**TOWN OF NEWMARKET, NEW HAMPSHIRE**

**TOWN COUNCIL REGULAR MEETING**

**DECEMBER 3, 2014 7:00 PM**

PRESENT: Council Chair Gary Levy, Council Vice Chair Dale Pike, Councilor Dan Wright, Councilor Phil Nazzaro, Councilor Toni Weinstein, Councilor John Bentley, Councilor Ed Carmichael

ALSO PRESENT: Town Administrator Steve Fournier, Water & Wastewater Director Sean Greig

EXCUSED: None

**AGENDA**

Chairman Levy welcomed all present and called the meeting to order at 7:01 pm, followed by the Pledge of Allegiance.

**PUBLIC FORUM**

Chairman Levy opened the Public Forum and asked if anyone present wished to speak, clarifying that they would not be addressing the Water Regulations Ordinance at this time.

Mr. Allen of Moody Point addressed the Council citing the lack of response he had received concerning his email suggestion that the Town harvest wood chips. He asked whether or not the Council planned on cutting back trees on some of the Town property. He again stressed the possible revenues for the Town with wood chips currently selling for $95/ton, with a cord of wood equaling 6,000 pounds, or three (3) ton. He added that the right-of-ways beside the roads alone held approximately 100,000 cord, and suggested the Town possibly do a 50/50 split to offset energy costs by unloading valuable chipped trees. He stated that he would like input from the Council. Chairman Levy felt that generally someone would need to run the numbers and also determine whose property the trees were on. He said that he had met with Public Service at the beginning of the week concerning downed trees and what they were able to cut back. Chairman Levy stated that first of all, it needed to be determined whether or not the Town had the latitude to harvest the trees, and secondly, that the numbers Mr. Allen was quoting needed to be verified for accuracy. Mr. Allen felt that because some properties had not been cut for 45 years, enough revenue could be generated to offset some bills coming up. He also felt that townspeople were of the opinion that attempts were not being made to try to reduce expenses. Chairman Levy asked Mr. Allen if he was talking about the whole Town, or just town-owned land. Mr. Allen replied town-owned land with town-owned right-of-ways.

Town Administrator Fournier next provided legal information regarding the tree law for the State. He reported that he had been talking with PSNH, as the Chairman had mentioned, to discuss tree removal and trimming, adding that he had verified this information with the Town Attorney. He stated that unless the Town held a deeded right-of-way, they did NOT have rights to the wood from the trees on the property, adding that the Town currently held deeds only for roads created post-1970. For clearing older roads, he stated that they would need to obtain permission from property owners, except in any situation deemed dangerous. Town Administrator Fournier further stated that wood from the trees harvested would be given back to the property owners. He added that even with a deeded right-of-way, only those trees that were less than 15 inches in diameter and 4.5 feet above the ground could be cut without property owner permission. He also pointed out that the older roads were actually “easements”, that funds from any trees harvested in Conservation areas would be kept for Conservation Fund use, and that there was an appeals process in place for homeowners. He ended by saying that Public Works Director Rick Malasky had photographed troubled areas for notification and was working with PSNH on tree removal. Chairman Levy then asked Mr. Allen whether he had any specific areas in mind, adding that he could send a list of properties to the Council. Mr. Allen mentioned the Clearwater Properties in particular.

Mr. Allen then raised the issue of the $20,000 contract discussions with Coast Bus Service, stating that he would like the Coast Bus to stop behind the High School as in the past without a special bus for student transportation. Chairman Levy pointed out that this was a School Board issue, and should not be addressed to the Council.

Chairman Levy closed the Public Forum at 7:12 pm.

**PUBLIC HEARING – REGARDING WATER REGULATIONS (Ordinance #2014/15-01)**

Chairman Levy opened the Public Hearing stating that it would specifically concern the proposed Water Regulations being presented by the Council.

Water & Wastewater Director Sean Greig reported that because the current water regulations were approved by the Board of Water Commissioners in 1991, Mr. Pierce had been hired several years ago to go through these regulations, update and structure the contents, and re-draft the Water Regulations. He stated that they had looked at the water regulations for area communities including Dover, Durham, Exeter, Newcastle and Rochester to insure consistency. He stated that water rates would not be increased, and that the rewriting gave a good structure to the Rules & Regulations for the Water Department. He added that there were no major changes affecting users and that the document had been reviewed and checked by Legal. He reported that a memo had been sent out to the Council basically showing sections that were added or updated, and asked if there were any questions. Town Administrator Fournier asked that questions from the Council be held until after hearing from the public. He asked Water and Wastewater Director Greig to specify what was added to the document, to which he replied that basically verbiage had been added for consistency and greater ease of understanding, but that no true policy changes had been made. One policy change was added to give the Town Administrator the ability to either lien the property or shut off meters in matters of non-payment, and the other change had been the addition of language for Deduct Meters. He explained Deduct Meters as a meters installed in houses, at a property owner’s expense, to keep track of outdoor water usage, for which owners received a credit on their Sewer bill. Town Administrator Fournier clarified that the new regulations were basically a codification of a number of policies adapted over the years into one document.

Chairman Levy asked if anyone from the public wished to speak.

Mr. Leo Filion of Lafayette Road, a professional engineer for 50 years, stated that he had been approached regarding the task of updating the Department of Water Rules & Regulations. He cited a Chapter 4 agreement reached with Steve Leavenworth in the 1970s for the Gray Hill Subdivision by the State of New Hampshire and the Newmarket Board of Water Commissioners. This agreement had required that all main water service lines at a 140-190 foot elevations, from the Main to individual houses, be 1-inch rather that the standard ¾ inch to maintain proper water pressure. He also stated that all underground pipes were required to be installed at a minimum of 5 feet below finish grade. He added that in the 1960s, the State of New Hampshire had put out a map calling for a 4-foot burial of water lines, and had used these recommendations for the past 34 years. In his own personal experience he had found that the change in depth from 4 feet to 5 feet below grade had resulted in a doubling of his costs for insulation. He stated that he therefore did not support the increase in pipe depth for the Town of Newmarket from 4-5 feet.

As there was no further public comment, Chairman Levy closed the Public Hearing at 7:23 pm.

**TOWN COUNCIL TO CONSIDER ACCEPTANCE OF MINUTES**

**Acceptance of Minutes of October 25, 2014 – Budget Review Session I –** (Not Available)

**Acceptance of Minutes of October 29, 2014 – Budget Review Session II –** (Not Available)

As the minutes for the Budget Review Sessions of October 25th and 29th had not yet been updated, Chairman Levy moved on to approval of the November 19, 2014 minutes.

**Acceptance of Minutes of the Regular Meeting of November 19, 2014**

Vice Chair Pike made a motion to accept the minutes of the Regular Meeting of November 19, 2014 and Councilor Bentley seconded

Changes: Vice Chair Pike recommended a change in the wording of a reply by Town Administrator Fournier under the discussion of Resolution #2014/15-31 to “funds would continue to be contributed yearly over the next five (5) years, and the account kept active”. Councilor Weinstein made a change under Committee Reports changing the word “beepers” to “beavers”.

As no further changes were requested, Town Administrator polled the Council and the motion passed unanimously, 7-0.

**Acceptance of Minutes of the Non-Public Meeting of November 19, 2014**

Councilor Bentley made a motion to approve the minutes of the Non-Public Meeting of November 19, 2014, which was seconded by Vice Chair Pike.

Vice Chair Pike cited a small discrepancy which he felt not worth the Council going into Non-Public to discuss.

Town Administrator polled the Council and the motion passed unanimously, 7-0

**REPORT OF THE TOWN ADMINSTRATOR**

Town Administrator Fournier first brought up the Tree Law he had presented earlier. He stated that electric companies were working to ensure clear paths were provided after the widespread power outages of the prior week. He stated that at peak 76% of homes and businesses were without power during Thanksgiving, with most being outages being restored by Thursday and a few by the weekend. He said that he had spoken with PSNH regarding the clearing of branches and trees to make sure lines were clear and safe for the future, and encouraged the public to cooperate in working with them.

Town Administrator Steve Fournier then presented his report, briefly covering four (4) topics. The first concerned the **Proposed Charter Amendment**, a 1st Reading of which was included in the evening’s agenda with a vote to be held at the March 10, 2015 Town Meeting. The second was in regard to **Illegal Dumping at the Carpenter Property**, to which he added that this was not allowed and going onto the property was trespassing. He stated that the **FY16 Town Budget** and warrant articles were recommended by the Budget Committee without changes and sent to Public Hearing to be held on December 15, 2014 at 7 pm. He lastly reminded everyone of the upcoming weekend event **Very Merry Main Street** with the lighting of the Town of Newmarket Giving Tree.

Chairman Levy stated that he had met with PSNH and Public Works Director Malasky regarding some confusion as to the number of feet in from the road, in some areas, the Town would legally have a right-of-way. He said that he had visited Bay Road which required Town Council approval due to its status as “scenic”. Town Administrator Fournier replied that the distance was 4 feet 15 inches by law. Chairman Levy also stated that many of the people contacted by PSNH had not responded or were out of town. Town Administrator Fournier reiterated that a deeded right-of-way was required, and it was otherwise considered an easement. Chairman Levy felt that it would cost PSNH less to cut down trees now rather than bringing in large crews all at once.

**COMMITTEE REPORTS**

Vice Chair Pike reported that he had attended another Macallen Dam Committee meeting and expected another before the end of the year. He stated that Mr. Leo Filion had been present and that he had offered an idea for the Dam which would be further discussed by the committee. Mr. Filion said that he had taken part in a site walk and that it was estimated that the cost to the Town to satisfy requirements for the Dam would be approximately $25,000-$30,000. He stated that Mr. Dennis Abbott had talked to Fish & Game and they also offered a few recommendations which the committee will discuss. He added that basically the Town needed a Dredge & Fill permit at an approximate cost of $8,000-$10,000 plus another $20,000 to complete the work.

Chairman Levy reported on the last meeting of the School Joint Advisory Committee with Mr. Randy Bell. He said that Mr. Bell had gone over some scenarios for tuitioning and added further explanations as to how he had arrived at his positions regarding thresholds, etc. He stated that Mr. Bell would provide the committee with a more detailed analysis of how grades 9-12 would affect the budget, and then discussed bonding using a 30-year bond of approximately 24-25 million as an example. Chairman Levy also stated that Mr. Bell had explained the difference between equal payments and other methods requiring more up front and less in the future, predicated on a 4% interest rate. He said that in January a meeting would be set up to hear public input, and that the committee did not have enough information to take any positions at this time. Councilor Wright expressed concern that some people were getting ahead of themselves by making suggestions and posting them, without waiting until all the facts had been presented. He stated that some people would take these positions literally, and that everyone should wait for all data before making proposals regarding what they think should be done. He added that this was the reason a consultant had been hired for expertise. Chairman Levy agreed, and also reported that seismic questions with the Elementary School and the Junior-Senior High School regarding renovations had been discussed, and that if over 20-30% of any particular area were altered more requirements would need to be met. He stated that the committee was looking at the Epping renovation and other area renovations to see what requirements were met. Vice Chair Pike voiced the same concerns as Councilor Wright and Chairman Levy saying that taking the voices of some of the people from a meeting as being what the Town of Newmarket wanted, was a misuse of the meeting purpose. He then asked Chairman Levy how the School Joint Advisory Committee would weigh the cost of one plan versus another, and whether or not it would be easy to decide what the Town wanted. Chairman Levy offered that in his personal opinion, he thought that Vice Chair Pike was referring to the last School Board meeting where the Superintendent had voiced his belief that the Town did not want tuitioning, which had upset a lot of people. He added that another opinion had been voiced suggesting that a warrant article would be needed before entering into a preliminary discussion with Epping, which was not an accurate statement. He stated that the representative of Common Ground felt that some comments made by School Board members were their own personal opinions and that they should stick with empirical data at this point. Chairman Levy felt that in the end his hope would be that if two separate viable options were offered by the committee, that the public would have some say in the making of the final choice. He added that without the vote of the people, the process would be perceived as not being done fairly. Councilor Weinstein expressed concern over how a 60% majority would be reached if two options were presented, and felt that at some point the School Board would have to say “this is where we are going” regarding the direction in which the Town was headed. Chairman Levy replied that the committee would have a report and some kind of opinion based on the data, and that if only one option were available it would be pretty clear. He added that opinions voiced too quickly had upset a lot of people.

**OLD BUSINESS**

**ORDINANCES AND RESOLUTIONS IN THE 2nd READING**

**Resolution #2014/15-31 Transferring Funds from the Revaluation Capital Reserve Fund**

Vice Chair Pike made a motion to approve *Resolution #2014/15-31 Transferring Funds from the Revaluation Capital Reserve Fund*, and Councilor Weinstein seconded.

As there were no questions, Town Administrator Fournier called the roll and the motion passed unanimously, 7-0

**Resolution #2014/15-32 Authorize Town Administrator to Enter into Two Contract Amendments with Hazen and Sawyer for Engineering Services Regarding MacIntosh Well**

Town Administrator Fournier stated that after reviewing the Resolution #2014/15-32 with the Finance Director and the Water & Sewer Director, issues with the Hazen and Sawyer contract had arisen and he needed the Council to vote this down so that a revised version could later be presented. He added that specifically change orders needed to be reviewed and clarified, making sure they did not exceed the amount specified in the contract.

Councilor Nazzaro made a motion to accept *Resolution #2014/15-32 Authorize Town Administrator to Enter into Two Contract Amendments with Hazen and Sawyer for Engineering Services Regarding MacIntosh Well* and Councilor Weinstein seconded.

Town Administrator Fournier polled the Council and the motion failed 0-7.

**Ordinance #2014/15-01 Water Regulations**

Vice Chair Pike made a motion to approve *Ordinance #2014/15-01 Water Regulations* and Councilor Weinstein seconded.

Discussion: Chairman Levy asked for questions from the Town Councilors regarding the change in the ordinance for Water. Councilor Wright raised a question regarding the Non-Payment Clause under Chapter Two (2) of the new ordinance, asking how this would be implemented and who would be making the decision to shut off the water. He also asked how much over the Water Department was at this time. Water & Wastewater Director Sean Greig replied that the amount over was approximately $100,000. Town Administrator Fournier explained that the first option would be to shut off the water and the second to place a lien on the property, and that by law the water could be turned off but not the sewer. Water & Wastewater Director Greig added that the verbiage for this clause had been added by the Town Administrator. Councilor Nazzaro asked whether the changes would in any way affect the fee schedules and Town Administrator Fournier replied that it would not. Councilor Nazzaro asked, in reference to the information brought forward by Mr. Leo Filion, that the possible financial impact of mandating that lines be buried 5 feet below grade versus 4 feet below grade be addressed. Water & Wastewater Director Greig replied that this standard had been carried over from the old regulations and was typical of other communities. Councilor Nazzaro felt that generally, as he had not read the 1991 ordinance, details of the changes and updates were needed for the Council to be able to assess the impact. He added that he had expected to see these details, and Town Administrator Fournier explained that he had asked for these details from the Water & Wastewater Department. Town Administrator Fournier then asked Water & Wastewater Director Greig to provide details of what exactly was updated and what changes were made. Chairman Levy asked that the notes be annotated with details of the changes and updates due to the difficulty of comparing two large packets of information. Councilor Nazzaro felt that more potential questions were embedded in the information and that it was difficult to know what questions to ask. Water & Wastewater Director Greig replied that he could provide the details, but that there was a difficulty comparing the language of the old ordinance to the one newly written.

Town Administrator Fournier asked Water & Wastewater Director Greig to simply provide a summary, and pointed out to the Council that the current document was a newly written document and was not an amendment to the old ordinance. He added that the new regulations were being drawn up in an effort to codify the Water Rules and Regulations to incorporate all changes made over the years, some of which might not have been approved by the Council. Water & Wastewater Director Greig reiterated that policy changes included specifying the depth of the water lines and the installation height of water lines above ground, which related to the Water Tower. He added that he was needed to review the elevation rules regarding water pressure with the State. Town Administrator Fournier stated that the new ordinance was the “overall law” and did not include individual situations. Chairman Levy asked when the requested details of changes and updates might be provided to the Council, and Town Administrator Fournier replied that they would be available at the next Town Council meeting of December 17, 2014.

Councilor Bentley offered that the decision to shut off the water had previously been made by the Council as sewer could not be shut down, and asked whether the meter still needed to be in a “clean dry place” in the home. Water & Wastewater Director Greig replied that this was still the case to provide easy access to the meter by the Water Department. Chairman Levy then raised several questions regarding the new ordinance. He first asked whether there a certain water dollar amount that had to be reached before water was shut off. He next asked the length of time a permit was viable and whether any time limitations applied. He was concerned about the clause “if a meter is defective, the customer will be billed for an average of what the 12-month costs would be”, feeling that it might not be reasonable for the constituent. He added that the constituent might be out of town or not responsible for meter damages. Water & Wastewater Director Greig replied that generally if the meter breaks, water would continue to pass through without registering on the meter. He stated that the meter would then be tested and repaired with the customer only be charged if no problems were detected. Town Administrator Fournier added that this also applied in cases of meter tampering. He further explained that the ordinance was saying that any damages done to the meter in the home due to construction, removal, or frozen pipes were the responsibility of the owner. He added that any defective meter would be repaired and that the water still going through the meter was charged on an average over 12 months, or an abatement would be given to the homeowner if he/she were not responsible. Councilor Bentley also added that there needed to be some way to charge for the water usage if the meter was not reading properly. Chairman Levy again questioned whether this was a reasonable solution for the homeowner.

Town Administrator Fournier stated that all changes would be provided at the next reading, and that the vote by the Council would be held off for a 3rd reading.

**ORDINANCES AND RESOLUTIONS IN THE 3nd READING** -None

**Items Laid on the Table -** None

**NEW BUSINESS/CORRESPONDENCE**

**Town Council to Consider Nominations, Appointments and Elections -** None

**ORDINANCES AND RESOLUTIONS IN THE 1st READING**

**Resolution #2014/2015-33 Contract for Albanese D&S to Install a New 12-Inch Water Main on North Main Street from Bay Road to Simons Lane.**

Chairman Levy read the resolution in full.

**Resolution #2014/2015-34 A Grant to Study Building Resilience to Flooding and Climate Change in the Moonlight Brook Watershed**

Chairman Levy read the resolution in full.

**Resolution # 2014/2015-01-35 Amendment to the Town Charter Relative to Appropriating Money to Capital Reserve Funds**

Chairman Levy read the resolution in full.

**Correspondence/Closing Comments**

Councilor Bentley reported receiving a phone message from Penny and Al requesting something be brought up at tonight’s meeting. He said that he had been unable to determine their request and that contact numbers provided were incorrect, adding that if they were watching they should send an email to the Town Administrator expressing their concerns.

Vice Chair Pike mentioned that the 2015 goals for the Town Administrator were to be discussed at the next meeting. Chairman Levy asked all Councilors to send lists of their recommended goals for the Town Administrator to be discussed at the next non-public meeting, and added they would be receiving an email from Town Administrator Fournier.

**ADJOURNMENT**

Vice Chair Pike made a motion to adjourn and Councilor Bentley seconded. The meeting was adjourned at 8:24 pm.

Respectfully submitted,

Patricia Denmark, Recording Secretary.