

TOWN OF DERRY

**Town Council
Derry Municipal Center**

**January 19, 2021
Tuesday - 7:00 PM**

7:00 PM Call to order

Although the Stay at Home Order has expired, Emergency Order #12 as issued by Governor Sununu remains in effect, which waives the requirement that a quorum be physically present in the meeting room; a meeting of a public body may be conducted with most or all members participating electronically. There is a contact number at the bottom of the Derry TV Cam screen with a phone number where members of the public can listen in and participate in the Public Forum and Public Hearing portions of the meeting. This access number was also posted along with the agenda and posted on the exterior doors of the Municipal Center. Please note that due to the physical absence of some Councilors, all votes taken shall be done by Roll Call.

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

Roll Call: Councilor Tripp, Morgan, Katsakiores, and Chairman Foote in-person and Councilor's Bourdon, Chirichiello, and Wetherbee by Video.

Present: TA David Caron, Town Clerk Daniel Healey

Public Forum - *30 Minutes*

Motion by Councilor Morgan to open public forum, seconded by Councilor Tripp

Roll Call Vote: 7-0-0

Jim Foley: Hampstead Rd – Believes that Anne Copp is not representing Derry's interests as she has not taken the oath of office for State Representative yet. Urges the Council to step in.

David Love: - Stated that Anne Copp has tried to take the oath but has not been able to get an appointment or is not seen during her scheduled appointment.

Tom Cardon: Cunningham Dr – Supports Corrine Dodge's citizen petition and resolution. Agrees with Jim Foley that Anne Copp is not representing Derry if she refuses to take the oath.

Corrine Dodge: Warner Hill Rd – Discussed her citizen's petition on the State redistricting. It was suggested that she speak with State Legislators which she has stated she has already done.

Erin Spencer: Stonegate Ln – Supports the citizen's petition and believes the Council should support it as well.

Motion by Councilor Tripp to close public forum, seconded by Councilor Morgan

Roll Call Vote: 7-0-0

Consent Agenda

21-05 Approve Minutes – January 5, 2021

21-06 Resolution #2021-004 – Apply for and accept grant funding to replace Self-Contained Breathing Apparatus for the Fire Department

21-07 Resolution #2021-006 – Approve Covenants and Commercial-Industrial Tax Relief Application for 49 South Main Street

21-08 Resolution #2021-007 – Approve Covenants and Commercial-Industrial Tax Relief Application for 4 Peabody Road Annex

Motion by Councilor Morgan to approve the consent agenda items 21-05 and 21-06, seconded by Councilor Tripp

Roll Call Vote: 7-0-0

Consent agenda approved items 21-05 and 21-06 approved

Consent agenda items 21-07 and 21-08 will be moved to the February 2, 2021 Town Council Meeting.

Chairman's Report – Charlie Foote

Town Moderator Cristina Guilford gave an update on the elections for the year. The Town Deliberative Session will be held on Saturday February 6, 2021 at West Running Brook Middle School and the Town and School Election will take place Tuesday March 9, 2021 at West Running Brook Middle School.

Town Administrator's Report – David Caron

Emergency Management Director and Fire Chief Mike Gagnon gave a report on the Town's response to COVID-19. CFO Mark Fleischer gave a report on the FY21 2nd Quarter Financials.

Staff has been working with the Greater Derry Arts Council to celebrate the 50th anniversary of the Apollo 14 Mission that will take place between January 22 and February 3rd. Discussion has begun on the creation of a mural depicting the evolution of aviation which will include Derry residents who have been involved with aviation history. The mural will be placed on the retaining wall adjacent to the rail trail by South Avenue. The design will be unveiled on February 3rd with plans to unveil the mural on May 1st. Staff has also been working on a project with the Lafayette Trail, Inc to document the General Lafayette's footsteps during his 1824-1925 farewell tour of the U.S. There are three distinctive stops in Derry during the tour and a monument will be provided to the Town and erected at 17 Nesmith street to commemorate the event. First responders have been receiving the initial vaccination against COVID-19; to date, approximately 80% of fire employees have received the vaccine and upwards of 60% of law enforcement. Significant staff time has been allocated to CBA preparation and negotiations. Senator Birdsell is filing a bill on behalf of the Town which would allow the Council to allocate a portion of the revenues derived from the regional water interconnection project for economic development activities and utility projects in the community.

Public Hearing

21-03 Resolution #2021-001 - To Approve Covenants and Commercial-Industrial Tax Relief Application for 14 Rte. 111 – *Economic Development Coordinator Bev Donovan introducing applicants Amy LaBelle and Cesar Arboleda*

The Town Council adopted Ordinance #2019-010 on October 3, 2019 which expanded the General Code, Chapter 138 to include a tax relief program for Commercial - Industrial property in Derry. To be eligible, the project must demonstrate that it will enhance the economic vitality of the Town and increase the commercial/industrial activity, including job creation. The program

authorizes the Council to extend tax relief equal to 50% of the town and local school tax burden on the value of the improvements generated by the project, up to a period of ten years. The Council was alerted to the impending sale of the Brookstone Event Center some months ago and the prospective buyer's interest in some form of early tax relief in order to make major investments into the facility. The property has been purchased by LaBelle Winery which has facilities in Amherst and Portsmouth. Renamed as LaBelle Winery Derry, the facility will continue to operate as an event facility and nine-hole golf course. In addition, LaBelle plans to expand operations to include an artisan culinary market, a 300-seat restaurant in the existing building, a new winery barn and three-acre vineyard. LaBelle estimate improvements at \$2.5M. Staff investigated options for tax incentives. The Town Council has adopted the provisions of 79-E (only available in the Downtown) and the Commercial-Industrial Tax Exemption (project eligible). The Town consulted with legal counsel and the New Hampshire Municipal Association to identify any other potential programs, communities do enter into multi-year tax agreements with some taxpayers, however, those per statute need to be affiliated with energy production. Staff recommends a 50% exemption on new value for a period of ten years, which is the maximum available under both state statute and town ordinance. Presuming the renovation/improvement budget ultimately values at \$2.0M, the exemption if approved by the Town Council would be calculated as follows: \$2.0M in value X combination of town and local school rate (\$21.60) = \$43,200 in year one after improvements adjusted annually by the then current tax rate.

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

No one from the public spoke.

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

Motion by Councilor Morgan to table 21-03 Resolution #2021-001 to the next Town Council Meeting (February 2, 2021), seconded by Councilor Katsakiores
Roll Call Vote: 7-0-0

New Business

21-09 Resolution #2021-008 – *Act upon an Individual Petition Pursuant to Section 3.1 (A) of the Town Charter – Town Administrator Dave Caron presenting*

Corinne Dodge of Warner Hill Road has submitted an individual petition to the Town Council for their consideration. The petition requests the Council to take a position on the upcoming redistricting at both the town and state levels, redistricting is mandatory at the State level at the conclusion of the decennial census which most recently was completed in 2010. Section 1.5 of the Town Charter maintains the four Council districts, and requires the Council, if necessary, to adjust and establish new boundaries based on decennial Census data. The Charter further allows the Council to establish its own rules and procedures governing this process.

**Councilor Wetherbee MOVES THAT THE TOWN COUNCIL adopt Resolution #2021-008 minus the preamble which reads as follows [*Read the Resolution (Minus preamble)*], seconded by Councilor Bourdon
Roll Call Vote: 2-5-0 (Councilor's Chirichiello, Morgan, Tripp, Katsakiores, and Chairman Foote)
Resolution fails**

A letter will be drafted by staff to be considered at the February 2, 2021 Town Council meeting.

21-04 Resolution #2021-002 - Amend Town Council Rules - *Town Administrator Dave Caron presenting*

The Town Council is required pursuant to Section 5.9 of the Town Charter to establish rules for its proceedings. These rules, originally adopted in 1993 and subsequently amended over time, include assignment of responsibilities, process and matters of conduct, and references to an Ethics Code. More recently, the Council adopted an ordinance which prohibits electioneering by appointed Board, Committee and Commission members while acting in their official capacity. The proposed Resolution would subject the Town Council to the same standards as it placed upon its appointees. The Ordinance does not impact other elected bodies as these additional requirements may conflict with statutorily established eligibility requirements. However, as a policy statement, the Council is encouraged to reference and comply with this Ordinance in its rules.

**Councilor Tripp MOVES THAT THE TOWN COUNCIL adopt Resolution #2021-002 which reads as follows [*Read the Resolution*], seconded by Councilor Katsakiores
Roll Call Vote: 5-2-0 (Councilor's Chirichiello and Wetherbee)
Resolution attached**

21-10 Resolution #2021-003 - Authorize a Lease Agreement with the Upper Room at 36 Tsienneto Road - *Town Administrator Dave Caron presenting*

The Upper Room is one of the Town's social service partners which provides critical education and resources for groups and individuals ranging from teenagers to parents and caregivers. The Upper Room has occupied a town owned building located at 36 Tsienneto Road for many years and seeks an extension of their lease in order to proceed with capital improvements at that location. The Upper Room is responsible for all operating and maintenance costs associated with the facility. The group seeks to implement many updates and improvements to the building and seeks a lease term longer than the ten years remaining on the current agreement in order to realize their planned investments into the facility. The proposed lease is similar with our current agreement, including rent at \$1 per year, improvements allowed with the Town's approval, Upper Room responsible for utilities, insurance requirements and no assignment of the lease without the Town's approval. The proposed lease includes a 20-year period and allows the Upper Room to approach the Town at any time during the lease term to request an opportunity to purchase the building. (The land currently is part of the larger parcel which includes Rider Field.)

Councilor Tripp MOVES THAT THE TOWN COUNCIL adopt Resolution #2021-003 which reads as follows [Read the Resolution], seconded by Councilor Katsakiores
Roll Call Vote: 7-0-0
Resolution attached

21-11 Resolution #2021-005 - Disburse personal property received from COVID-19 Mitigation, Response and Recovery – *Town Administrator Dave Caron presenting*

Recently the police and fire departments were contacted by Joe Heiser, who is a manager at Ocean State Job Lot in Derry. Ocean State Job Lot has graciously offered to donate a significant amount of PPE to each department. Specifically, Ocean State is looking to donate KN95 masks, 480 face shields, 1028 various sized bottles of hand sanitizer, 672 containers of hand wipes, and 192 containers of antibacterial wipes. This is the total amount of product, which will be divided equally between DPD and DFD. The total value of these items is \$12,000. Receiving these items would help to supplement our existing stock of PPE. With the future being uncertain with COVID-19, this donation should put the Town in a good position with their PPE leading into the winter and spring months. The Town Council by Resolution #2020-023 authorized the Town Administrator, pursuant to RSA 21-P:43, to apply for and accept funds, gifts, and services as they may become available for COVID-19 Mitigation, Response and Recovery, and designated the Council as Agent to Expend. The Town Administrator is requesting authorization to disburse this equipment for use by the Police and Fire Departments.

Councilor Morgan MOVES THAT THE TOWN COUNCIL adopt Resolution #2021-005 which reads as follows [Read the Resolution], seconded by Councilor Katsakiores
Roll Call Vote: 7-0-0
Resolution attached

21-12 Resolution #2021-009 - 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 presenting*

21-13 Resolution #2021-010 - Authorize the Town to apply, receive and expend a grant from the Beaver Lake Improvement Association for Milfoil Treatment - *Public Works Director Mike Fowler presenting*

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. For the herbicide treatment the cost to the Town would be less than previous year at \$5,960 versus at \$6,257 and \$6,585 in 2020 and 2019, respectively. In FY20 a singular approach was used which focused on an herbicide treatment, As in FY21, NHDES has requested bids for divers in FY22 as well.

Although the Town and BLIA will have discussion on the selected methods and ultimate cost for the program, NHDES stipulates that the entire grant needs to be accepted if the Town decides on one or both approaches.

Councilor Morgan MOVES THAT THE TOWN COUNCIL adopt Resolution #2021-009 which reads as follows [Read the Resolution], seconded by Councilor Katsakiores
Roll Call Vote: 7-0-0
Resolution attached

Councilor Tripp MOVES THAT THE TOWN COUNCIL adopt Resolution #2021-010 which reads as follows [Read the Resolution], seconded by Councilor Morgan
Roll Call Vote: 7-0-0
Resolution attached

Councilor Comments / Liaison Reports –

Councilor Katsakiores – Would like the Town Council to issue a proclamation to Joanie from the Transfer Station on her retirement after many years working for the Town of Derry.

Councilor Morgan – With another mural going up in Town, they should be displayed on the Town of Derry website so people can see them. The request earlier from Jim Foley is not in the council's purview. If it remains an issue at the next meeting, it may be discussed. Congratulated Councilor Chirichiello on being named Vice Chair of the Rockingham County Board of Commissioners.

Councilor Tripp – Would like to see the State Representative and State Senate information linked on the Town of Derry website.

Councilor Chirichiello - Governor Chris Sununu has authorized the allocation and expenditure of \$35 million from the CARES Act Coronavirus Relief Fund to support families or individuals in need of housing assistance as a result of COVID-19. Of the allocated \$35 million, \$20 million will be initially expended, with \$15 million being held in reserve, for rent stabilization and housing support.

Councilor Bourdon – Wanted to clarify that on February 2, 2021, the Town Council would take action on Anne Copp not being sworn in as a State Representative if she has not taken the oath by that time.

Councilor Katsakiores moves to adjourn, seconded by Councilor Morgan
Roll Call Vote: 7-0-0
Adjournment: 9:45 p.m.


Town Clerk

2/3/2021
Date

Recording & Transcription by: Daniel Healey, Town Clerk



RESOLUTION

Number 2021-002

To Amend Town Council Rules

WHEREAS, Section 5.9(A) of the Town Charter requires the Town Council to establish rules for its proceedings; and

WHEREAS, the Town Council on December 15, 2020 adopted Ordinance 2020-009 which enacted General Code Chapter 28, Electioneering by Board, Committee and Commission Members Prohibited; and

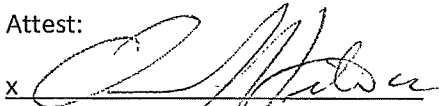
WHEREAS, the Town Council desires to hold itself to the same standards;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Town Council hereby amends its Rules by adopting new Section 17, Electioneering Prohibited, as attached.

This Resolution shall take effect immediately upon its passage.

Adopted: January 19, 2021

Attest:

x 

Charles Foote, Council Chair

Date: 1/19/21

x 

Daniel Healey, Town Clerk

Date: 1/19/21

Archival Ref: Agenda Item #21-04



RESOLUTION

Number 2021-003

To Authorize a Lease Agreement with the Upper Room
at 36 Tsienneto Road

WHEREAS, Section 7.1 of the Town Charter designates the Town Council as the Legislative Body of the Town; and

WHEREAS, RSA 41:11-a authorizes leases for a term greater than five years to be ratified by the Legislative Body; and

WHEREAS, Section 8.6 (D) of the Town Charter vests jurisdiction over the rental and use of all Town facilities under the Administrator's control to the Town Administrator; and

WHEREAS, the Town is party to an Agreement with The Upper Room for the lease of the town owned building located at 36 Tsienneto Road; and

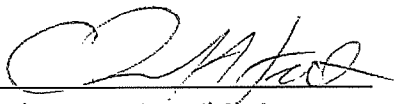
WHEREAS, The Upper Room plans to invest in significant capital improvements and seeks an extension of the lease with the Town;

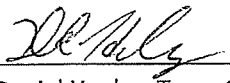
NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Town Administrator is hereby authorized to enter into a lease agreement with The Upper Room, A Family Resource Center, for property located at 36 Tsienneto Road under terms and conditions as set forth in the attached Agreement.

This Resolution shall take effect immediately upon its passage.

Adopted: January 19, 2021

Attest:

x 
Charles Foote, Council Chair
Date: 1/19/21

x 
Daniel Healey, Town Clerk
Date: 1-19-21

Archival Ref: TC agenda item #21-10



RESOLUTION

Number 2021-005

To Disburse Gifts of Personal Property Received from Ocean State Job
Lots for COVID-19 Mitigation, Response and Recovery

WHEREAS, Section 9.15 of the Town Charter authorizes the Town Council to apply for, accept and expend funds received from the State, Federal or other Governments, or from private sources; and

WHEREAS, the Town Council by Resolution #2020-12 established an Expendable Trust for COVID-19 Mitigation, Response and Recovery as a mechanism to manage funds and other resources received to battle the Pandemic; and

WHEREAS, The Town Council by Resolution #2020-023 authorized the Town Administrator, pursuant to RSA 21-P:43, to apply for and accept funds, gifts and services as they may become available for COVID-19 Mitigation, Response and Recovery, and designated the Council as Agent to Expend; and

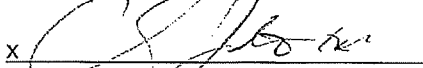
WHEREAS, the Town has received a gift of personal protection equipment from Ocean State Job Lots; and

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Town Administrator is hereby authorized to distribute personal protective equipment valued at \$12,000 from Ocean State Job Lot for use by the Derry Police and Derry Fire Departments.

This Resolution shall take effect immediately upon its passage.

Adopted: January 19, 2021

Attest:

x 

Charles Foote, Council Chair

Date: 1/19/21

x 

Daniel Healey, Town Clerk

Date: 1-19-21

Archival Ref: TC agenda item #21-11



RESOLUTION

Number 2021-009

To Authorize the Town to apply, receive and expend a grant from the New Hampshire Department of Environmental Services for Milfoil Treatment

WHEREAS, Section 5.1 of the Town Charter designates the Town Council as the governing and legislative body of the Town, and

WHEREAS, Section 9.15 of the Town Charter authorizes the Town Council to accept grant funding; and

WHEREAS, milfoil is an invasive aquatic weed which has been introduced in Beaver Lake; and

WHEREAS, left untreated, milfoil will continue to grow, damaging the Lake and potentially negatively impacting property values; and

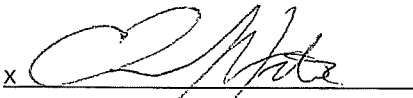
WHEREAS, it is in the best interest of the Beaver Lake Improvement Association and the Town to eradicate milfoil from Beaver Lake;


NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Town Administrator is hereby authorized to apply for, accept and expend up to \$9,999 in grant funds from the Department of Environmental Services and to execute all necessary documents to provide for milfoil treatment on Beaver Lake.

This Resolution shall take effect immediately upon its passage.

Adopted: January 19, 2021

Attest:

x 
Charles Foote, Council Chair
Date: 1/19/21

x 
Daniel Healey, Town Clerk
Date: 1-19-21

Archival Ref: Agenda Item #21-12



RESOLUTION

Number 2021-010

To Authorize the Town to apply, receive and expend a grant from the
Beaver Lake Improvement Association for Milfoil Treatment

WHEREAS, Section 5.1 of the Town Charter designates the Town Council as the governing and legislative body of the Town, and

WHEREAS, Section 9.15 of the Town Charter authorizes the Town Council to accept grant funding; and

WHEREAS, milfoil is an invasive aquatic weed which has been introduced in Beaver Lake; and

WHEREAS, left untreated, milfoil will continue to grow, damaging the Lake and potentially negatively impacting property values; and

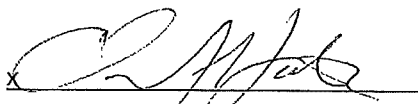
WHEREAS, it is in the best interest of the Beaver Lake Improvement Association and the Town to eradicate milfoil from Beaver Lake;


NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Town Administrator is hereby authorized to accept and expend up to \$3,000 from the Beaver Lake Improvement to provide for milfoil treatment on Beaver Lake.

This Resolution shall take effect immediately upon its passage.

Adopted: January 19, 2021

Attest:


Charles Foote, Council Chair
Date: 1/19/21

x 
Daniel Healey, Town Clerk
Date: 1-19-21

Archival Ref: Agenda Item #21-13