

## Town Council Minutes August 15, 2012 WS

TOWN OF NEWMARKET, NEW HAMPSHIRE  
TOWN COUNCIL WORKSHOP  
AUGUST 15, 2012 7:00 P.M.  
TOWN COUNCIL CHAMBERS

PRESENT:

Council Chairman Phil Nazzaro

Council Vice Chairman John Bentley

Councilor Mike LaBranche

Councilor Al Zink

Councilor Ed Carmichael

Councilor Gary Levy

Acting Town Administrator Kevin Cyr

EXCUSED:

Councilor Dan Wright

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

PUBLIC HEARING: Resolution # 2012/2013-04 Relating to the Withdrawal of \$50,000 from the Municipal Transportation Fund for the Purpose of Road Maintenance (second reading)

Council Chairman Nazzaro read the Resolution, and opened the Public Hearing at 7:03 p.m. As there was no discussion, the Hearing was closed at 7:04 p.m.

Councilor LaBranche moved to adopt Resolution #2012/2013-04 Relating to the Withdrawal of \$50,000 from the Municipal Transportation Fund for the Purpose of Road Maintenance. Councilor Zink seconded. There was no discussion. Acting Town Administrator Cyr polled the Council. Motion carried unanimously, 6 – 0.

PUBLIC HEARING: Ordinance #2012/2013-02 Change the Traffic Flow on Church Street to One-Way Going Uphill ( first reading)

Council Chairman Nazzaro asked if it was necessary to read the entire 11 page Ordinance as only one sentence changed. Town Administrator Elect Steve Fournier advised that the Council could move to suspend the rules and read by title only.

Councilor LaBranche so moved. Councilor Zink seconded. There was no discussion. Motion passed unanimously, 6 – 0.

Council Chairman Nazzaro read the title and change in the Ordinance under Municipal Code LC Section II, Subsection II.2.2, ONE WAY TRAFFIC: No person operating any motor vehicle on any public way within the Town of Newmarket

shall drive in a direction contrary to posted signs prohibiting such direction. The New Hampshire Department of Transportation or the Newmarket Department of Public Works may erect such signs. Such signs shall meet the specifications as determined by the New Hampshire Department of Transportation and laws of the State of New Hampshire. The following local public ways are designated for one-way traffic: adding "Church Street, from intersection of Rock Street in a westerly direction (up the hill) and then southwest to the intersection of Granite Street," and removing "Church Street from the intersection of Granite Street in an easterly direction to the intersection of Rock Street."

Council Chairman Nazzaro opened the Public Hearing at 7:07 p.m. Patricia Kauffman of 3 Church Street said she did not like this change because of the difficulty of driving uphill. Sandy from Granite Street said the Polish Club was one-way downhill also. She was concerned that some of the older people would get confused and continue to drive down the hill. She said there currently was not enough parking in the area, and people park at the site of the old school, even though it is prohibited. Parked cars have blocked access to her driveway. Stephanie Coster from Rock Street asked for specifics of the change and if the issue of plowing had been resolved. Council Chairman Nazzaro said the street would remain two-way from Main Street to Rock Street and one-way beyond. Plowing will be done in a downhill direction. She asked the reason for the change. Council Chairman Nazzaro said this was at the request of a resident to get historic signs from the State for Stone Church.

Ms. Coster said there was difficulty turning onto Main Street from Church because of restricted vision, especially because of the new parking angles. She wondered if that was a part of the reason for considering a change. She thought it would be beneficial to add mirrors to the present intersection to enhance vision. Council Vice Chairman Bentley said that in addition to the resident request, former Councilor Bergeron, when on the Highway Safety Committee, along with others had also spoken about the difficulty of making turns onto Route 108, especially when crossing traffic. All this had been taken into consideration. Dennis Lees of Rock Street, stating he was still unsure of the motivation for the change, expressed his concerns about driving uphill to Rock Street in winter. He felt the change was endangering the access and egress from Rock Street.

Sarah Lowe from Church Street said she had seen cars unable to drive uphill and sliding down or getting stuck in the winter. She said she would be unable to drive uphill when leaving her driveway. She felt if the plows could not go uphill, then cars could not either. Rose-Anne Kwaks of Wadleigh Falls Road said she had watched the previous meeting when residents had expressed concerns for their safety. She wanted it known that the resident who requested the change initially was Adam Schroader, the State Representative. Council Chairman Nazzaro said his status was immaterial, which Ms. Kwaks questioned. She stated that the Council should think twice if this was only being done for easy weekend access to a business, and consider the daily safety of residents first. Larry Pickering of Ash Swamp Road, formerly of Chapel Street, said he was aware that it was difficult to drive uphill on Church Street. He felt the Council should base its decision on the residents' safety and keep the traffic direction the way it is.

Council Chairman Nazzaro said he had received 3 emails not supporting the change and he would place them in the public records. As there was no further public comment, the Public Hearing was closed at 7:16 p.m.

#### VOTE TO ACCEPT THE NEW TOWN ADMINISTRATOR, STEPHEN R. FOURNIER

Council Chairman Nazzaro said that the Council had voted in non-public session, but had not yet voted to accept Mr. Fournier in Public Session.

Council Vice Chairman Bentley moved to accept Stephen R. Fournier as Newmarket's new Town Administrator. Council Chairman Nazzaro asked to add a friendly amendment: the starting date would be September 1, 2012. Council Vice Chairman Bentley added the amendment to his motion. Councilor Zink seconded. Council Chairman Nazzaro said there had been many citizens involved in the Selection Committee, and Mr. Fournier had been selected from a slate of 66 candidates. He said they expected many great things of him. Acting Town Administrator Cyr polled the Council. Motion carried unanimously, 6 – 0.

Mr. Fournier thanked the Council for the honor of serving Newmarket. He said he was aware of some of the challenges Newmarket faced and was looking forward to addressing them head on. He hoped to meet town residents and looked forward to working with the Council.

#### TOWN COUNCIL TO CONSIDER ACCEPTANCE OF MINUTES, AUGUST 1, 2012

Councilor LaBranche moved to accept the minutes of August 1, 2012. Council Vice Chairman Bentley seconded. There was no discussion. Acting Town Administrator Cyr polled the Council. Motion carried unanimously, 6 – 0.

## SEAN GREIG: STATE OF THE WATER PUBLIC SERVICE ANNOUNCEMENT

Water and Sewer Department Superintendent Sean Greig said the town was in a stage 2 water ban, meaning that odd numbered houses could water on odd numbered days and even numbered houses could water on even numbered days. He said this was necessary as the town's 2 wells were replenished by rainfall, and there had been two dry summers in a row. He said the Bennett and Sewell wells were approximately at the level they had been the previous summer, but that last August there had been 7.8 inches of rain. Currently the wells have dropped a foot below their normal operating range, which is normal for August. He asked that people use water judiciously to prevent imposing a stage 3 water ban.

## 1. DISCUSSION REGARDING HYDRA RENEWABLE RESOURCES (SLUDGE) – DALE BISHOP

Dale Bishop, President and CEO of Hydra Renewable Resources, Inc., a Canadian company, made a presentation of a water/energy center his company proposed to build in Newmarket. He said the first question to answer was why they were in Newmarket. The first reason was to make money by working with the town of Newmarket to build a water and energy facility/center. Revenue would come from water and energy sales. He said his company was devoted to the triple bottom line of social, environmental and economic development.

He said the center would be built at no risk to the community, and HRR would bring capital, an insurance-based performance guarantee, technical partners and professional management to Newmarket. This would be an indoor facility creating no odor and virtually no noise, and would not encroach on roadways as all in-coming and out-going deliveries would be done by rail. They would cover all costs for building the new wastewater and wastewater to energy facility. The insurance would guarantee performance in technology and with partners,

Mr. Bishop said that among the benefits, the company looks to solve problems. The facility would meet and exceed EPA standards to treat waste for recycling at less than the 3 percent nitrogen level required. Since HRR takes the entire capital risk of building the facility, this would eliminate the town having to consider that expense, by his estimate, \$18 million. The town could also eliminate spending \$1.4 million annually on operating costs, as HRR would run the facility. He said HRR was also looking to establish a New Hampshire-based PPE (Private/Public Enterprise), with his company having a 75% share and Newmarket a 25% deeded share in the equity. This could mean annual dividends to the town of \$5 million and \$100 million over the 20 year PPE agreement. He said representatives from Newmarket would be encouraged to participate on the Board and in the running of the enterprise.

Mr. Bishop said also his company was committed to spending \$10 million on the maintenance of the existing wastewater collection system, and this also would reduce costs to the community. He expected that more jobs would be created than presently exist in the current facility, and that those jobs, mostly higher paying, would first be offered to those presently working for the community. He said they also expected to be able to broaden the tax base of the community, by purchasing the Wilson property and adding it to the tax rolls. He said they were also offering to fix rates for sewer users for 20 years. He expected the annual dividend received by the town would be equal to the town's budget revenue raised by property taxes, and sufficient to carry the capital costs of \$35 million to build a new school with money left over.

Mr. Bishop then outlined the elements of the proposal. He said they were an integrated waste resource and recovery management system. He said they were at the intersection of water and energy and used wastewater processing as the linchpin for this radically different system. He said they used a 3 part processing sequence. 1. Waste to Energy: This converts sludge and RDF to energy, producing enough electricity to operate the facility and renewable diesel fuel which can be sold. 2. Clean Water: A continuous backwash filtration system cleans water in a single pass to a standard of recyclable water acceptable anywhere in the world. 3. District Heat Utility takes advantage of the fact that wastewater comes in warm, at about 50 to 60 degrees, and uses it as a resource through a radiator exchange and sells the energy through a closed-loop distribution system. Mr. Bishop went into more detail concerning the components of the 3 elements.

## 1. Waste to Energy: Waste is put through a screening system to remove 70 – 80% of solids before the process of treating

the water begins. The solids are compacted and then 90% dried and sterilized for fuel. This is introduced to a reactor and distiller and combined with RDF (refuse derived fuel) to produce methane for electricity within the facility and renewable diesel and char or carbon residue both of which can be sold for their fuel value. The electrical energy generated is done in stand-alone generators which burn methane. Each creates 360 kilowatts of power.

2. Clean Water: Water is strained in a two column configuration creating a single pass through to produce clean water that exceeds recyclable standards (Two columns constitute a train, and Mr. Bishop said 8 trains would be required in Newmarket.) He said that all of the facility is modular, and usually can be put up in 60 days. The building would be put up around it. A wastewater treatment facility designed to handle 1 million gallons per day would cover 6,500 square feet, and cover less than  $\frac{3}{4}$  of an acre. Adding the waste to energy facility would bring the total to less than 33,000 square feet. He said they had the capacity to build a facility whose exterior would be in keeping with the local environment.

3. Heating System: Mr. Bishop said this was a simple, closed-loop thermal exchange system that captures the heat coming from waste water. This creates a 5 degree thermal exchange, which is enough to support the whole of the district's energy system. He said this was used successfully to provide heat, cooling and hot water to the Olympic Village in Whistler, British Columbia for the 2010 winter games, and continues to provide these to the occupied buildings.

Mr. Bishop outlined what his company would do for Newmarket. They would take total responsibility for project financing and management, construction management, engineering and environmental design, site infrastructure construction, systems acquisition and integration, commissioning and complete facilities operation and lifecycle management. At the end of 20 years HRR would turn the entire facility over to Newmarket. The company focuses on process integration rather than technology research and development, as the technology is already in use. They leverage the capabilities and knowledge of their US suppliers as well as their world class partners. He provided a list of their suppliers and partners, and said of the \$116 million HRR would be spending on the project, the vast majority would be with US companies. Mr. Bishop said the partners were specialists in project and construction management, engineering and architectural design, as well as building and facilities operations.

Mr. Bishop next gave a breakdown of HRR's capital investment of \$116 million. Of that amount, \$107,661,000 would be for site acquisition, licensing, equipment, insurance, professional services, management and buildings. The remainder would be for debt servicing, mostly construction financing. The proposed facility would be built on the Wilson property, and there would be costs in moving lines from the present facility to the new one, and back to the discharge point. He spoke about the refuse derived fuel, RDF, derived from solid waste (garbage) which would be used in the 300 ton per day waste to energy system, and said the company had a preliminary agreement with Kingston, NH to have the pellets made there. He stressed that HRR was not proposing to bring garbage into Newmarket, and the sterilized pellets would be brought to Newmarket by railcar and unloaded into an enclosed facility.

Mr. Bishop said that revenue from the facility would be about \$48.9 million per year. Recycled water sales would not show up in the first 5 years of operations, but then could be expected to generate \$1.8 million per year. Sales of 11 million gallons of diesel fuel would bring in over \$45 million per year, sales of char, \$1.5 million annually. Keeping the sewer rates at the level they presently are in Newmarket would bring in over \$850K per year consistently for the 20 years. DESS or district energy, which will not show up for the first five years, is estimated to then add over \$900K per year. From the total expected annual revenues of \$48.9 million, expenses totaling over \$21.3 million have to be deducted. Expenses would be for mortgage investment and carrying costs, (over \$15 million), management fees, (over \$2.6 million), maintenance and testing, (over \$1.7 million), software maintenance, catalyst and chemicals, (nearly \$1.6 million). This would leave an expected net figure of approximately \$28.5 million before taxes, etc., of which Newmarket would realize a dividend of approximately \$7.1 million per year, once the system has matured (after 5 years).

Mr. Bishop summarized his proposal, stating that HRR was there and would shoulder the risk to make money, but he hoped that through his presentation, Newmarket would realize that the town could also make money. He said they would create a new water and energy center, and address some of Newmarket's challenges, especially the EPA requirement for nitrogen discharge into the Great Bay and carrying capital costs for a new wastewater treatment facility. He said they would create a New Hampshire based PPE in which Newmarket would own 25% and receive 25% of profits in dividends. He said they would also enlarge the tax base in purchasing the Wilson property, and freeze sewer rates for the next 20 years. He then distributed a detailed copy of the proposal to the Council.

Council Chairman Nazzaro said they would take Council questions. Council Vice Chairman Bentley asked Mr. Bishop if he had spoken with EPA and the railroad. Mr. Bishop said he had spoken with EPA representatives, and while they cannot authorize or promote specific companies, he felt they were cheering for them. He said they had presented the first

product that EPA had seen that addresses concerns about wastewater discharge standards within municipalities with limited resources. Council Vice Chairman Bentley asked about air permits required to operate the system. Mr. Bishop said there were no air emissions from the facility, and hence no permit was required. However, there would be other permits required by the state, and he had spoken with the Commissioner and his staff to lay the ground work for necessary applications should Newmarket approve the project.

Councilor LaBranche asked why HRR would turn the facility over to the town in 20 years. Mr. Bishop explained that their payback time was less than 3 years, and in 20 years they would have made a considerable profit. Although there would still be approximately 15 years of useful life remaining in the facility, the operational, repair and maintenance costs would increase. At that time the town would have all the revenue at its disposal. He said there was always the option for them to contract to run the facility for a length of time. Councilor LaBranche asked what the tear-down costs would be once the facility was no longer in service. Mr. Bishop said that at the end of 30 - 35 years they would be looking at replacing the facility and the tear down would be simple because of the modular components.

Councilor Carmichael asked if HRR had made a similar presentation to Portsmouth. Mr. Bishop said they had made no such formal presentation to the Council in Portsmouth. Councilor Carmichael said that in order to prepare for the evening's meeting, he had gone back and watched a 2011 meeting, and had understood that this system was not in use anywhere at the time, and Mr. Bishop had said they would be entering into an adventure. He also quoted Mr. Bishop's invitation for them to visit California. He asked if the system was operational there at this time. Mr. Bishop answered that although the system was operational, it was not being used at this time. The project was for HRR to take over an existing system with the new technology. They had not come to an agreement with the Council on an engineering modification necessary for them to take on full liability.

He said Newmarket would be the first assembly of all the new technologies, should they come to an arrangement. He said they were also in negotiations with other municipalities around the world. He said the reason they chose Newmarket as the first place to install all of the technology was in part its scale. It was not overly complicated or large, but large enough to support all the components, and he felt that 1,000 gallons output was a good place to start. He said the 300 ton waste to energy facility was half the size they would put in other locations. Councilor Carmichael asked if Mr. Bishop or Green Power Management had also met with NHDES and what kind of feedback they had received. Mr. Bishop replied that he had met with them and Tom Burke, after the meeting had offered to get him into the EPA so that they could understand what HRR was doing. In subsequent meetings he felt DES was supportive of what HRR was looking to do, and he foresaw the beginning of a good working relationship.

Councilor Levy referred to the diagram depicting CBUM filter #1 and #2 and said it appeared they would be receiving screened sewerage, which Mr. Bishop confirmed. Councilor Levy said that in the summer of 2008 and the winter of 2009, there was almost identical technology piloted in Woodsville, NH. He said DES had wanted to determine if the system would operate properly in the winter months to process 65 thousand gallons per day, and poly-aluminum chloride was added to the filter to help its performance. He said the pilot had suffered start-up delays, failures, etc. and was mothballed. Mr. Bishop said HRR was not a licensee of that technology and had no relationship with the company that put it in, although they had with their previous company.

Councilor Levy asked if the process was not working anywhere, why Newmarket should take the risk. Mr. Bishop said that he was incorrect, and that the technology was working and there were installations around the world using it, 500 of which were in the US. He said the work was largely pioneered in Europe 70 years ago, and the patents had run out in 1970. He said there were 15 companies in America which sell this technology, and he offered a tour of any sites which use CBUM technology. Mr. Bishop said the poly-aluminum chloride is a standard additive in wastewater treatment, and was pioneered in 1995, and tested in a facility for over 5 years by many companies. He restated that his company was not involved with the Woodsville facility, and although he had an interest in the subject, he was not sure what had happened. He said his facility was a completely enclosed and heated environment, so there was no problem in the winter. He stressed that they were proposing proven technology from producers in America. He said that HRR does not invent technology, but uses the best available in America.

Councilor Levy clarified that he was not saying that CBUM technology did not work, but that to his knowledge from his research it had not worked anywhere from beginning to end. He said it was not being used in the same capacity that Mr. Bishop was proposing, but usually at the end of the filtration process in high-quality treatment facilities to reduce nitrogen levels. Mr. Bishop said that many of the operations in America were post-secondary treatment, but the facility in Delft has been operating for 17 years on the basic plan that he was proposing for Newmarket. Mr. Bishop said that he appreciated the concern, but in the end, they intended to do what they had set out to do, and HRR was taking the risk and not asking Newmarket to buy anything.

Councilor Levy referred to the previous year's presentation about a wastewater treatment facility in relation to the present proposal. He said this proposal referred to processing 6K pounds of solid waste per day, and added that Newmarket was currently looking at building a facility for about \$12 million that removes approximately 80 pounds of nitrogen a day. He said this proposed facility could increase the nitrogen footprint to approximately 75 times what Newmarket currently has. He said that should the system not work, Newmarket could be looking at tens of millions of dollars to remove nitrogen. He felt this was a major risk, and as a 25% partner he was not sure that they would not incur liability. Mr. Bishop said that the fact was that the carbon footprint of the facility was less than what Newmarket was thinking of building today. He said what they don't count in uncharted revenue in his proposal is one million in CO2 credits that they can trade into Europe. He said that using MSW(municipal solid waste) at a site in Kingston where they would manufacture the RDF they get considerable CO2 credits by removing a considerable amount of MSW from the environment. They get a bonus from the EPA, and the facility that they use to treat the water produces less than 23% per day/annually of CO2 emissions per gallon than the facility Newmarket is considering building. He said they were markedly reducing carbon footprint, and offered to go through the numbers with Councilor Levy.

Council Chairman Nazzaro asked what insurance there was to protect Newmarket, should they wind up on the wrong end of a legal action. Mr. Bishop said the facility does not come into play unless it meets performance specifications, and Newmarket is not involved until the facility is built and when its operations are proven operable and able to treat the water to the 3 or less parts nitrogen. At that point, the PPE comes into effect with Newmarket as a 25% partner. In addition there would be a \$6 million insurance premium for performance and environmental issues during construction and also for operations after the facility is built and turned over to the PPE. He said that Newmarket would bear no responsibility for removing the system short of 35 years hence when it would need replacement. Council Chairman Nazzaro, referring to Councilor Levy's statement about larger amounts of nitrogen being processed, asked if the system would be shut down if not operable to prevent more nitrogen going into the bay. Mr. Bishop said it would not run and discharge heightened levels of nitrogen. He emphasized that the system would have to reach performance specs before it is turn keyed to the PPE, and would be operating at less than 3 parts nitrogen.

Councilor Levy asked where HRR would pilot the system to prove it works. Mr. Bishop said the system had been operating for 17 years, so there was no need to do this, and he was willing to invest \$116 million in the system which would have to meet performance specs. Councilor Levy said that his concern was they could potentially wind up with a recycling/sludge plant if the system did not work. He said he had also spoken with the Commissioner, and felt that DES should come and speak to Newmarket about what permits are required. He said the Commissioner wanted assurance that the system and technology was operating, working now or had been successfully piloted. He said there were 2 questions: did Newmarket want to become a garbage recycling center, and with no pilot that has ever worked, he would feel more comfortable if he knew if the system existed.

Mr. Bishop said there would be no garbage sent to Newmarket for recycling. Council Chairman Nazzaro asked if there was none of this technology being used anywhere. Mr. Bishop said that all the technology was in use here and abroad. Council Chairman Nazzaro asked if any garbage or sludge would be brought into the town of Newmarket. Mr. Bishop said no, the processing would be done in Kingston, and the RDF would be delivered to Newmarket in train cars. Councilor Zink said, the community had a lot to learn about the process, and he saw this as the beginning of the education process. He asked what Mr. Bishop saw as the next step in the process. Mr. Bishop said that in his packet, he had included an exclusivity agreement for the town of Newmarket to allow HRR 6 months to prepare a feasibility study, which would cost HRR about \$500K. The study would include a review of all proposals with their partners, including detailed engineering designs and testing. Then, the results would be reviewed by a financial group of their peers. Once that is complete, and the finance backer is prepared to give them the \$116 million for the project and signs a provisional letter of commitment, he will come back to the town. He will bring the full feasibility study to answer questions and further educate the public. At that point, he said they would be ready to negotiate a contract. He emphasized that they were at the very beginning of the project, and there would be many studies of the engineering, technology, etc. to come before they were at that point. He added that once they had convinced a banker of the feasibility and workability of the project, they had a viable project.

Councilor Levy asked Mr. Bishop if he had spoken to Portsmouth about this type of project. Mr. Bishop said he had not spoken to Portsmouth Council. Councilor Levy asked if he had spoken to Portsmouth officials or engineers. Mr. Bishop said that what they had done with other communities was between them and his company and was not or should not be public knowledge. Councilor Levy asked if HRR was willing to spend \$500K, why it was not willing to pilot the project, say at Newmarket's current wastewater facility to prove it works. Mr. Bishop said there were a variety of reasons: a pilot would be much more expensive than \$500K; the technology has already been proven in the way they want to use it; and the engineering partners agree that the system is beyond the piloting stage. They were relying on the best engineering firms in the world to complete the details for the feasibility study before they came back to Newmarket.

Councilor Levy said that whatever they received for a final presentation he felt they should have an independent third party look at it along with legal experts. He had concerns about exposing Newmarket in its 25% ownership in the PPE to substantial financial costs and increased pollutants in case the system does not work. In addition, he felt they had a legal obligation to get input from the taxpayers to see if they wanted Newmarket to become a fuel recycling entity. He said if this was the case, they should put out an RFP, and get input from companies that have been producing energy from waste and sludge. He said he had yet to see an operational example of where this had been done, and asked for specific locations. Mr. Bishop said the studies had already been done, and the system existed in the Netherlands. He said he invited any scrutiny and review by outside parties on the feasibility documents and provisional financial letters that they would bring at the end of the study. He said that at this point he had outlined where HRR would like to go and was asking for a time commitment from the Council for him to come back with the detailed material.

Councilor Carmichael stated that he agreed with Councilor Levy that with the taxpayers at stake, they should have outside engineering firms, which Mr. Bishop agreed with, and legal experts review the documents. He felt that Councilor Levy's questions or any other questions from the Council should be taken seriously. Council Chairman Nazzaro said he could not agree more, but that he felt the proper terminology should be used. He asked Mr. Bishop if sludge would be coming into town, and Mr. Bishop again said no. He asked if recycling would be coming into town, and Mr. Bishop said yes, in the form of RDF as pellets, and they would be coming into the town by rail. Council Chairman said he encouraged questions, but stressed that the proper terms be used as the use of improper or imprecise words would create a false impression of the proposal. Council Vice Chairman Bentley asked if anything would be hauled out of the plant. Mr. Bishop said that renewable diesel fuel and char would be taken out, and that HRR was willing to build a loading dock for them to be removed by rail.

Council Chairman Nazzaro said the next step would be for the Council to read the materials and have a Council discussion about what it wanted to do. He said the next step for Mr. Bishop would be for the Council to accept the exclusivity agreement. Mr. Bishop said the agreement merely gave them assurance that they could conduct a feasibility study to present to the Council and not be backdoored by another firm coming in with other plans. To a citizen, Council Chairman Nazzaro said that public comment would be allowed at a later time, and the Council would not vote on this without public input. Councilor Levy said that in respect to signing an exclusivity contract, he thought they should first have a thorough review and that he felt they should look at the Town Charter to see if a RFP was required. Council Chairman Nazzaro said both were good points.

Council Vice Chairman Bentley asked when HRR was intending to purchase the property. Mr. Bishop said they would negotiate with the town to purchase the property before they began construction and subsequently turn keyed it to the town, and established the PPE. Councilor LaBranche said he fully agreed with having legal review, but questioned the need of an RFP if this was not costing the town anything in taxpayer money. Council Chairman Nazzaro said he understood the point, but agreed with Councilor Levy that they needed to make sure everything was in order and he would review the Charter. Councilor Levy said that before the Council considered selling property, he wanted to make sure the process was going to work. Council Chairman Nazzaro thanked Mr. Bishop.

## 2. FINANCIAL HEALTH OF THE TOWN – ACTING FINANCE DIRECTOR MATT ANGELL

Acting Finance Director Matt Angell distributed draft copies of the balance sheet and statement of accounts for the year ending June, 20, 2012, explaining that these were nearly complete, but they were still reconciling some information. He said they were almost finished with the receivables and had completed the due-to/due-froms and transfers in and out. He said these were the key pieces so he did not expect much change in the figures. He directed the Council's attention to page 1, the far left column, depicting the General Fund, and the unreserved fund balance which stood at \$1.3 million. He said he would like to hold off discussion of this until the end, because the amount exceeded the fund balance policy of the town.

He next directed them to a nonspendable amount of \$1.36 million which was the deficit for the DPW garage. As the project was not bonded, the town had used cash to fund the project. The offset deficit of \$1.36 million was held in a capital reserve fund. He said that one of the votes before the Council at this meeting was to use a portion of this to reduce the tax rate, which would fund a portion of this deficit. A vote was taken late in the previous year to amortize this deficit over a 10 year period. He said this would reduce the tax rate equal to that one portion.

Page 2 of the balance sheet, income summary statement, shows the General Fund excess of revenues at \$1.1 million.

This figure includes a surplus of revenues above budget, (\$140K), a turnback of revenues or appropriations not spent, (\$504K), and the Black Bear TIF, (\$487K). He said the next pages made up the details of the summary. They showed the Downtown TIF and Black Bear TIF as closed, although there was still one invoice to pay to MRI from the Black Bear TIF. He pointed to the page titled Capital Project Funds, which showed that the Water Fund and Sewer Fund had been returned to the Trustees of Trust Funds. He said the Main Street Project had also been closed but they were waiting for one payment from the Trustees of Trust Funds in 2013. Mr. Angell said he is now working on a fund called CDBG grants. In that fund he is finding the Wadleigh Falls sewer extension and a sewer pump station, projects that were closed in 2005. However, a deficit of almost \$38K remains on the books. The column Fire/Public Works Building shows a deficit of \$1.36 million, and the annual payment of \$136K will reduce this figure.

The next page titled Enterprise Funds shows the Water Fund with a balance of \$1.1 million and the Wastewater Treatment Fund with a balance of \$168K. The latter had a deficit of \$3K the previous year. The next few pages provide details of income.

The last page outlines an analysis of the Surplus Fund Balance. He said there was a policy that the town retain up to 16% of its operating expenses in reserve. Based on the 2013 general fund operating budget, 16% would be \$985K, and there would be a surplus of \$363K available to reduce the tax rate. He said the Council had the ability to retain this amount or use it to reduce the tax rate. He said that Councilor Levy had asked him earlier if 16% was a reasonable percentage to hold in reserve. Mr. Angell had prepared an analysis showing first the amount of cash in the General Fund. He said if monies are used to reduce the tax rate, they also reduce the amount of cash in the General Fund. He said this could create a cash flow problem, which he would like to avoid. From the General Fund cash amount of \$9.9 million, he backed out \$7.1 million in FY 2013 taxes collected, as they cannot be used to offset 2012 figures. He had also deducted various other liabilities that had to be paid. This would leave \$843K in the General Fund's cash for monthly cashflow needs.

Mr. Angell said that monthly cash flow needs of \$1.6 million include money that is paid for town, school and county assessments. He said that although the \$985K was a little less than the 16%, it was doable. He stated that he had been asked to complete a 5 year budget projection, and although that was not complete, there was enough done to show the impact of using the surplus to reduce the tax rate this November, assuming the surplus was amortized over 2 years. In the first year, the town portion of the tax rate would be reduced by 10%, from \$7.03 to \$6.31. However, the second year taxes would rise by a little over 2.5%, and in the 3rd year by 3.77% and then balance out. If the surplus were used in just one year to reduce the tax rate, it would reduce it by just over 13%, but the following year the tax rate would increase by 9.8%. In general, using the surplus in this way, reduces the tax rate in the first year, but increases it the next year. He suggested that the Council consider using the excess fund balance above the 16% policy to reduce the tax rate over a 2 year period to minimize a tax rate increase in the second year or use it all in the first year. As an alternative to that consideration, he suggested that the Council could retain a portion of the unreserved fund balance and let Town Meeting approve its use it for reducing taxes, improving roads or making employee salary adjustments, etc.

Councilor Levy said that none of the information presented was in the Council packet, and that he could not respond because he needed time to look at the figures ahead of time. He said this procedure had been discussed before, and he would prefer the Council not discuss this until they had a chance to evaluate the information. Mr. Angell said he was not asking the Council to discuss this at this time, and cautioned that the figures would still change as they were still in the process of reconciliation. Councilor LaBranche asked to return to the slide showing anticipated tax rates, and asked if Mr. Angell was basing the 2014 tax rate increase on the proposed budget which was not an approved budget. Mr. Angell said this was based on assumed repetition of the 2013 budget from year to year. He said he had added in certain things which he knew the town had to fund, such as a town-wide revaluation of assessed values that has to be done by August of 2014. He said no funds had been set aside to pay for this, and that currently there was no one on staff to do it. Councilor LaBranche said that he thought the procedure was that 20% every year would get the town to 100% at the end of 5 years. Mr. Angell said he thought the town was required to do a revaluation every 5 years. He said the projection also included a tab for salary increases which could be added once they were known. In essence this is a default budget.

Council Vice Chairman Bentley asked where the figure of 16% retention came from. Councilor LaBranche said the Council based the figure on 2 months of operating expenses. Council Chairman Nazzaro recalled they had asked Steve Fournier about this during his interview. Mr. Angell said he felt that 16% was on the lower end of monies that should be held. Council Vice Chairman Bentley asked Mr. Fournier what the percentages were in the towns in which he had worked. Mr. Fournier said it depends, but DRA recommends retaining between 5 to 10% of the gross appropriation, which includes school, county and town. He said in general, this would be about 12% for the town, and he would have to discuss this with Mr. Angell. Mr. Angell said the Council resolution was specific on just the town, and the figures he gave them were for town county and school. Councilor Zink said that his understanding of the presentation was that the



financial health of the town was okay with the \$300K, which Mr. Angell confirmed. Councilor Zink said the next question was what they wanted to do with this money and not repeat mistakes made in the past by reducing the tax rate for one year only to have it increase the following year. Mr. Angell confirmed this.

**RESOLUTION #2012/2013-07:** Council Chairman Nazzaro asked about the \$1.36 million amortized over 10 years for the Public Works Building, and wondered why this had to be done over that time frame, when the funds were on reserve in the books. Mr. Angell said he was puzzled by this also, as this could be wiped out in a year, but this would take a Town Meeting vote as it would appropriate fund balance to eliminate the deficit. Council Chairman Nazzaro asked if this would untie those funds to be used or was it just a wash. Mr. Angell said it would just be a wash. Council Chairman Nazzaro asked Mr. Angell to outline the benefits of each procedure. Mr. Angell felt there was no benefit to amortizing the funds over 10 years, and even though there was a Town Meeting action to do this, it never passed. He said the only difference was in the time frame. He said the Capital Project Funds would then include only active projects.

Councilor Levy asked for confirmation that they would not actually be reducing the town's liquidity by \$1.3 million, and Mr. Angell said they would not. Councilor Levy asked that if the town voted to do this would the \$1.3 million be available for them to use. Mr. Angell said no it would not, just as it was not available for them now. This was not money in the cash account, but a deficit on the books. Mr. Angell confirmed to Councilor Levy that this had to be done with a warrant article. Mr. Angell said that in the budget \$136K will show every year as funds that have to be taken from the taxpayers, and that one of the Resolutions he was presenting was to stop the process this year. Councilor Levy asked if they did not vote this would the funds come out of their taxes every year. Mr. Angell said the taxes would increase as the \$136K would come out of taxes every year. He said that with the Resolution, he wanted to use a portion of the excess reserve balance to fund that part of the budget so that it did not have to come out of the tax rate.

Council Chairman Nazzaro said that \$1.36 million was reserved for this and cannot be used for anything else. Mr. Angell explained this as an accounting nightmare: the \$1.36 million will be amortized in equal amounts each year for 10 years at \$136K per year, closing to the account. He will use that amount this year to reduce the tax rate. Council Chairman Nazzaro said the Resolution passed last year meant that they would have to raise \$136K per year to pay for this, even though on the books the amount is on reserve fund balance. Mr. Angell said that if the Resolution was not passed, the amount would increase by \$136K to increase the amortization, and another \$136K that would have to be raised by the taxpayers. Essentially, this would mean the figure would increase to \$260K the following year.

Councilor Zink asked what the bottom line would be for the community. Mr. Angell said voting in the Resolution would not affect the tax rate, but not voting in it would raise it. Councilor Zink asked if this was because the town had incurred a liability, and Mr. Angell said it was. In the budget there was an amount of \$136K for debt service, which he had used assuming that the Resolution would pass. He said his projection had showed a 13% decrease, but now showed an 11% decrease, only on the town side. Council Chairman Nazzaro said that by voting the Resolution they would be preventing the tax rate from increasing by \$136K, and at Town Meeting they could present a Warrant Article to use the reserved fund balance to remove this liability from their books. Mr. Angell said yes, and this would not affect the tax rate.

Councilor Levy said it was still confusing that they had set aside \$1.36 million for this but the money was not there. Mr. Angell said the cash was not there and Council Chairman Nazzaro said this was the difference between fund based and cash based accounting, but this made sense in terms of fund based accounting. Mr. Angell gave an example based on cash accounting for a business: if a lawsuit was pending, a business owner, such as Councilor Levy, would retain a portion of earned income in owner's equity reserved toward the suit. If there was no money in the cash account, the reserve would still exist on the books, a situation that Mr. Angell said existed here. Mr. Angell said there was time on this particular Resolution, #2012/2013-07, and that it did not have to be decided at this meeting. Council Chairman Nazzaro asked what the Council members wanted to do. Councilor LaBranche said he would prefer to table this until the next business meeting. Other Councilors agreed.

**RESOLUTION #2012/2013-06, Relating to the Downtown TIF Debt Service Payment:** Acting Finance Director Matt Angell said he hoped the Council would vote on the Resolution at this meeting. He said a past Town Meeting had voted to set aside one million dollars to service the debt payment, and this was a procedural action based on that vote. Town Meeting had voted to set aside this money for this purpose only. He was asking to withdraw funds from the Capital Reserve Fund for payment of the debt service, and without the vote he could not pay this as there was no appropriation for it. The funds would be transferred to the General Fund which would have no affect on the town. Council Chairman Nazzaro said that Town Meeting had voted to set funds aside for debt service, and Mr. Angell was asking to use that portion to pay it. Mr. Angell said that was correct. This would mean the Council was enacting what the town had voted.

To Council Levy's question, Mr. Angell said this was a debt against the Downtown TIF revenues. Councilor Levy said they then had not paid this when they voted to close the Downtown TIF. Mr. Angell said that was correct, and that as of last year's Town Meeting there was over one million dollars in the Downtown TIF, and the vote was to reserve this amount in a Capital Reserve Fund, specifically to pay for the debt. He said without that action the TIF could not be closed. The money would be transferred to the General Fund for the purpose intended and have no affect on the fund. Mr. Angell said this action would continue through 2023. This is not money that needs to be raised as it is already reserved.

Councilor LaBranche said the Council had decided there was no benefit in paying this off in one lump sum and decided to reserve the funds and pay it off in increments as the funds were already in the TIF. Mr. Angell agreed that there was no call provision to pay it off. Councilor LaBranche said this reflected the time left in the 20 year bond they had taken. Council Chairman asked if any Councilors saw any reason not to vote on this now, and no one expressed an objection.

Councilor LaBranche moved to adopt Resolution #2012/2013-06, relating to the Downtown TIF debt service payment. Council Vice Chairman Bentley seconded.

Discussion: Councilor LaBranche felt that the Resolution should be read aloud so the public would be aware of what they were voting on. Councilor Levy asked why Mr. Angell needed the vote at this meeting. Mr. Angell said he wanted this done so there would be no question on the payment. Mr. Angell said he had made a payment so they wouldn't default, and it was showing on the balance sheet as a pre-paid as it was paid in June. He said the next payment was due December 1st. Council Chairman Nazzaro read the Resolution. Councilor Zink clarified that the amount spoken of as \$275,705.50 should be \$257,705.50 as written in the Resolution.

Acting Town Administrator Cyr polled the Council. Motion carried unanimously, 6 – 0. Councilor Carmichael asked if there was any advantage to paying this ahead of time, and Mr. Angell said there was not.

#### 4. REVIEW OF MINUTES FROM STANDING COMMITTEES AND COUNCIL REPRESENTATIVES

A. Councilor Carmichael, Planning Board: Councilor Carmichael said that at the previous evening's Planning Board meeting, a question was asked about the proposal to build a wastewater treatment plant on the Wilson property. It was wondered that if the town decides to build, would it be exempt from planning board and zoning board review. He said the consensus was that they should have a legal opinion. Another question was whether the town would supersede the state in land acquisition. Council Chairman Nazzaro said that New Hampshire was a home rule state, and the town would not supersede its regulations. He agreed that they should get a legal opinion, but he felt the town could not subvert the planning and zoning process. He added that this would be a PPE, not just the town.

B. Council Chairman Nazzaro, Highway Safety: There was no meeting. He added that he had contacted MBA and NCDC, and they will be appointing their representatives to Newmarket's Economic Development Committee at their next meetings.

C. Councilor Wright, Conservation Committee: Councilor Wright was out of town.

D. Councilor LaBranche, CIP/Efficiency Committee: Councilor LaBranche said there were no CIP requests from the library or IT department. They were to meet with the police department the following evening. He said there was nothing to discuss at this point about the Efficiency Committee.

E. Councilor Levy, Budget Committee: The committee will meet again at the end of August.

F. Councilor Zink, Advisory Heritage Committee: The committee will meet on August 23rd.

G. Council Vice Chairman Bentley, Energy Committee: There was no meeting.

#### 5. OLD/NEW BUSINESS

Council Vice Chairman Bentley wanted to send accolades to Deb Garrison for her work on Old Home Week. He also thanked Adam Schroadter for his part in the Oyster Fest. He had spoken with some townspeople who were delighted that the Council had appointed representatives to the Economic Development Committee. Council Chairman Nazzaro said that Adam Schroadter had sent an email about the Oyster Fest and specifically thanked Chief Cyr, Rick Malasky and Debby Garrison for all their work. They had also received a letter from Governor Lynch congratulating them on a successful event.

Councilor LaBranche asked if they could vote on the Church Street traffic flow ordinance. As this was the first reading, the vote could not be taken.

Councilor Zink said they had all received a letter from Toni Weinstein who offered to take a leading role in communications. He said this was the first offer they had received to help the Council with this objective, and he thanked her for the offer. He said her email had offered them specific suggestions. He emphasized the importance of keeping this on the agenda as they had spoken about deciding on specific action items. Council Chairman Nazzaro said the next step would be to get Ms. Weinstein together with Mr. Fournier, and Council Vice Chairman Bentley suggested they add Doug Poulin for any website considerations.

Councilor Levy asked if they would be discussing auto gas again before they voted on it. Council Chairman said they would at a later meeting.

Council Chairman Nazzaro said the lawyers had come to terms on the Moody Point Sewer Maintenance Agreement, and the Council had received final copies in their mail boxes. Councilor LaBranche moved to accept the Moody Point Sewer Maintenance Agreement as presented. Councilor Zink seconded. Council Chairman Nazzaro said the only change was in paragraph 5 which now included a notice of termination. Acting Town Administrator Cyr polled the Council. Motion carried unanimously, 6 – 0. Councilor Zink added a friendly suggestion that the spelling errors be cleaned up.

## 6. APPROVAL OF NON-PUBLIC MINUTES: AUGUST 1, 2012 #1 AND #2

Councilor LaBranche moved to approve the August 1, 2012 #1 non-public minutes. Councilor Zink seconded. There was no discussion. Acting Town Administrator Cyr polled the Council. Motion carried unanimously, 6 – 0.

Councilor LaBranche moved to approve the August 1, 2012 #2 non-public minutes. Council Vice Chairman Bentley seconded. There was no discussion. Acting Town Administrator Cyr polled the Council. Motion carried unanimously, 6 – 0.

Councilor LaBranche moved to unseal the August 1, 2012 #2 non-public minutes. Council Vice Chairman Bentley seconded. There was no discussion. Acting Town Administrator Cyr polled the Council. Motion carried unanimously, 6 – 0.

## 5. NEW BUSINESS

Councilor Zink said that as a result of some non-public minutes being unsealed at the last meeting, he had heard comments from several townspeople who had read that a past Councilor had released unpublished information to a current Councilor. He said the concern was that a present Councilor had received the information. He felt this should be discussed even though he did not know what the answer was, if there was any resolution or if any action could be taken. Council Vice Chairman Bentley said he also had received calls and comments about this. He said he did not know what to do about this either, but even though this had happened in the past, he asked that it not be brushed under the rug. He said that the Council was being looked at to provide a solution.

Council Chairman Nazzaro asked if it was an issue of a Councilor having non-public information from a previous Council. Councilor Zink said he didn't think so, but that it was an issue of a former Councilor releasing non-public information. He said the concern was that the individual would run for office again or was currently serving on a board. Council Chairman

Bentley said that was also the concern he had heard, adding that he had been told the individual was still serving on a board. He felt that could be speculation, but he had been told that the individual should be removed. He added that he had heard from several people, not just one or two.

Council Chairman Nazzaro said he saw no rapid remedy to the situation, and that he took private information very seriously. Councilor Carmichael said this almost felt like a witch hunt, and he thought they were supposed to be working as a team. He said a few weeks ago they were talking about backdoor politics and 2 on 1 meetings. He said it upset him that they wanted to hunt down one of their own who didn't do anything wrong, and he felt they were going on hearsay. Council Vice Chairman Bentley said he did not know what "one of their own" meant, and said that a sitting Councilor had said that a past Councilor had given him information. He said the question was what the sitting Councilor should do with the information, and he said he did not know how he would handle it. He stated several people had told him they couldn't just let this go because it was incorrect, immoral, and unethical and some would say illegal. He had been told that there were ways under the Right to Know that they could get phone and email records after they had been deleted, and one person had suggested they do that. He said they had spoken many times about non-public information being taken seriously by town officials and employees. He said he takes this very seriously and is appalled when he or his Mother hear non-public information being bandied about around town. He said he and Councilor Zink were bringing up public concerns.

Councilor Levy said they should realize that any sitting Councilor can go in and see any past Town Administrator reviews and evaluations, along with those of any town employees. He said he thought that this was the subject of the discussion, and he did not know what the issue was. His sense was that anyone put on the Council could ask for and receive an employee evaluation, especially in the case of having oversight and the responsibility to review that employee. Council Chairman Nazzaro said he thought the issue was receiving information through official channels rather than being handed information from a former Councilor.

Councilor LaBranche said he disagreed with Councilor Levy and did not feel that any Councilor had the right to go into anyone's personnel file without the vote of the Council; for example he could not request to see the file of the past Police Chief. Councilor Levy said this was not the point and an inaccurate analogy as this was a present Town Administrator at the time. Council Vice Chairman Bentley said he would agree with Councilor LaBranche that they would have to go through a Council vote. He said the original issue was that they pretend there was not a rule about this for a sitting Councilor. The issue that was raised was that a sitting Councilor had requested the information and someone who might be sitting on a present board had given him information from when he was a Councilor. He said that when his term is done, he can not take some of the sealed minutes and give them to someone. He said the issue was not that it happened but how it happened.

Councilor Levy said that he had not received the information from anyone presently serving on a board in Newmarket. He said someone had given him a box of background information including many documents so that he could get up to speed with serving on the Council. One of the documents was an evaluation of former Town Administrator Wojnowski. He said he did not even know if the person knew the document was in the box. Council Chairman Nazzaro said it was the obligation of every Councilor, in the event of inadvertently or advertently receiving non-public information, to inform the person that he cannot give it out. He said he agreed with Councilor LaBranche and that individually they had no authority, but only had authority when acting as a body and by the vote of the Council.

Council Chairman Nazzaro thanked Chief Cyr publicly and personally for serving as Acting Town Administrator in addition to his position as Police Chief for the past 6 weeks. He thanked him for his service to the town and its residents.

Council Chairman Nazzaro said the Council had a non-meeting with Dana Bisbee on the 20th. The next scheduled meeting will be the Business Meeting on September 5, 2012.

Councilor LaBranche moved to adjourn and Councilor Zink seconded. Motion carried unanimously, and the meeting adjourned at 9:41 p.m.

Respectfully submitted,

Ellen Adlington,

Recording Secretary