

**TOWN OF NEWMARKET, NEW HAMPSHIRE
TOWN COUNCIL REGULAR MEETING**

December 6, 2017 7:00 PM

TOWN COUNCIL CHAMBERS

Approved December 20, 2017

PRESENT: Council Chairman Dale Pike, Council Vice Chairman Toni Weinstein, Councilor Amy Thompson, Councilor Kyle Bowden, Councilor Amy Burns, Councilor Casey Finch, Councilor Gretchen Kast (by audio)

ALSO PRESENT: Town Administrator Steve Fournier, Community Development Director Diane Hardy, Engineers Todd Monson and James Guarente of GZA GeoEnvironmental, Inc., Jim Webber and Steve Doyen of the NHDES-Dam Bureau, Finance Director Lisa Ambrosio, Leo Filion and Bill Arcieri of the Macallen Dam Study Committee

AGENDA

Chairman Dale Pike welcomed everyone to the December 6, 2017 Newmarket Town Council Meeting and called the meeting to order at 7:18 pm, followed by the Pledge of Allegiance.

Vice-Chair Weinstein made a motion to seal the minutes of the Non-Public Meeting which was seconded by Councilor Thompson. Town Administrator Fournier polled the Council and the motion to seal the minutes of the Non-Public Meeting was approved by a vote of 7-0.

Chairman Pike stated that Councilor Kast was present on an audio device. Vice-Chair Weinstein made a motion to approved having Councilor Kast by phone, which was seconded by Councilor Bowden. Town Administrator Fournier polled the Council and the motion was approved by a vote of 7-0.

PUBLIC FORUM

Chairman Pike opened the Public Forum at 7:23 pm.

Suzanne Petersen, Education & Outreach Specialist for the Wild & Scenic Rivers Sub-Committee of the Lamprey River Advisory Committee, said there were ongoing needs for the Lamprey River which had been designated as a Wild & Scenic River. She said currently Newmarket had no representation as the two members listed were both inactive at this time. She distributed a pamphlet and said the Committee was

there to offer their assistance. Vice-Chair Weinstein asked the number of members allowed and said she would reach out to members and people involved in the Energy & Environment Committee.

Chairman Pike closed the Public Forum at 7:24 pm.

PUBLIC HEARING – None

TOWN COUNCIL TO CONSIDER ACCEPTANCE OF MINUTES

Acceptance of the Minutes of the Budget Workshop Meeting of October 28, 2017

Vice-Chair Weinstein made a motion to approve the minutes of the Budget Workshop Meeting of October 28, 2017, which was seconded by Councilor Thompson.

Changes/Corrections: Chairman Pike make a correction on page 5, line 205 to change “his contract” to *Police Department contract*. He also made a correction on page 8, line 333 to correct the last word of the paragraph under Sewer from “saltation” to *siltation*.

Town Administrator Fournier polled the Council and the minutes of the Budget Workshop Meeting of October 28, 2017 were approved as amended by a vote of 7-0.

Acceptance of the Minutes of the Regular Meeting of November 1, 2017

Vice-Chair Weinstein made a motion to approve the minutes of the Regular Meeting of November 1, 2017, which was seconded by Councilor Bowden.

Town Administrator Fournier polled the Council and the minutes of the Regular Meeting of November 1, 2017, were approved by a vote 7-0.

REPORT OF THE TOWN ADMINSTRATOR

Town Administrator Steve Fournier said he had heard today from the Town Attorney in the case of **DHDOT vs. the Town of Newmarket**. He said that in the early 2000s the DOT requested that the Town manage a bike-widening project on Route 108, and said the project sat dormant until 2012 when the Town reactivated it and began engineering studies to get costs. He said the cost was determined to be more than had been appropriated and the Town decided to no longer pursue that project. He said NHDOT subsequently issued a bill to the Town for the cost to date even though it was understood in good faith that there would be no charge. He said he received information today that the Court that rejected all of the State’s arguments and said DOT must reply in 60 days. He said the State could still come back and say “no”, but the Town would go to court again and they were currently waiting for the State’s response.

Town Administrator Fournier said he consulted with the Town Clerk and the Superintendent of Schools about scheduling the **Deliberative Session** for Saturday, February 3, 2018 here at the Town Hall starting at 9:00 am. He said **Election Day** would be Tuesday, March 13, 2017 at the Town Hall as well.

Town Administrator Fournier said that with regard to the **School Renovation**, RSA 674-54 stated the School needed to notify the Planning Board and the Governing Body on substantial changes in use or new use of their properties. If so, the Planning Board and the Town Council could issue non-binding comments on the plan. He said the Town Attorney felt the properties were still being used for the same purpose and there was no jurisdiction over that.

Macallen Dam: Stability Analysis and Conceptual Design of Remedial Alternatives

Community Development Director Diane Hardy said that engineers James Guarente and Todd Monson of GZA GeoEnvironmental, Inc. were there to present their findings and recommendations for the Macallen Dam. She said there were also 2 Macallen Dam Committee members present, Leo Filion and Bill Arcieri, as well as Councilor Pike, and 2 representatives from the NHDES-Dam Bureau, Jim Webber and Steve Doyen.

Project Manager Todd Monson said he and Senior Project Manager James Guarente would present the conceptual design and explain the process they went through. He said they were contracted by the Town to work with the Macallen Dam Study Committee and also the NHDES-Dam Bureau to develop conceptual designs for stability analysis to address deficiencies in the dam. He said the Town had received a letter of Deficiency from the Dam Bureau in 2010 regarding problems with the dam due to safety and deteriorating conditions and they had been working as a Project Team to move that forward.

Mr. Monson said GZA was contracted in July, began work in August, and were essentially nearing completion and working collaboratively with the Dam Bureau. He said some of the items noted were uneven surfaces on land to the right of the dam, deteriorating concrete on the left abutment gate structure and upstream training wall, and the stone masonry wall on the left side. He reviewed previous studies by Wright-Pierce for a breach study and incremental dam assessment, and said the Town shifted its policy in 2013 to repair the structure and increase spillway capacity.

Mr. Monson said a final feasibility study was done in 2014 by Gomez & Sullivan with an additional hydraulic analysis leading to a design memo approved by the DES establishing the 100-year flood and approval of a design flow to address that, which required 1 foot of freeboard to bring the dam into compliance. He said the purpose was to increase safety, improve compliance with NH safety regulations, and minimize the aesthetic impact of the dam due to its location. He said GZA was hired in 2017 to perform a conceptual design and stability analysis for dam remedial alternatives.

Mr. Monson said they looked at 3 options to raise the abutment wall to increase capacity of the spillway without modifications. He said they looked at modifications of the gate structure to increase capacity of the dam and reduce the need to increase the wall height, and also looked at 3 wall alignments. He said options for raising the abutment wall on the left side were limited, and they looked at designing the construction of a parapet wall as well as a foundation to support that. He said on the right side they looked at 3 potential alignments for constructing a wall with the first being offset 6 feet from the Book Exchange, the second to push back the wall and add additional access, and the third following the current configuration of the existing stone masonry wall offset 6 feet. He said the wall could be rebuilt and

abutment height added, or build the abutment wall offset 6 feet from the existing wall as a stand-alone wall with a foundation and also address issues with the existing wall.

Mr. Monson said he would provide 3 options as well as a 4th to address modifications to the gate structure and provide conceptual alternatives as to how they would look. He said *Option 1* would involve the construction of a 6-foot masonry wall with no changes to the grade on the parcel of land to the right side. With *Alignment A* the wall would follow up along the building, with a concern about blocking windows on the first floor; *Alignment B* the wall would be pushed out 25 feet providing access on either side; and *Alignment C* would push out the wall out 35 feet towards the existing alignment and provide full access to the fish ladder. Mr. Guarente said all the alignments would improve the condition of the training wall and improve portions parallel and perpendicular to the flow.

Mr. Monson said the wall on the left had a current concrete masonry curb of 1-2 feet which would be extended up another 2 feet or so as a parapet. He showed a current view of the dam looking downstream showing the abutment which consisted of a stone masonry pier as well as a reconstructed concrete gate structure, with 3 gate openings containing wooded slide gates in deteriorated condition. He said *Option 2* would consist of a 4-foot wall with a 2-foot fill to raise the parcel of land on the right side. He said it still addressed raising the abutment heights and provided a safety barrier allowing more focus on *Alignment C*. He said *Option 3* involved 4 feet of fill on the site with the wall much lower, and would require the installation of a safety barrier fence, likely in black aluminum.

Mr. Monson next reviewed the conditions of the existing gate structure which consisted of 3 wooden slide gates, and said it was approaching its 100-year lifespan. He said it was in deteriorated condition with leakage, holes in the wooden gate, and would not seal properly. He said gate automation would increase the dam capacity and consisted of the installation of a 22-foot wide Crest Gate 5.5 feet tall, which would decrease the abutment wall height from 6 feet to 3.4 feet. He said the gates would remain closed in the up position with water continuously streaming over the dam and could be automated with controls to open and drop down during a storm event. He said the existing stone pier would be kept in place and a concrete end-cap installed. He showed a conceptual image of what the dam would look like following the installation of the Crest Gate.

Mr. Monson stated that there were two types of Crest Gate with the first being a *Pneumatic Gate* consisting of an air-filled bladder and steel plates on the up-shore edge. He said the life expectancy of the pneumatic gate was 30 years and it would require the construction of a control house. He said the second type of crest gate would be a Hydraulic Gate with hydraulic piston control for precision control of water levels, a steel plate on the up-stream edge, and would also require construction of a control house. He said the increased life expectancy of the hydraulic gate increased the cost approximately \$250,000. He said the top of the gates would be installed at the spillway height for continuous flow in both bays and fail-safe gate operation.

Mr. Monson said repairs to the dam were similar for all options and consisted of remediation to deteriorating portions of the training wall, gate structure, etc. He said there were existing cracks in the wall, leaking in the gates, and voids behind timber cribbing. He said they worked with the project teams to develop the following cost estimates: *Option 1* \$1.46 million, *Option 2* \$1.42 million, *Option 3* \$1.22

million with the wall height reduced due to increased fill. Costs for the Crest Gates were \$1.23 million for the pneumatic gate and \$1.54 million for the hydraulic gate. He said the cost for replacement of the existing gates was estimated at \$140K for the gates plus \$120K for structural repair.

Mr. Monson explained that with the *Pneumatic Gate* there were cost savings in not having to install walls on the left and right sides. He said demolition of the existing gates and the installation of a new structure would be included with steel gates costing approximately \$140,000. He said with another \$120,000 to repair portions of the concrete, the total came to approximately \$260,000. He said the hydraulic gates were more expensive and had greater longevity of 60-100 years versus 30 years for pneumatic gates, though repairs to the pneumatic gates would probably just be replacement of the bladder.

Mr. Monson showed a detailed breakdown of all the construction costs presented to the Dam Committee, and said there would be additional costs for the engineering final design, plans and specs, permitting, and construction support. He said the summary report outlining the conceptual designs would be followed by an action plan which identified all the next steps including the permits needed and a timeline. He said they would be looking for acceptance of the design by the Dam Bureau and said the stability analysis was now ongoing. He said this would be followed by a Public Hearing, presentation to the Town Council, selection of the preferred alternative, allocation of funding by the Council, a final design summary, and permits with inclusion in the fall budget process and approval in March 2020, with winter completion and permit closeout. He provided a list of all permits needed for regulatory compliance, and said the permitting costs were approximately \$60,000-\$80,000.

Discussion: Town Administrator Fournier said procedurally a Public Hearing would be held in late winter/early spring followed by the final recommendation from the Dam Committee, Council approval of the recommendation, and allocation of funds for final engineering, with a March vote and a Bond for construction work. Chairman Pike said that as a member of the Dam Committee it had been a long process and he was pleased that they had the opportunity, with the gates being redone, for landscaping to refresh the whole dam area make it an asset for the Town for many years to come.

Vice-Chair Weinstein asked if the Dam Committee had already determined a preferred option. Chairman Pike said they did that so they could focus the engineering resources, and said their preference was to go with the pneumatic gates. He said there would be better aesthetics, and with the new gates much more water would flow through, they would be more resilient, and there would be less wall to build up. Town Administrator Fournier said they would first take public input, have the Town Council pick an option to move forward, and after approval would withdraw money from the Capital Reserve Fund for the final engineering to get the final numbers to prepare the bond.

Councilor Kast asked if they should look at the maintenance of the different options and the skill sets needed for operation. Chairman Pike said it looked like the hydraulic gates were better but more expensive and could require more environmental regulations and said the pneumatic gates seemed more economical overall. Councilor Bowden asked if pneumatic gates were preferred over hydraulic or if that depended on the situation. Ms. Monson said it would depend on the situation, but the hydraulic would have more control of the water levels and require more knowledge to operate. Mr. Webber, of the

NHDES-Dam Bureau, said he only knew of 1 hydraulic crest gate in New Hampshire though there were quite a few pneumatic ones.

Mr. Monson said one more important piece of information was that the current gate structure would not be allowed based by current dam safety regulations and would not be allowed to account for the capacity of the entire dam. The Council approved allowing Mr. Leo Filion, a member of the Dam Committee, to speak. Mr. Filion said he had been associated with the dam for the last 50 years and was a plan engineer and facilities manager responsible for the gates. He said in 1971 Fish & Game acquired easement access to the right side parcel of land and constructed the fish ladder. He said he felt they had not taken that into consideration and might want a legal opinion on whether the Town would be infringing on their access. Mr. Bill Arcieri, Chairman of the Macallen Dam Committee, was also permitted to speak and pointed out the need to also construct a utility building to house the operation of the dam on the left side. He said the Town did not own any property on that side and an easement of some sort would be needed for either type of gate.

Chairman Pike thanked everyone that had been involved in the process and those who came to the meeting. Vice-Chair Weinstein thanked the Dam Committee for all their hard work over the last several years. Chairman Pike emphasized that the Lamprey River had the largest herring run into Great Bay and said having the dam area repaired and beautified would be something for the Town to celebrate.

COMMITTEE REPORTS

Councilor Finch stated that the *Conservation Commission* met on November 9th and said the big focus was on easement monitoring. He said site visits were ongoing every weekend and should be wrapped up at the end of this month.

Vice-Chair Weinstein said the *Budget Committee* met on November 27th to review the Town Budget and on December 4th to review the School Budget. She said the meetings went smoothly overall and were fairly quick. She said another meeting would be held on Monday, December 11, 2017 to review the Police Contract and December 18, 2017 was scheduled as the Public Hearing for the Town Budget. Town Administrator Fournier added that with regard to the default budgets for both the Town and the School, the Budget Committee had no authority over those documents and could only recommend or not recommend. He said once the Town Default Budget was approved tonight that was the document that would go forward.

Vice-Chair Weinstein said the *Energy & Environment Committee* met twice and said she was elected as Chairman at the first meeting with Bill Turner as Vice-Chair. She said they had significant discussion about where to go and the committee felt they needed to focus on just a few items and chose composting and solar. She said a lot of ideas were generated at the second meeting with great energy around issues and said 12 people attended. She said she was working with the Facilities Director on research and had reached out to Exeter and Durham.

Councilor Kast said the *Planning Board* had met and approved streamlining the application process for the Hill at Moody Point Homeowner's Association and approved an application for a site plan for Maplewood

& Vaughn LLC at 177 Exeter Road, and an application for a design review at 81 Exeter Road. She said there was a Public Hearing for the Elementary School and the Junior-Senior High School renovations and said concerns were expressed with regard to traffic, light pollution, and stormwater drainage onto abutment properties. She said the Planning Board also intended to form a new Sub-Committee to work on B3 zoning on Route 152.

OLD BUSINESS

ORDINANCES AND RESOLUTIONS IN THE 2ND READING

Resolution #2017/2018-18 Resolution Authorizing the Town Administrator to enter into an Agreement with Tyler/Munis for Integrated Municipal Financial Software and to enter into an Agreement with Interware to provide for an Updated Motor Vehicle Module not part of the Tyler/Munis Software Package

Vice-Chair Weinstein made a motion to approve *Resolution #2017/2018-18 Authorizing the Town Administrator to enter into an Agreement with Tyler/Munis for Integrated Municipal Financial Software and to enter into an Agreement with Interware to provide for an Updated Motor Vehicle Module*, which was seconded by Councilor Thompson.

Town Administrator Fournier stated that the Town's current financial software system was at the end of its life and was no longer serviced. He said they received 3 bids though one was not accepted as it only provided a Motor Vehicle module. He said Tyler/Munis was chosen by the committee that had been set up as the best product for Newmarket. He said the cost was not inexpensive at \$746,994, and they recommended a lease/purchase agreement over 7 years.

Discussion: Councilor Thompson said 3 proposals were received and asked why the 3rd proposal had not been accepted. Town Administrator Fournier said they had not met the requirements for the proposal which was to provide a financial software system for the Town and they had only provided the Motor Vehicle package. Councilor Thompson asked why it had not been included and said she would like to see the third bid. Councilor Bowden said he would also like to see all 3 responses. Town Administrator Fournier recommended that the resolution be tabled until all the information was included, and said he apologized on behalf of the staff.

Vice-Chair Weinstein made a motion to table *Resolution #2017/2018-18* which was seconded by Councilor Bowden. Town Administrator Fournier polled the Council and the motion to table *Resolution #2017/2018-18* was approved by a vote of 5-2.

ORDINANCES AND RESOLUTIONS IN THE 3RD READING – None

ITEMS LAID ON THE TABLE

Resolution #2015/2016-52 Authorizing the Designation of a Portion of Route 152 as an Economic Recovery Zone. (This Resolution is tabled from the June 15, 2016 Council Meeting pending Planning Board action.)

NEW BUSINESS /CORRESPONDENCE

TOWN COUNCIL TO CONSIDER NOMINATIONS, APPOINTMENTS AND ELECTIONS

Macallen Dam Committee

Candidate: *Henry Smith – Term Expires March 2018*

Vice-Chair Weinstein made a motion to approve the nomination of *Henry Smith* to the *Macallen Dam Committee - Term to Expire March 2018*, which was seconded by Councilor Burns.

Town Administrator Fournier polled the Council and the motion to approve the appointment of *Henry Smith* as a member of the *Macallen Dam Committee* was approved by a vote of 7-0.

Newmarket Community Development Corp (NCDC)

Candidate: *Michael Provost – Term Expires December 2020*

Vice-Chair Weinstein made a motion to approve the nomination of *Michael Provost* to the *NCDC - Term to Expire December 2020*, which was seconded by Councilor Bowden.

Town Administrator Fournier polled the Council and the motion to approve the appointment of *Michael Provost* to the *NCDC* was approved by a vote of 7-0.

ORDINANCES AND RESOLUTIONS IN THE 1ST READING

Resolution #2017-2018-19 Total Nitrogen Control Plan – An Engineering Contract for Water Demand and Wastewater Capacity Buildout Analysis for the Environmental Services Department

Town Administrator Fournier read Resolution #2017-2018-19 *Total Nitrogen Control Plan – An Engineering Contract for Water Demand and Wastewater Capacity Buildout Analysis for the Environmental Services Department* in full.

Resolution #2017/2018-20 Approval of Collective Bargaining Agreement between the Town of Newmarket and New England Police Benevolent Association Local 215. (TA Requests the Suspension of Rules)

Town Administrator Fournier read Resolution #2017/2018-20 *Approval of Collective Bargaining Agreement between the Town of Newmarket and New England Police Benevolent Association Local 215* in full and requested suspension of the rules for approval this evening.

Vice-Chair Weinstein made a motion to suspend the rules which was seconded by Councilor Thompson. Town Administrator Fournier polled the Council and the motion to suspend the rules was approved by a vote of 7-0.

Vice-Chair Weinstein made a motion to approve Resolution #2017/2018-20 Approval of Collective Bargaining Agreement between the Town of Newmarket and New England Police Benevolent Association Local 215 which was seconded by Councilor Thompson.

Town Administrator Fournier polled the Council and Resolution #2017/2018-20 Approval of Collective Bargaining Agreement between the Town of Newmarket and New England Police Benevolent Association Local 215 was approved by a vote of 7-0.

Resolution #2017/2018-21 Authorizing the Town Administrator to enter into a Contract with Patriot Mechanical to make Repairs to Town Hall Heating System and Fresh-Air Intakes

Chairman Pike read Resolution #2017/2018-21 Authorizing the Town Administrator to enter into a Contract with Patriot Mechanical to make Repairs to Town Hall Heating System and Fresh-Air Intakes in full.

Resolution #2017/2018-22 Authorizing the Town Administrator to sign a Contract with Wright-Pierce for Engineering Services to perform Construction Administration and Oversight for the Wastewater Treatment Plan Improvements Project

Chairman Pike read Resolution #2017/2018-22 Authorizing the Town Administrator to sign a Contract with Wright-Pierce for Engineering Services to perform Construction Administration and Oversight for the Wastewater Treatment Plan Improvements Project in full.

Resolution #2017/2018-23 Approval of the Fiscal Year 2019 Default Budget (TA Requests the Suspension of Rules)

Chairman Pike read Resolution #2017/2018-23 Approval of the Fiscal Year 2019 Default Budget in full. Town Administrator Fournier requested suspension of the rules for approval tonight.

Vice-Chair Weinstein made a motion to suspend the rules which was seconded by Councilor Thompson. Town Administrator Fournier polled the Council and the motion to suspend the rules was approved by a vote of 7-0.

Town Administrator Fournier said large items were the reduction in contributions to the Capital Reserves by \$255,285, the Buildings & Grounds Operational Repair Fund \$75,000, overtime expenses for Fire & Rescue \$18,292, and Recreation Revolving \$24,205, for a total of \$409,941 in cuts that would be made if the FY2019 Town Budget failed.

Vice-Chair Weinstein made a motion to approve Resolution #2017/2018-23 Approval of the Fiscal Year 2019 Default Budget which was seconded by Councilor Thompson.

Town Administrator Fournier polled the Council and Resolution #2017/2018-23 Approval of the Fiscal Year 2019 Default Budget was approved by a vote of 7-0.

CORRESPONDENCE

Town Administrator Fournier read a letter he had received, signed by business members of the community, with the request that the Town Council set up a Committee to address parking issues, and that it be made a priority by the Newmarket Business Association (NBA). They requested immediate short-term resolutions as well as longer-range plans to build a strategic parking plan for Newmarket, and asked permission to attend a Town Council meeting to further discuss this issue. The letter was signed by Lisa Keslar, Chairman of the Newmarket Business Association, and other business members of the community.

Vice-Chair Weinstein said she would personally welcome more of a relationship between the Town Council and the Newmarket Business Association. She suggested having a workshop-type meeting to discuss the parking issue. Town Administrator Fournier recommended that a delegation from the Town Council and Town staff meet with NBA to work with them to try to come up with something, and said he would volunteer as the staff person.

Chairman Pike said he would volunteer, but said there were not a huge number of solutions available. Town Administrator Fournier said they had increased parking enforcement in the Downtown area. Councilor Thompson said new members of the NBA might not be aware of what has been done so far to address the issue and what was in process. She said she was not a fan of another committee, but would not rule out a workshop. Councilor Finch said he also did not support the committee approach, but felt a delegation should meet with NBA first followed by the workshop meeting. He said he would be volunteer to be part of the delegation.

CLOSING COMMENTS

Vice-Chair Weinstein said she had gone to the New Hampshire Municipal Association Conference and attended a number of workshops, including one on Shared Services presented by the Town Administrator and the Superintendent. She asked if there was any update on Heron Point.

Councilor Finch said the Conservation Commission would be meeting with the Heron Point Homeowners Association tomorrow and he would report back to the Council. Councilor Thompson said she wanted to let the public know that the Town Council was involved in the situation and involved in a solution. Councilor Finch said there had been trouble setting up the meeting. He said he also attended the Municipal Association Conference and attended a lot of great sessions.

NEXT MEETING: The next Regular Town Council Meeting will be held on December 20, 2017

ADJOURNMENT

The meeting was adjourned at 9:09 pm.

Respectfully submitted,

Patricia Denmark, Recording Secretary