

## TOWN OF DERRY

Town Council  
Derry Municipal Center

October 17 2017  
Tuesday - 7:30 PM

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### 7:30 PM Call to order

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

**Roll Call:** Councilors Chirichiello, Morgan, Tripp, Katsakiores, Foote, Wetherbee and Chairman Bourdon

Present: TA David Caron, Town Clerk Daniel Healey

### Consent Agenda

17-138 Approve Workshop Minutes – September 26, 2017

17-139 Approve Non-Public Workshop Minutes – September 26, 2017

17-140 Approve Minutes – October 3, 2017

### Consent agenda approved

### Chairman's Report – Joshua Bourdon

Dan McKenna, the Chair Derry School Board was present to discuss a few issues. He stated that there will be a Fiscal Advisory Committee meeting Monday at Derry Village School starting at 6:30pm. On November 6<sup>th</sup>, the school budget will be proposed. On January 9<sup>th</sup>, there will be a public meeting on the budget. The Council would like Mr. McKenna to look into televising the meetings. Closing a school was discussed.

Traffic Safety signs have been created that give people information on where to donate to local charities and non-profit organizations instead of panhandlers. This would make the intersections safer.

There will be food trucks present for Downtown Trick or Treating. The placement of the trucks are under review. The council discussed either placing the trucks on West Broadway near the Grind or on Manning Street. The council decided on Manning Street.

The tree at the Municipal Center will be lit. The trees downtown have old wiring that may not be working correctly. DPW can look into lighting the trees for future years.

### Town Administrator's Report – David Caron

There was an extension on the land lease on Kendall Pond Road which will generate \$17,000 back to the town. There will be a presentation from the Rockingham County Department of Corrections at the November 7<sup>th</sup> meeting. The housing market for Derry is strong.

At the recent Cable Workshop the council requested getting a license to have a radio frequency. The transmittal needs to be completed by December. Funding will be approximately \$28,000 from the Cable fund. This radio channel will have community announcements and local sports.

**Public Forum - \*30 Minutes\***

**Open Public Forum – all agreed**

Carl Accardo: Olesen Rd. – Believes the cell phone service is bad in parts of town and has tried to speak with Verizon but has had little luck. Requests the town to look into the various drop zones. Does not like the new crosswalk signs on Broadway.

Marc Flattes: Linlew Dr. – Having a representative from the school board here tonight was a great idea. Asked about the tax number figure and was told it would be available sometime in November.

Steve Trefethen: Windham, NH – Discussed a tax rate analysis.

Donald Burgess: High St. – Would like the school board meeting to at least be televised if they are not live. Quarterly meetings are a good idea and so is closing a school. Questioned if the tree lighting could be the same day as the parade.

Eddie Leon: Londonderry, NH – Does not like the idea of out of town food trucks taking away from local businesses.

**Motion by Councilor Wetherbee to close public forum, seconded by Councilor Morgan – all agreed**

**New Business**

**17-141 Building & Property Maintenance Member Appointment**

**Chairman Bourdon moves to appoint Michael Welch as a member of the Building and Property Maintenance Committee for a term to expire March 31, 2018, seconded by Councilor Katsakiores**

**Roll Call Vote: 7-0-0**

**17-142** Resolution #2017-070 – Cellular Tower Lease Extension at East Broadway  
Town Administrator David Caron presented the Cellular Tower Lease Extension. The Town has been in negotiations with the owners of the cell tower located at 131 East Broadway who are seeking to extend the lease term. After negotiations, staff recommends a 25 year lease extension in exchange for a \$50,000 signing bonus. The cell tower is located behind Central Fire Station and its strategic location commands a fairly significant rent stream at \$3,803/month, increased by a very favorable 4% per year. Presently, there remains 15 years on the current lease, and American Tower seeks an additional 25 year extension (5, 5 year lease periods) under the current terms and conditions. American Tower paid an additional \$21,991 in property taxes for improvements at this location in 2016.

**Councilor Morgan MOVES THAT THE TOWN COUNCIL adopt Resolution #2017-070, which reads as follows [Read the Resolution], seconded by Councilor Tripp**

**Roll Call Vote: 7-0-0**

**Resolution attached**

**17-143 Resolution #2017-071 – Water Betterment Assessment Policy**

Deputy Director of Public Works Tom Carrier presented the Water Betterment Assessment Policy. Since 1987, the Town of Derry has applied betterment assessments against properties throughout Derry to offset capital costs to extend public water and sewer. The calculation and billing of these assessments has varied throughout the years. To provide some direction and consistency, the Town Council, in 2007, adopted a Sewer Betterment Assessment Policy. The policy, while not binding, was to provide a basis for how sewer betterments would be calculated and billed. The intent was to promote sewer extensions to areas identified in the Master Plan as in need of sewer by making it affordable to the abutters who, in many cases, would be required by ordinance to connect to the new sewers. Whereas the Sewer Betterment policy provides financing options for sewer assessments, the Council has not adopted such a policy for financing water betterment assessments. To date, the Council has approved 3 water betterment assessments: Scobie Pond in 1987, Tsienneto Rd. in 1999, and most recently in 2015, Route 28. The council has permitted financing of the Scobie assessment over 40 years at 6.067% and Tsienneto Rd for 15 years at 7.0%. The Council has not set financing terms for the Route 28 Water Improvements project. A request was made to the Town Council to finance the Route 28 Water Assessment (Zone 3) which was set at \$2,900 per residential living unit or commercially zoned acre. The Council directed staff to prepare a policy, consistent with the Sewer Betterment Policy to provide consistency and guidance in approving betterment assessments and financing options. It is recommended that the policy be applied to the 2015 Route 28 Zone 3 Betterment Assessments approved by the Town Council for properties not yet permitted for connection.

**Councilor Tripp MOVES THAT THE TOWN COUNCIL adopt Resolution #2017-071, which reads as follows [*Read the Resolution*], seconded by Councilor Katsakiores**

**Roll Call Vote: 7-0-0**

**Resolution attached**

**17-144 Resolution #2017-072 – Restoration of Involuntarily Merged Lots**

Town Administrator David Caron presented the Restoration of Involuntarily Merged Lots. A search of Town planning and assessing records do not show that these lots were voluntarily merged by any of the previous owners. Based on the assessing records it appears that these lots were "merged" together for assessing and tax purposes. A title search shows 4 distinct referenced lots dating back to 1927 and a recorded plan at the Registry of Deeds dated 1902 showing the four lots. Under present conditions, there is no adverse impact to the Town in unmerging these lots. However, the taxpayer has been advised that by unmerging these lots, each lot becomes subject to the primary acre assessment which will increase the assessed value of the properties and thereby his taxes.

**Councilor Morgan MOVES THAT THE TOWN COUNCIL adopt Resolution #2017-072, which reads as follows [*Read the Resolution*], seconded by Councilor Katsakiores**

**Roll Call Vote: 7-0-0**

**Resolution attached**

**17-145 Resolution #2017-073 – Abate Taxes and Other Costs on 211 By-Pass 28, Unit 28.5**

Town Administrator David Caron presented the Abatement of Taxes and Other Costs on 211 By-Pass 28, Unit 28.5. On September 28, 2017, 211 By-Pass 28 28.5 parcel # 14-007-027, was deeded to Centennial Estates Co-Operative. The property is claimed to be in less than supreme condition. The property is vacant; the Co-Operative has taken ownership and will be removing the dilapidated structure at no cost to the town. Lastly, a new unit will replace the old with a tax paying/rent paying occupant prior to April 1, 2018.

**Councilor Wetherbee MOVES THAT THE TOWN COUNCIL adopt Resolution #2017-073, which reads as follows [Read the Resolution], seconded by Councilor Katsakiores  
Roll Call Vote: 5-2-0 (Councilors Morgan and Bourdon)  
Resolution attached**

**Councilor Comments / Liaison Reports -**

Councilor Tripp – Concord has a banner hanging downtown for multiple uses and he suggests that Derry use a similar banner for Town events. There are Right-to-Know meetings held in Concord and one town was fined \$250,000 for not complying with a request. The New Hampshire Municipal Association provides training.

Councilor Wetherbee – Would like to review the food truck regulations, a permit is needed and the health officer does get involved. Asked the Council when they would like to tour Pinkerton Academy with Griffin Morse and Tim Butterfield. He would like the town to look into a farmer's market banner for next year.

Councilor Morgan – Agrees with Councilor Tripp on more training on the Right-to-Know laws. Discussed a few topics related to Hood Park including more incentives for lifeguards, an ordinance to restrict out of state vehicles, and paying per hour to use the lights. He suggests residents call the police if they see a problem.

Councilor Chirichiello – There will be a meeting tomorrow with the Planning Board to discuss 4A, downtown, and rezoning.

Councilor Foote – Good for attendees to have a food truck present for the downtown trick-or-treating but would like to try to stay loyal to the local businesses. Cell towers around town are an important issue. Would like the tree lighting ideas to start earlier and to have something better downtown.

Councilor Katsakiores – Would like the town to consider lighting trees at the public library.

**Chairman Bourdon moves to extend the time, seconded by Councilor Wetherbee – all agreed**

Chairman Bourdon – Dredging Hood Pond is not cost effective.

The Derry Energy and Environmental Advisory Committee, Net Zero Task Force, and Go Green Derry will host a Button Up Workshop October 25, 2017, from 6:30 to 9:00 pm at the Municipal Center.

There will be a Narcan training workshop at 7 p.m. on Wednesday, Oct. 25, at West Running Brook Middle School.

On Saturday October 28 there will be food trucks in downtown Derry during the trick-or-treating from 11am to 3pm.

**Adjournment: 10:05 p.m.**

  
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Town Clerk

11-8-17  
Date

**Recording & Transcription by: Daniel Healey, Town Clerk**



## RESOLUTION

Number 2017-070

To Approve a Cellular Tower Lease Extension at East Broadway Street

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

WHEREAS, the Town has leased a piece of land on East Broadway Street for placement of a cellular tower; and


WHEREAS, the Town has been approached by the tower owner to extend the lease which, after negotiations between the cell tower owner and the Town, will result in additional financial benefits accruing to the Town;

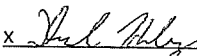
NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Town Administrator is hereby authorized to execute a lease agreement with American Tower Corporation to extend the lease on town-owned land on East Broadway Street for an additional 25 years subject to agreement on lease extension language.

This Resolution shall take effect immediately upon its passage.

Adopted: October 17, 2017.

Attest:

x   
Joshua Bourdon, Council Chair  
Date: 10/17/17

x   
Daniel Healey, Town Clerk  
Date: 10-17-17

Archival Ref: Agenda Item #17-142



## RESOLUTION

Number 2017-071

To Adopt a Water Betterment Assessment Policy

WHEREAS, RSA 38 authorizes the Town Council to operate a municipal water system; and

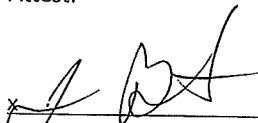
WHEREAS, the Town of Derry has operated and managed a robust municipal water system for many years; and

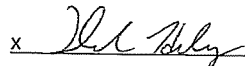
WHEREAS, the Town and its residents would benefit from the adoption of a Water Betterment Assessment Policy as a guide to determine charges to access the municipal water system;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Water Betterment Assessment Policy as attached is hereby adopted, including an amendment to the Water Improvement resolution (Agenda Item 11-83) adopted on November 15, 2011 such that all properties in the Water System Master Plan Zone 3 improvements area (Route 28 south of Island Pond Road) shall be assessed in accordance with the Town of Derry Municipal Water Betterment Assessment Policy at the time of the notice of availability their calculated share of the gross costs for Zone 3 improvements. Said assessments shall be calculated based on the parcel area for commercially zoned properties or in the case of residentially zoned properties, the number of living units.

Adopted: October 17, 2017

Attest:

x   
Joshua Bourdon, Council Chair  
Date: 10/17/17

x   
Daniel Healey, Town Clerk  
Date: 10-17-17

Archival Ref: TC agenda item #17-143

## ***Municipal Water Betterment Assessment Policy***

### **1. Purpose:**

The Town of Derry recognizes the economic, environmental and public health importance of public water to the community and has adopted a Municipal Water System Master Plan. In an effort to promote the expansion of municipal water in the Town of Derry in accordance with its Municipal Water System Master Plan, dated April 1989 (the "Master Plan"), the Town of Derry shall specially assess properties so benefited by such water extensions and may make available to its residents financing for such assessments as described in this policy. Water extensions may be constructed incrementally. Each project shall require a public hearing and an affirmative vote of the sitting Town Council. The adoption of this policy and its terms will remain in force until amended or rescinded by vote of the Town Council. This policy is intended to serve as guidance to the Town administration and future Town Councils and to establish a process, where the Council determines it to be in the public interest for affected property owners to finance the special assessments for such extensions.

### **2. Authority:**

In accordance with Section 38:27 of the NH RSA's and Section 9.11 of the Derry Town Charter, the following Special Assessment Policy is adopted by the Town Council with respect to municipal water extensions.

### **3. Cost Allocation:**

The Derry Town Council may, at its sole discretion and without prejudice, provide up to 20% or more of the gross costs related to the extension of its water system including engineering, easement acquisition and construction to the areas described in its vote to authorize an extension project under the Master Plan, including subsequent revisions made thereto, or to other areas where the extension of municipal water is in the interest of public health and safety. Any such cost share is extended only to the main distribution lines and service laterals within the public right of way. All costs associated with the connection of a building to the service lateral at the property line is the sole responsibility of the property owner. The remaining costs shall be assessed to all abutting properties including vacant buildable lots. The assessment formula shall be:

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Archival Ref: TC agenda item #17-143

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Residential Assessment =

Gross Project Cost / (total number of abutting residential units + total number of abutting vacant buildable lots)

Non-Residential Assessment =

Gross Project Cost / (total number of abutting acres of nonresidential lots + total number of abutting acres of vacant, buildable lots)

#### 4. Payment Options and Financing:

If the town Council votes to allow lot owners to finance the cost of the Special Assessment, payment arrangements must be made at the time of connection to the new water mains. Payment options include:

- I. Payment in Full
- II. 1 year , 4 quarterly payments, at 0% interest
- III. For Projects funded through Capital Reserves or other existing funds invested by the Town:
  - a. 5 years, 20 quarterly payments, at a rate of interest to be determined by the Council at the time the assessment is made or.
  - b. 10 years, 40 quarterly payments, at a rate of interest to be determined by the Council at the time the assessment is made.
  - c. The minimum interest rate so established by the Council shall be the overnight interest rate earned on the Town's investment funds, recognizing that such rate is highly variable. The Council may determine that such interest rate shall be adjusted annually in the same manner as the original interest rate was set.
- IV. For Projects funded through bonds or otherwise borrowed by the Town:
  - a. 5 years, 20 quarterly payments, at the rate of the most recently issued bond or other interest rate charged to the Town for funds borrowed.
  - b. 10 years, 40 quarterly payments, at the rate of the most recently issued bond or other interest rate charged to the Town for funds borrowed

All applications shall include a \$500.00 down-payment which will be deducted from the assessment amount.

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Archival Ref: TC agenda item #17-143

**5. Notice of Assessments:**

Any property with an assessment not paid in full shall have a "Notice of Assessment" recorded on the property at the Rockingham County Registry of Deeds.

**6. Late Payments and Interest Charges:**

In addition to the loan interest, an additional interest charge of 1.5% per month will be charged on all billed installment balances more than 30 days past due. All overdue loan installments, plus any accrued and unpaid interest, are due on demand. Any unpaid installment balances as of March 1 of each year shall be remanded to the Tax Collector and shall become a lien against the property assessed and collected in accordance with RSA 80.1 et. seq.

**7. Connection Deferment:**

For vacant lots and properties which choose to defer connection to the municipal water, the Special Assessment may be increased by a factor equal to the change in the Consumer Price Index for All Urban Consumers (CPI-U) as published by the United States Department of Labor, Bureau of Labor Statistics, from the date in which the original Special Assessment was approved by the Town Council to the date the application for connection is approved.

**8. Nontransferable:**

The obligation to pay Special Assessments is non-delegable and any such Special Assessments must be paid in full prior to the sale or transfer of title to the assessed property by the original obligee or any foreclosing mortgagee.

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Archival Ref: TC agenda item #17-143

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## RESOLUTION

Number 2017-072

To Authorize the Restoration of Involuntarily Merged Lots

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

WHEREAS, the Town is required to comply with state statutes; and

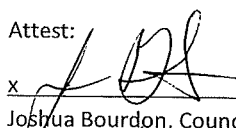
WHEREAS, RSA 673:39 aa requires the Town to allow lots previously merged by the community without the consent of the owner an opportunity, upon request, to restore the properties back to their original individual lots; and

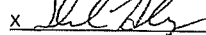
WHEREAS, the lots under consideration meet all applicable statutory requirements;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that, pursuant to RSA 674:39 aa the restoration of Map/Lot 29-086 back to its pre-involuntarily merged status consisting of lots #46, #47, #48, and #58 as shown on a plan recorded at the Rockingham County Registry of Deeds, surveyed by John P. Young, C.E. in April, 1902, is hereby granted.

Adopted: October 17, 2017.

Attest:

x   
Joshua Bourdon, Council Chair  
Date: 10/17/17

x   
Daniel Healey, Town Clerk  
Date: 10-17-17

Archival Ref: Agenda #17-144



## RESOLUTION

Number 2017-073

To Abate Taxes and Other Costs on 211 By-Pass 28, Unit 28.5

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

WHEREAS, the abatement of property taxes requires Council authorization; and

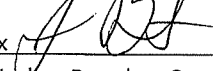
WHEREAS, the property owner of Centennial Estates Cooperative recently took position of 211 By-Pass 28, Unit 28.5, which, due to its state of disrepair, carries little value; and

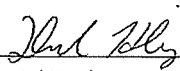
WHEREAS, it is economically beneficial to the Town to have the unit replaced with a more modern home to further expand the Town's tax base;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that, pursuant to RSA 76:16 I (a), the Council hereby abates all taxes, fees and interest outstanding on 211 By-Pass 28, Unit 28.5 (M/L 14-007-027) contingent upon demolition of the existing unit by December 1, 2017 and settlement of a replacement unit which meets all applicable building codes by April 1, 2018.

Adopted: October 17, 2017

Attest:

x   
Joshua Bourdon, Council Chair  
Date: 10/17/17

x   
Daniel Healey, Town Clerk  
Date: 10-17-17

Archival Ref: Agenda Item #17-145