budget. He said that traditionally it is between 5 and 10% of the gross appropriations of the county, school and town. He said they were trying to come up with a balance that kept them healthy, while allowing some funds to help with other needs.

Town Administrator Fournier polled the Council. Motion passed unanimously, 7 – 0.

#### B. Old Business

Town Administrator Fournier had received a call from Adam Schroadter asking him to table the vote on Ordinance

2012/2013-02, so that he could spend some time discussing this with his neighbors. A first reading requires no action, but introduces the subject to the public. Once a Public Hearing has been held, the Council should vote at its conclusion, which had not happened in this case. He said that one recommendation he would have for the Council was that they could discuss an issue at length after the first reading at a Workshop. The Council may vote to table or withdraw an ordinance, but it cannot be tabled or withdrawn by citizen request.

Council Vice Chairman Bentley moved to table Ordinance 2012/2013-02 Amendment to Highways, Traffic and Parking (Formally #2006-01). Councilor Levy seconded.

Discussion: Town Administrator Fournier added that if the Council wished to continue with this at some future date, another vote could be taken to reverse this. Future agendas will include "Items Laid on the Table" until such time as a Councilor wishes to remove them. Councilor Levy requested that when and if the Ordinance change comes back, that Chief Cyr and Rick Malasky be present to speak to public concerns.

Town Administrator Fournier polled the Council. Motion carried unanimously, 7 – 0.

Council Vice Chairman Bentley said that the Heritage Festival will be held on Saturday, September 22nd.

#### 7. ADJOURNMENT – NEXT MEETING OCTOBER 3, 2012, 7:00 P.M. BUSINESS MEETING

The Council will have a non-meeting at 6:00 p.m. with Dana Bisbee.

Councilor LaBranche moved to adjourn. Council Vice Chairman Bentley seconded. Motion carried unanimously, 7 – 0. Meeting adjourned at 8:15!

Respectfully submitted,

Ellen Adlington, Recording Secretary