



4/19/2023

Town Council Regular Session

April 5, 2023 at 7:00 PM
Town Council Chambers

MINUTES

1. **Pledge of Allegiance**

Councilor Conley convened the meeting at 7:00 PM. Councilor White led the Pledge of Allegiance.

2. **Roll Call**

Present: Councilor Scott Blackstone, Councilor Sonke Dornblut, Councilor Joe LaMattina, Councilor Colin White, Councilor Megan Brabec, Councilor Katanna Conley, Councilor Brian Ward

Staff: Town Manager Stephen Fournier, Environmental Services Director Sean Greig, DPW Director Rick Malasky, Engineer Lyndsay Butler and Wendy Chase Recording Secretary

Motion: **Councilor Ward** made a motion to seal the April 5, 2023 non-public meeting minutes

Seconded: **Councilor LaMattina**

Vote: **Unanimously Approved (7-0)**

3. **Election of Officers, Adoption of Town Council Rules, and Committee Assignments**

a. **Elect a Chair**

Motion: **Councilor Ward** made a motion to Nominate Councilor Katanna Conley as Council Chair

Second: **Councilor Brabec**

Discussion:

Vote: **Unanimously Approved (7-0-0)**

b. **Elect a Vice-chair**

Motion: **Councilor Blackstone** made a motion to nominate Councilor Brian Ward as Council Vice-chair

Second: **Councilor LaMattina**

Discussion:

Vote: **Unanimously Approved (7-0-0)**

c. **Committee Assignments**

Chair Conley postponed Committee Assignments to the April 19, 2023 Meeting when there will be a full complement of the Council.

d. **Town Council Vacancy**

Town Manager Fournier explained that there were 2 open seats for Town Council at the March election. The top write-in vote-getter declined the seat so that leaves that seat vacant. The second open seat had a tie vote for write-ins.

The Town Clerk drew lots and Councilor Dornblut accepted. According to the Rules of Proceedings the second seat must be filled at the next Council Meeting. We will advertise the position and require that letters of interest will be due next Thursday by noon. The Town Council will meet with and select an applicant who will serve until the next regular town election in March 2024 at its regularly scheduled meeting on April 19, 2023. At the March 2024 municipal election, this seat will be advertised as a two-year term.

Town Manager Fournier further explained that according to the Town Charter, Councilors shall serve until a successor is chosen unless they resign first. Councilor Brabec agreed to serve until the Council fills the vacancy.

4. Public Forum

Chair Conley opened the public forum at 7:07 PM.

Al Zink, 22 Smith Garrison Road, voiced concerns regarding what he felt were safety issues within the Council Chambers and potential risks of holding public meetings there. He said that the Police Chief and Fire Chief agreed that it would be safer if there were a fire escape, but it is difficult to open the windows. He pointed out that if an intruder were to come in through the door there is no place for people to get out. The door that was constructed for a second egress is for the Councilors to get out, but it is not a fire-rated door. He opined that the room is a "fire box". He said the downstairs auditorium is a much safer meeting room. Mr. Zink's 3 minute time limit to speak ended.

Toni Weinstiein, 275 Ash Swamp Road spoke about the roadside cleanup she sponsors annually. It will be held on April 30th from 10:00 AM to 1:00 PM. Bags and road assignments can be picked up at the bandstand and there is no registration required. Ms. Weinstein voiced concern over the proposed resolution to change the council rules from 2 meetings per month to 1 meeting per month. She said that we have a well-run administration thanks to the Town Manager. She remembers meetings in the past that went past 10:00 PM, but currently the meetings are 30 to 45 minutes long thanks to the current Administration and Department Heads. She encouraged the Council to vote against the Resolution.

Chair Conley closed the public forum at 7:14 PM.

5. Public Hearing

- a. Ordinance No. 4 - 2022/2023 - AN ORDINANCE TO AMEND CHAPTER 30; Traffic and Vehicles

Town Manager Fournier explained that Councilor Blackstone introduced a resolution to allow for two 15 minute parking spots on Central Street. The Ordinance would have to be amended to allow that change.

Chair Conley opened the Public Hearing at 7:16 PM.

Chair Conley closed the Public Hearing at 7:16:30 PM without public comment.

- b. Ordinance No. 5 - 2022/2023 - Amend Chapter 14-121 Fees of the Municipal Code of the Town of Newmarket, New Hampshire, to include a new system development charge connection fee system for water and sewer.

Community Development Director McDonough explained that, based on the report written by Bruce Mayberry in 2011 the Town has been looking at ways to better utilize its funds to maintain and expand its water and sewer infrastructure. The current way is through impact fees and impact fees can only be used in certain instances, such as expansion of the infrastructure. System Development Charges can be used to improve, maintain and expand the infrastructure. It was recommended by Wright Pierce Engineering. The water buy-in fee is \$17.29 gallons p/d and the wastewater buy-in fee is \$19.26 gallons p/d. If the Council votes to change to a System Development Charge, the Planning Board would need a letter of recommendation from the Council to change the impact fee schedule to a system development charge schedule. Once that takes place, the Planning Board will hold a public hearing.

Chair Conley opened the Public Hearing at 7:18 PM.

Chair Conley closed the Public Hearing at 7:18:30 without public comment.

c. Onica Bornstein - Arts, Culture & Tourism Commission membership removal deliberation

Town Manager Fournier explained that the Council received a letter from the the Chair of the Arts, Culture and Tourism Commission on behalf of the Commission requesting the Council replace Onica Bornstein on the Commission due to lack of participation at the six previous Commission meetings for medical reasons. Town Manager Fournier said that according to the Ordinance, lack of attendance is grounds for removal from the Commission. The Town Clerk sent Ms. Bornstein a letter notifying her of the Public Hearing by certified mail and we received the signed return receipt. Therefore, she was aware of the public hearing.

Chair Conley opened the Public Hearing at 7:21 PM.

Chair Conley closed the Public Hearing at 7:21 PM.

Councilor Brabec said that having worked with Ms. Bornstein when she was able to attend the meetings, we were grateful for her energy and participation. It was unfortunate that the timing didn't work for her to continue to serve. It has been well beyond the six meetings at this point and it is time to open up that spot for someone else who can participate. Councilor Brabec wished Ms. Bornstein well.

Motion: **Councilor Brabec** made a motion to approve the removal of Onica Bornstein from the Arts, Culture & Tourism Commission

Second: **Councilor LaMattina**

Discussion:

Vote: **Unanimously Approved (7-0-0)**

6. Town Council to Consider Acceptance of Minutes

a. March 15, 2023

Motion: **Councilor White** made a motion to Approve the March 15, 2023 Meeting Minutes

Second: Councilor Ward
Discussion:
Vote: Unanimously Approved (7-0-0)

7. Report of the Town Manager

a. April 5, 2023 Report

Code Enforcement Issues: the Code Enforcement Officer took action on two businesses that displayed signs that were not allowed in those particular zones. The Town Manager received comments from Councilors regarding the enforcement action. The legal process for the business owners to follow is they have 21 days after notice of violation to appeal to the Zoning Board of Adjustment or Superior Court. The Town Council has no role in zoning appeals. There was a question to change the law for one lot. He explained that that would be considered "spot zoning" and is illegal in NH.

PFAS: Councilor Lamattina asked for information about PFAS testing in our water, wastewater, and solid waste. According to Environmental Services Director Greig, the Town of Newmarket water supply has been tested for PFAS and PFOA chemicals and have not been detected in the Town of Newmarket's water supply. The Newmarket wastewater and waste solids have been tested for PFAS and PFOA chemicals. Both the wastewater and the waste solids have PFAS and PFOA chemicals that are below the NH Department of Environmental Services established limits.

Main Street America Field Workshop: Former Councilor Weinstein, Planning & Community Development Director McDonough and Town Manager Fournier welcomed about 50 people from all around the country taking part in the Main Street America on March 26th. They toured the Newmarket Mills and then visited businesses along Main Street.

Parks: We are moving forward on renovations at Arbor Park. We are currently getting prices and figuring out ways to fund the renovations. Eric Chinburg, Chinburg Builders has offered funds to hire a landscape architect to help design the Leo P. Filion Park. The Town Manager publicly thanked Chinburg Builders for their contribution.

Town Manager read a letter from resident Al Zink regarding public meeting safety into the record, as well as a response letter to Mr. Zink from himself, Chief Jordan, Chief Malasky and Police Lieutenant Kukesh. The letters are attached to these minutes.

Town Manager Fournier informed the Council that there will be fireworks at this year's Recreation Department's Backyard Bash, and hopefully it will be an annual occurrence.

Councilor Dornblut asked about the timeline for the facilities study. Town Manager Fournier said that Placework, the company we hired, has been meeting with Department Heads to gather information on their needs and they should have a study completed by August. The study will include recommendations.

Councilor Blackstone asked if it was the opinion of the Fire Chief that the Council Chambers is fully compliant with the fire regulations. Fire Chief Malasky confirmed it to be fully compliant.

b. Recognition of Town Councilor Toni Weinstein

Town Manager Fournier said that traditionally we present an outgoing Councilor with a clock as a token of our appreciation for their service.

Chair Conley presented former Councilor Toni Weinstein with a mantel clock featuring the town seal.

Ms. Weinstein said that prior to becoming a Councilor she attended most Council meetings for a year, as well as School Board and Budget Committee meetings. She voiced concern over the fact that there haven't been candidates for Town Councilors and said she doesn't know what the answer is to fix that. She said it is not a Town Council problem, it's a community problem and hopes to find ways to engage the community.

c. Recognition of Town Councilor Megan Brabec

Chair Conley presented Councilor Brabec with a mantel clock featuring the town seal.

Councilor Brabec said that she was appointed by the Town Council because there was an opening and found it less intimidating than running for office. She said she had only lived in town for a few months before the opportunity came about. She said she learned a lot about the town and appreciated her service. She said that she would be back in the future to serve on a committee.

8. Committee Reports

Councilor LaMattina reported on the Energy & Environment Committee:

The Energy & Environment Committee held their first Public Hearing on Community Power March 29 and it went well. They will hold their second Public Hearing in the middle of April. Shortly after the 2nd Public Hearing they will submit a Resolution to the Council for approval of the Newmarket Community Power Electric Aggregation Plan.

Councilor Blackstone reported on the Planning Board's March meeting:

The Grant Road application to put in a 55+ community has attracted a lot of interest. Abutters are worried about the location of the proposed large building being too close to the road and about increased traffic. NH Dept. of Transportation has stated that there are no traffic issues. The sidewalks do not extend to the proposed project. The Bennett Way project received Planning Board approval and will be starting construction this spring or early fall.

Councilor Ward reported on the CIP Meeting:

The CIP Committee met on the 28th and they are working on a new CIP form that will hopefully make the process easier for departments. There will be a specific section where they explain how their proposed capital improvements will relate back to the Master Plan. They intend to create an ongoing projects list so they can keep track of

them. They intend to promote awareness to the citizens of the public meetings so they can bring forward ideas for possible CIP projects. They will set up a meeting with the Town Manager to make sure the CIP Committee is doing their job most effectively.

9. Old Business

10. Resolutions/Ordinances in the 2nd Reading

- a. Ordinance No. 4 - 2022/2023 - AN ORDINANCE TO AMEND CHAPTER 30; Traffic and Vehicles

Motion: **Councilor Ward** made a motion to approve Ordinance No. 4 - 2022/2023 - AN ORDINANCE TO AMEND CHAPTER 30; Traffic and Vehicles

Second: **Councilor LaMattina**

Discussion: Councilor Blackstone said that he introduced this legislation. He said traditionally people temporarily park at the end of Central Street to run in to a business along Main Street and grab take out. He thought it would be a good idea to put permanent 15-minute parking spaces on Central Street.

Councilor Brabec asked how many parking spaces there would be. Town Manager Fournier said, as many as they can safely add along Central Street.

Vote: **Unanimously Approved (7-0-0)**

- b. Ordinance No. 5 - 2022/2023 - Amend Chapter 14-121 Fees of the Municipal Code of the Town of Newmarket, New Hampshire, to include a new system development charge connection fee system for water and sewer.

Motion: **Councilor Ward** made a motion to approve Ordinance No. 5 - 2022/2023 - Amend Chapter 14-121 Fees of the Municipal Code of the Town of Newmarket, New Hampshire, to include a new system development charge connection fee system for water and sewer.

Second: **Councilor LaMattina**

Discussion: Councilor LaMattina asked for clarification. He said the Ordinance covers water and sewer rates and impact fees. Environmental Services Director Greig explained that it has nothing to do with water and sewer rates. He explained that with the system development fees anyone building or adding on would have to buy into the system. The cost of water for the buyer is based on the existing infrastructure and NH DES provides a schedule that shows how much entities use for water. That multiplier is used to determine the buy-in fee.

Councilor Blackstone said that the new System Development Fee System was extensively reviewed by the Planning Board.

Town Manager Fournier said that if there was no objection by the Council, he will forward a letter of recommendation from the Council to the Planning Board to change the impact fee schedule to a system development charge schedule, if the ordinance passes.

Vote: **Unanimously Approved (7-0-0)**

c. Resolution #2022/2023-40 - Ash Swamp Road Bridge Evaluation

Motion: **Councilor Ward** made a motion to Approve Resolution #2022/2023-40 - Ash Swamp Road Bridge Evaluation

Second: **Councilor Dornblut**

Discussion: Councilor Dornblut asked what the purpose of the evaluation was. Town Engineer Butler explained that NH Department of Transportation did an inspection on the bridge and they found deficiencies in the bridge's deck that needs to be repaired. The evaluation will look at the substructure and determine if it needs to be repaired and make recommendations including cost estimates for repair vs. replacement alternatives.

Vote: **Unanimously Approved (7-0-0)**

d. Resolution #2022/2023 - 42 Amend Council Rules 1 Meeting per month

Motion: **Councilor LaMattina** made a motion to Approve Resolution #2022/2023 - 42 Amend Council Rules 1 Meeting per month

Second: **Councilor White**

Discussion: Councilor Ward opined that the Council needs to hold two meetings per month because of deadlines. For example, at the last meeting, the Council had to act on the Veterans Tax Credit Resolution that night. Two meetings give the Council the opportunity to review and research things before making final decisions.

Councilor LaMattina agreed with Councilor Ward and felt holding one meeting per month would not attract more people to run for Council.

Councilor Blackstone said the reason he made the proposal was he and others tried to recruit people to run for Town Council and the common comments he received were that it took too much time. He thought that maybe we could make the Town Council more attractive if we held fewer meetings.

Town Manager Fournier conferred with the Department Heads and the consensus was that although they understood Councilor Blackstone's reasoning, one meeting per month would be too much of a gap especially when considering grants. He said it has been 10 years since the last Charter Commission and the Council may want to consider between now and the next election to put a question on the ballot to see if the town wants to have another Charter Commission review to determine what's

not working and what we can do to change things.

Councilor Brabec said that the Councilors are paid a small stipend to be in this position and if the meetings were cut back, she thinks they would need to adjust that stipend amount. She also feels that there is an issue for the public to access the Council and reducing to 1 meeting per month would make it harder for them to come to the Council, and both of these issues don't sit well with her. She said that she would lean on keeping the meeting structure the same and perhaps have the Charter Commission reevaluate the meeting structure.

Councilor Blackstone suggested raising the stipend to \$10,000.00

Town Manager Fournier said that elected official pay was a recent topic of discussion when meeting with other town and city managers. He said some municipalities pay nothing and some pay up to \$10,000.00

Councilor Dornblut said that reducing to 1 meeting per month may be premature at this point. It would probably be best to evaluate more thoroughly how to increase social engagement and to develop a suggestion that could flow into a Charter Review Commission so we don't make a change in the hope that it has the desired effect.

Vote: **Motion Failed (7-0-0)**

11. Town Council to Consider Nominations, Appointments, and Elections

- a. Ellen Read - Reappointment to the Energy & Environment Advisory Committee - Term Expiration April 2026

Motion: **Councilor Ward** made a motion to Reappoint Ellen Read to the Energy & Environment Advisory Committee - Term Expiration April 2026

Second: **Councilor LaMattina**

Discussion: Councilor LaMattina said he is on the Committee with Ms. Read and she has a strong personality but is good on this committee and he strongly recommends reappointing her.

Vote: **Unanimously Approved (7-0-0)**

- b. Alex Rentumis - Appointment to the Energy & Environment Advisory Committee - Term Expiration April 2026

Motion: **Councilor White** made a motion to Appoint Alex Rentumi to the Energy & Environment Advisory Committee - Term Expiration April 2026

Second: **Councilor LaMattina**

Discussion:

Vote: **Unanimously Approved (7-0-0)**

- c. Benjamin Buckley - Appointment to the Arts, Culture & Tourism Commission - Term Expiration April 2025

Motion: **Councilor Brabec** made a motion to Appoint Benjamin Buckley to the Arts, Culture & Tourism Commission - Term Expiration April 2025

Second: **Councilor LaMattina**

Discussion:

Vote: **Unanimously Approved (7-0-0)**

- d. Benjamin Buckley - Requesting a nomination from the Town Council to the Commissioner of NH DES to be appointed to the Lamprey River Advisory Committee.

Motion: **Councilor Brabec** made a motion to Nominate Benjamin Buckley to the Commissioner of NH DES to be appointed to the Lamprey River Advisory Committee.

Second: **Councilor Ward**

Discussion: Councilor LaMattina said he talked to Mr. Buckley and found him to be a very astute person and would be good for LRAC.

Vote: **Unanimously Approved**

- e. John Bellerose - Reappointment as Cemetery Trustee - Term Expiration April 2026

Motion: **Councilor White** made a motion to Reappoint John Bellerose as Cemetery Trustee - Term Expiration April 2026

Second: **Councilor Ward**

Discussion:

Vote: **Unanimously Approved (7-0-0)**

- f. Melissa Sharples - Reappointment to the Conservation Commission- Term Expiration April 2026

Motion: **Councilor Dornblut** made a motion to Reappoint Melissa Sharples to the Conservation Commission- Term Expiration April 2026

Second: **Councilor Blackstone**

Discussion:

Vote: **Unanimously Approved (7-0-0)**

- g. Roberta Branca - Appointment to the Energy & Environment Advisory Committee - Term Expiration April 2026

Motion: **Councilor Ward** made a motion to Appoint Roberta Branca to the Energy & Environment Advisory Committee - Term Expiration April 2026
Second: **Councilor LaMattina**
Discussion:
Vote: **Unanimously Approved (7-0-0)**

12. Resolutions/Ordinances in the 1st Reading

- a. Resolution #2022/2023-41 - Stormwater Asset Management Program (AMP)
Chair Conley read Resolution #2022/2023-41 into the record.

13. New Business/Correspondence

- a. Correspondence to the Town Council
- b. Closing Comments by Town Councilors
Councilor Ward suggested, by promoting more awareness to the Town Council, that we work with Channel 13 and film short videos of why people want to be on the Town Council or what is expected of a Town Councilor. And to also include all boards and committees.

Chair Conley encouraged everyone to participate in the roadside cleanup sponsored by Toni Weinstein on April 30th from 10:00am-1:00pm. The meeting location is at the bandstand on Main Street.

- c. Next Meeting
 - i. April 19, 2023

14. Adjournment

Chair Conley adjourned the meeting at 8:15 PM without objection.

Respectfully submitted,


Wendy V. Chase
Recording Secretary

Nine years ago, following the terrible shootings in Sandy Hook, the school board sought the advice of the Newmarket Police Department to better understand what could be done to improve safety in Newmarket schools. The Police Department made several school facility recommendations which were quickly addressed. Another recommendation was to provide a second exit in Town Chambers in the case of an intruder. It was further learned that an exit would also be of great benefit in case of fire. Currently the only form of escape in case of a fire in the hallway would require occupants to jump out a second-floor window to the ground below, a particularly difficult option for handicapped, the elderly, and children.

In nine years, the Town has only been able to take two actions. A hidden door beside the dais would provide an opportunity for people sitting on the dais a form of escape from an intruder, but not for fire. The Town also confirmed if there was a fire and occupants were either injured or sadly died, town insurance would cover the loss. Not much of a comfort to a family in either case.

I take no pleasure in criticizing the Town Manager, I believe he is good for the Town of Newmarket, but in my opinion failure to address this issue is unacceptable. An immediate option is to relocate Council Chambers to the basement auditorium. The auditorium has two wide exit doors constructed of steel. The exits beyond the doors are also wide and lead immediately to the street. The doors are marked with lighted exit signs which I believe means they are approved fire exits.

In addition, Newmarket just constructed a brand-new combination cafeteria and auditorium at the High School with every audio-visual amenity available. Citizens support for this auditorium was gained by presenting it as a "community space" not just limited to school use. It has every fire/life safety requirement built into the new space. Perhaps even a better solution.

In any case I believe the community should be aware of this serious matter. I for one, would not allow a family member to attend a meeting in Council Chambers ever! It is now in the hands of the community to evaluate the situation and make decisions accordingly.

Regards,

Al Zink



TOWN OF NEWMARKET, NEW HAMPSHIRE
OFFICE *of the* TOWN MANAGER

Town Council
Town of Newmarket NH
186 Main Street
Newmarket NH 03857

Honorable Members of the Town Council:

We have received the letter sent by Al Zink to the Town Council on Tuesday, March 14, 2023. We have been working closely with Mr. Zink regarding his safety concerns for Town Hall and take them very seriously.

To address these concerns, we have already taken several measures, including the creation of a second means of egress out of Council Chambers. Our initial evaluation of the room's safety has led us to believe that it is safe with adequate life safety escape options in the event of an emergency. We also had a safety expert from our insurance carrier, Primex, review the meeting space, and he too feels that we have met the necessary safety requirements.

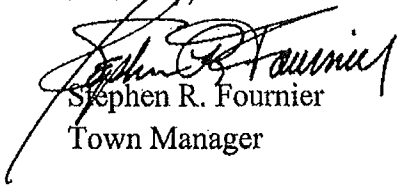
We understand that when it comes to civic spaces, finding a balance between safety and public access is crucial. While public buildings can never be impenetrable, we have completed significant upgrades over the years to enhance security and safety within Town Hall and, specifically, the council chambers. In addition to the second means of egress, we have installed panic buttons integrated into our security system, as well as other improvements that are not for public release.

Our primary goal is to ensure that people using our facilities feel safe. If any board or committee does not feel secure using the Council Chambers, we would encourage them to schedule their meetings in the auditorium or another facility in town.

We are currently undertaking a town-wide facilities study, with a specific focus on Town Hall and the Police Department. Security is a key element of this study, and we believe that this would be an appropriate time to review and consider life safety improvements even further.

We take security very seriously and would not put anyone in a position where they are not safe. We believe we have made great progress ensuring everyone's safety while attending meetings and will continue to work to do so.


Sincerely,



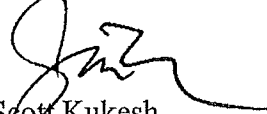
Stephen R. Fournier
Town Manager



Rick Malasky
Fire Chief



Greg Jordan
Chief of Police



Scott Kukesh
Police Lieutenant

cc: Newmarket School Board
Superintendent of Schools

