

TOWN OF DERRY

Town Council
Derry Municipal Center
14 Manning Street



Tuesday January 18, 2022
3rd Floor Meeting Room

MINUTES

6:30 PM Non-Public Session – RSA 91-A:3 II (b)
7:00 PM Call to order

Motion by Councilor Wetherbee leave non-public session, seconded by Councilor Foote
Roll Call Vote: 6-0-0

Motion by Councilor Wetherbee to seal RSA 91A:3 II (b,) because it was determined divulgence of this information would render a proposed action ineffective, seconded by Councilor Foote
Roll Call Vote: 6-0-0

Pledge of Allegiance, warning of fire exits, handicap access, & turn off all cell phones

Roll Call: Councilors Katsakiores, Foote, Wetherbee, Bourdon, and Chairman Pro-Tem Chirichiello – In Person, Councilors Morgan (7:15) and Spencer - Video
Present: TA Dave Caron, Town Clerk Daniel Healey

Public Forum - *30 Minutes*

Motion by Councilor Wetherbee to open public forum, seconded by Councilor Foote
Roll Call Vote: 6-0-0

David Barka: East Derry Rd – Is appealing the decision by the Zoning Board on the Abbott Court project. Owns property at 17 South Avenue which abuts the property. Believes not that many people in town know about the project and would have liked it advertised more.

Motion by Councilor Wetherbee to close public forum, seconded by Councilor Foote
Roll Call Vote: 7-0-0

Consent Agenda

22-01 Approve Minutes – January 4, 2021

Councilor Katsakiores moves to approve the consent agenda, seconded by Councilor Wetherbee
Roll Call Vote: 7-0-0

Chairman Pro-Tem Report – Brian Chirichiello

The following boards/committees gave presentations updating the council on their progress over the past year:

Zoning Board of Adjustment – Chair Lynn Perkins

Planning Board – Chair John O'Connor

Highway Safety Committee – Public Works Director Mike Fowler

Net Zero Task Force Committee – Chair Jeff Moulton

Town Administrator's Report – Dave Caron

Director of Emergency Medical Services Chuck Hemeon gave a report on the Town's response to COVID-19.

CFO Mark Fleischer presented the FY22 Q2 financials.

Economic Development Director Beverly Donovan discussed the status of the former Derry State Liquor Store and plans for future New Hampshire State Liquor stores.

The Council should be aware of a petition being filed in many New Hampshire communities seeking to stop the use of the ballot machines and return to hand counts. Derry did receive a petition however the process was adverse to the requirements of the Town Charter and was rejected. The Town has adjusted the COVID return to work rules for employees who contract COVID, which includes a minimum five day absence and return to work thereafter under certain working conditions. Town staff continues to work through proposed agreements for the solar array at the landfill and other logistical issues and hopes to have information before the Council on February 1st. Staff is working with NHMA to identify legislation which is beneficial or adverse to Derry's interest and will be enlisting the support of town delegation on those matters. The CFO is in the process of updating the Capital Improvement Plan, which is scheduled for presentation to the Planning Board on February 17. As the Town has been aggressive with the plan to catch up from several years ago when capital acquisitions were severely curtailed, the town will be recalibrating the program in FY23 to achieve appropriate balance between meeting organizational needs and fiscal sustainability.

Public Hearing

22-03 Resolution #2022-001 – Apply for and Accept Grant Funding Related to Household Hazardous Waste Collection – *Public Works Director Mike Fowler*

The Town has access to various grant funds from the New Hampshire Department of Environmental Services for environmental programs within the Town. In the past, grants have been received for Landfill Closure, Household Hazardous Waste Collection Day, Watershed Assessment, improvements to the Town's Recycling Center and Do-It-Yourself Used Oil Collection Center, and Municipal Sewer Improvement Projects. Section 9.15 of the Town Charter authorizes the Town Council to apply for and accept State Federal and other governmental grants. NHDES requires such grant applications and contract agreements be signed by an authorized official of the Town (i.e. the Town Administrator) and that the Town execute a Certificate of Authorization stating that the official (i.e. Town Administrator), by vote of the Town Council, is authorized to sign such grant agreements on behalf of the Town. In order to proceed with this process NHDES requires that 1) an HHW Collection Grant application signed by an authorized official of the Town be submitted, 2) upon approval of the application, a Contract Agreement be executed by the authorized official of the Town, 3) the authorized official be granted such authorizations by vote of the Council, 4) the Town authorize by vote of the Council to apply for and enter into an agreement with NHDES to hold a HHW collection event in FY23, and 5) the above authorizations be certified. The DPW is eligible and is in the process of

applying for up to \$10,000.00 in matching grant funds from NHDES for the Household Hazardous Waste Collection program in FY23.

Motion by Councilor Wetherbee to open public hearing, seconded by Councilor Foote
Roll Call Vote: 7-0-0

No one from the public spoke.

Motion by Councilor Foote to close public hearing, seconded by Councilor Katsakiores
Roll Call Vote: 7-0-0

Councilor Bourdon MOVES THAT THE TOWN COUNCIL adopt Resolution #2022-001 which reads as follows [Read the Resolution], seconded by Councilor Katsakiores
Roll Call Vote: 7-0-0
Resolution attached

21-04 Resolution #2022-002 – Accept Unanticipated Revenues from Health Trust and transfer the Town's Share to the CBA Implementation Trust Fund – *CFO Mark Fleischer*

Health Trust provides health, dental, short-term and long-term disability and life insurance coverages to the Town for its employees. In October 2021, based on their FY2021 audited financial statements, the Board of Directors of Health Trust declared due to the impact of COVID-19, there was an accumulated premium surplus based on health, dental and short-term disability insurance premiums paid by the Town. Due to this declaration, a total of \$404,286.22 was returned to the Town and posted to revenue account 14405000-035063. The Council may recall that funds will be deposited into the CBA Trust from a number of sources during the five-year term of the current collective bargaining agreements, particularly during the early years as the Town rebuilds its fiscal capacity impacted by the Pandemic. For example, the fiscal plan anticipates the use of approximately \$1.27M from ARPA (out of the \$3.6M available) to help fund the labor contracts. Of the \$404,286.22 surplus received from Health Trust, \$240,896.34 represents the Town share of the surplus. The balance will be refunded to current and former employees and retirees. It is recommended that the Town share of \$240,896.34 be transferred to the CBA Implementation Trust for future use via expense account 14433015-960001-CBA.

Motion by Councilor Wetherbee to open public hearing, seconded by Councilor Katsakiores
Roll Call Vote: 7-0-0

No one from the public spoke.

Motion by Councilor Wetherbee to close public hearing, seconded by Councilor Foote
Roll Call Vote: 7-0-0

Councilor Wetherbee MOVES THAT THE TOWN COUNCIL adopt Resolution #2022-002 which reads as follows [Read the Resolution], seconded by Councilor Katsakiores
Roll Call Vote: 7-0-0

Resolution attached

New Business

22-08 Resolution #2022-003 – Schedule a Non-Binding Referendum Vote pursuant to Section 3.4 of the Derry Town Charter – Recreational Marijuana – *Town Administrator Dave Caron*

The Council has had discussions recently regarding whether the State of New Hampshire should legalize recreational marijuana. The Council has also discussed placing the matter before the voters as a non-binding referendum. In order to comply with the provisions of the Town Charter, the following sequence must be adhered. The Council may submit its own measure. The Council will file the measure with the Town Clerk within 30 days after it adopts the measure. Timing is critical as it is assumed the Council will not want to trigger the need for a special election. Under 513.3 (C) the timing should be so that the March election is not less than 30 days nor more than 60 days after the submission of the final form of the question. March 8, 2022, is 57 days after Jan. 18, 2022. The question must be clear with an explanation of the measure in terms sufficient to communicate the substance of the question to the voters. 513.2(B). The question should be in the positive. In the case of a non-binding question, need to make sure it clearly states that the measure is proposed by the Council as a non-binding question. Should the Council proceed to a non-referendum question on the ballot, the following language is recommended: "Are you in favor of legalizing recreational cannabis (marijuana) in New Hampshire"? Should this question pass, the Council cannot proceed to regulating the sale of recreational marijuana or designating zoning districts where such sales may occur until the State Legislature votes to allow the sale of recreational marijuana.

Councilor Bourdon MOVES THAT THE TOWN COUNCIL adopt Resolution #2022-005 which reads as follows [Read the Resolution], seconded by Councilor Katsakiores
Roll Call Vote: 7-0-0
Resolution attached

22-09 Resolution #2022-004 – Transfer Funds to the Expendable Trust for the repair or removal of hazardous buildings – *Town Administrator Dave Caron*

The Town of Derry expended \$9,850 demolishing a hazardous structure in November 2017 after the then property owner refused to address the situation. Expenses included \$900 for asbestos sampling and \$8,950 in demolition expenses. The property was later acquired via tax deed by the Town and was auctioned December 17, 2021; the sale price was \$140,000. In the FY 2019 budget, Town Council created the Hazardous Building Expendable Trust to address the demolition of hazardous structures. This structure was demolished using Department of Public Works budgeted funds. Since the FY18 budget has long been closed, staff is recommending that the funds used to demolish this structure and recovered during the sale be redirected to the Expendable Trust to provide additional resources to address other hazardous structures in the community.

Councilor Wetherbee MOVES THAT THE TOWN COUNCIL adopt Resolution #2022-006 which reads as follows [Read the Resolution], seconded by Councilor Katsakiores
Roll Call Vote: 7-0-0

Resolution attached

- 22-10** Resolution #2022-003 – Authorize the Town to apply, receive and expend a grant from the New Hampshire Department of Environmental Services for Milfoil Treatment – *Public Works Director Mike Fowler*

Milfoil is an invasive species which has infiltrated Beaver Lake. FY20 was the first year in which the Town Council voted to appropriate funds to assist with the control and future eradication of the plants. Before that date, Beaver Lake Improvement Association (BLIA) exclusively assumed this responsibility, with grant assistance from the State Department of Environmental Services. The Council, recognizing both the financial burden upon a private organization preserving a public body of water, and the potential adverse impact upon property values should milfoil not be controlled, earmarked approximately \$6,000 in FY22. The BLIA Board of Directors met and agreed to set aside up to \$3,000 toward the Milfoil eradication in 2021. The BLIA estimated a local match of up to \$3,000 again for 2022 in the grant application. For the herbicide treatment the cost to the Town would be less than previous years at \$4,498 versus \$5960 to \$6,585 in 2021 through 2019, respectively. In FY20 a singular approach was used which focused on an herbicide treatment; As in FY20, bids were only requested for herbicide treatment. Currently, the Town budgets \$6,000 as an approximate 40% match for the herbicide treatment; this year, the maximum NHDES grant is \$7,498, which is allotted entirely to the Herbicide Treatment.

Councilor Bourdon MOVES THAT THE TOWN COUNCIL adopt Resolution #2022-007 which reads as follows [Read the Resolution], seconded by Councilor Katsakiores
Roll Call Vote: 7-0-0
Resolution attached

- 22-11** Resolution #2022-004 – Authorize the Town to apply, receive and expend a grant from the Beaver Lake Improvement Association for Milfoil Treatment – *Public Works Director Mike Fowler*

Milfoil is an invasive species which has infiltrated Beaver Lake. FY20 was the first year in which the Town Council voted to appropriate funds to assist with the control and future eradication of the plants. Before that date, Beaver Lake Improvement Association (BLIA) exclusively assumed this responsibility, with grant assistance from the State Department of Environmental Services. The Council, recognizing both the financial burden upon a private organization preserving a public body of water, and the potential adverse impact upon property values should milfoil not be controlled, earmarked approximately \$6,000 in FY22. The BLIA Board of Directors met and agreed to set aside up to \$3,000 toward the Milfoil eradication in 2021. The BLIA estimated a local match of up to \$3,000 again for 2022 in the grant application. For the herbicide treatment the cost to the Town would be less than previous years at \$4,498 versus \$5960 to \$6,585 in 2021 through 2019, respectively. In FY20 a singular approach was used which focused on an herbicide treatment; As in FY20, bids were only requested for herbicide treatment. Currently, the Town budgets \$6,000 as an approximate 40% match for the herbicide treatment; this year, the maximum NHDES grant is \$7,498, which is allotted entirely to the Herbicide Treatment.

Councilor Wetherbee MOVES THAT THE TOWN COUNCIL adopt Resolution #2022-008 which reads as follows [Read the Resolution], seconded by Councilor Katsakiores
Roll Call Vote: 7-0-0
Resolution attached

Councilor Comments / Liaison Reports –

Councilor Katsakiores – Asked if the Town knows how much blood was donated at the Blood Drive last week.

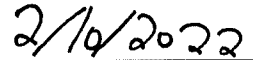
Councilor Morgan – Questioned if the State picked all 10 of the sports betting locations and would like to know how many are still available.

Adjourn: 8:50pm



Town Clerk

Recording & Transcription by: Daniel Healey, Town Clerk



Date