

TOWN OF DERRY

Town Council
Derry Municipal Center
14 Manning Street



Tuesday November 16, 2021
3rd Floor Meeting Room

MINUTES

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

Motion by Councilor Katsakiores leave non-public session, seconded by Councilor Foote – all aged

Motion by Councilor Wetherbee to seal RSA 91A:3 II (d,) because it was determined divulgence of this information would render a proposed action ineffective, seconded by Councilor Foote

Roll Call Vote: 7-0-0

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

Roll Call: Councilors Chirichiello, Katsakiores, Foote, Spencer, Wetherbee, Bourdon, Spencer (Video) and Chairman Morgan

Present: TA Dave Caron, Town Clerk Daniel Healey

Public Forum - *30 Minutes*

Motion by Councilor Wetherbee to open public forum, seconded by Councilor Katsakiores – all agreed

Nancy Francis: Gulf Rd (Pantry Plunge) – The 5th annual Pantry Plunge will take place Saturday December 11th at Gallien's Town Beach. Visit pantryplunge.org to make a donation or find out more information. Donations will go to the Community Food Pantry.

Katherine Prudhomme-O'Brien: Beacon Hill Rd – "Friends of Hood Park" needed to reschedule their last meeting and the first meeting will now take place on November 18th at the Marion Gerrish Community Center.

Mark Connors: Cabot Dr (Rail Trail President) – Whether it is the skate park or Exit 4A, residents need to come and speak. Believes the Skate Park renovation project is a great idea. Has serious concerns on the plans for Exit 4A, particularly with the removal of the rail trail tunnel.

Rebecca Sanborn: Fox Hollow Rd – This week is transgender awareness week and November 20th is transgender awareness day. Believes that the skate park is a wonderful project and Derry is a destination town.

Emily Walworth: Hampstead Rd – Just moved here, skate park is a great project.

Chris Peterson: Floyd Rd – Local physician and parent and he is in support of the skate park. Fully supports using the trust funds and building the park in concrete.

Stephen Pearson: Hampstead Rd – Is a member of the Board of Directors for the Derry Rail Trail Alliance. Manchester has two tunnels for their part of the rail trail, it is not acceptable that Derry cannot get one. There are currently 9 State Representatives from Derry in Concord and none of them have been informed on 4A updates.

Karen Lincoln: Craven Ter – In strong support of Exit 4A and the skate park. The State needs to link the trail safely and seamlessly to Londonderry. Skate parks are not dangerous places and are very well served by entire families. Would like to see the trust money used.

Dave McPherson: Colony Brook Ln – Member of the Alexander-Eastman foundation. Dr. Harrison Alexander in his will requested that the town use money from the trust to provide fields and maintain parks for the children.

Marc Flattes: Linlew Dr – Is looking to form an Exit 4A citizen's committee as opening the exit before Tsienneto is finished is a bad idea.

Nick Sands: Susan Dr – The skate park would be not just for skate boarders but for scooters, bikes, and snowboards. Kids currently are skating at the Hannaford parking lot because of the poor condition of the current skate park.

Justin Alexa: Daniel Rd – It is inconvenient that the nearest skate park is at least 20-30 minutes away.

Judy Strakalaitis: Pingree Hill Rd – There is too much negative going around with attacks on civic organizations that are trying to help. There are many positive things in town like the skate park proposal, the upcoming pantry plunge, Jason Flood Memorial, Susan Ochoa's annual coat drive, the farmer's market, and the rail trail. Thanked everyone who supported her event "Derry Against Hate".

Raphael Murphy: Pinehurst Ave – First started skateboarding at Alexander-Carr Park. Would like to see any plans not compromise the look of the park and work with the existing landscaping.

Aaron Field: Cemetery Rd – Would like the park to be usable again.

Ryan Fortin: Bonnie Ln – Alexander-Carr was the first place he saw skateboarding and he has been trying to find spots to skate.

Zachary Reed: Birch St – Conditions are unsafe at the Londonderry skate park and a new park will last a long time.

Ty Ford: Birch St – Skates the Londonderry skate park daily, and it is in terrible condition.

Butch Timpe: Bowers Rd – Highly impressed by the kids that spoke tonight. Questioned if there was ever an apology issued from the School Board to the Town regarding elections. Having two separate elections for Town and School would not be good.

Motion by Councilor Foote to close public forum, seconded by Councilor Katsakiores – all agreed

Consent Agenda

- 21-139** Approve Non-Public Minutes – November 2, 2021 – **Minutes Sealed**
21-140 Approve Minutes – November 2, 2021
21-141 Resolution #2021-076 – Appoint an Acting Town Administrator for a specific period of time

Councilor Wetherbee moves to approve the consent agenda, seconded by Councilor Foote – all agreed

Chairman's Report – James Morgan

Recognition of Karen Munday Lincoln – Mural – Economic Development Director Bev Donovan
Karen was presented with a proclamation as she is an original member of the Greater Derry Arts Council Public Arts Committee and has designed, facilitated, and painted many public mural art projects including store windows, bollards, barriers, & boulders along the Derry Rail Trail, the murals at Cask & Vine and most recently the Derry Aviation/Alan Shepard Mural. The Derry Town Council awarded Derry artist Karen Munday Lincoln with the distinction of being named Derry's First Artist Laureate.

Derry residents deserve a consistent place to vote and that would not have occurred with the school districts proposal of using West Running Brook Middle School for one election and the Gilbert H. Hood Middle School for the next. The Town will now charge the school district 50% of the cost of all Town & School elections and for the next year, all elections will be held at Calvary Bible Church on Hampstead Road. Would like to see clarification on when the lights should be turned off at Hood Park and potentially closing at night. Enhanced CCTV surveillance would be beneficial too. The Derry Holiday Parade will take place on Saturday November 27th. 10am festivities will begin and the parade will start at 1pm. The appointment of the Planning Board member and the reading of a proclamation for the Derry Public Library will be postponed until the next Town Council meeting.

Town Administrator's Report – Dave Caron

Parks and Recreation Director Kim Walsh and Director of Public Works, Mike Fowler discussed the renovation of the Derry Skate Park. Chairman Morgan would like to see 3 resolutions drafted up for the next meeting with various financing options.

There will be a Town Council workshop on December 14th from 6-7 to discuss the Derry Rail Trail. The Municipal Center encountered a short circuit in the first-floor panel, which resulted in a loss of several appliances and other electrical equipment. The Town is working with the insurance provider to assess and receive reimbursement for the damages. The Town Administrator presented an updated on the Exit 4A project. The Town has one property for Tax deed auction which is 148 Goodhue Road. The auction has been scheduled for Friday, December 17 at 4pm on-site. The Town is required to schedule progress public hearings on CDBG projects, thus there will be two hearings on Tuesday, December 14 regarding the CDBG-COVID Assistance and the DHRA upgrade project. The Governor's Office for Emergency Relief and Recovery recently announced the availability of \$50K per community for equipment related to the Town's response to the pandemic. Staff is currently reviewing and will be assembling a grant proposal. Congress passed the infrastructure bill, which will provide New Hampshire with about \$1B in additional infrastructure funds. The Town will be communicating with the elected officials to determine if any of these funds will be earmarked for local projects such as bridges.

Public Hearing

21-130 Resolution #2021-071 – Authorize issuing Refinancing Bonds – *Chief Financial Officer Mark Fleischer*

The Town is now eligible to refinance the bonds that funded roadway improvements in the Route 28 Tax Increment District (TIF), now known as the Derry Commerce Corridor TIF. The bond issues proposed to be refinanced carry interest rates between 2.5%-3.5%.. During the planning of the Route 28 TIF, the bond was structured to enable the town to redeem the bonds after November 15, 2021. The intent of the original bond terms was to ensure that a successful TIF would generate tax increments that exceeded bond payments. The success of this expanded TIF district, now known as the Derry Commerce Corridor, has generated taxes that have exceeded debt service on the existing bond and other expenses related to economic development in the TIF by \$2,840,574 as of June 30, 2021. An analysis was completed using an estimated interest rate of 1.6% that would yield an interest savings of \$ 194,935.00 over the remaining 10-year term of the bond. This savings will be used for future economic development within the district. The actual interest rate will not be known until 48 hours before closing. Additionally, this transaction requires retaining Bond Council at cost of \$2,000.00 which will also be allocated to the Derry Commerce Corridor TIF using its Restricted Fund Balance.

Motion by Councilor Wetherbee to open public hearing, seconded by Councilor Bourdon – all agreed

No one from the public spoke.

Motion by Councilor Wetherbee to close public hearing, seconded by Councilor Bourdon – all agreed

**Councilor Bourdon MOVES THAT THE TOWN COUNCIL adopt Resolution #2021-071 which reads as follows [*Read the Resolution*], seconded by Councilor Wetherbee
Roll Call Vote: 6-0-0
Resolution attached**

Councilor Foote moves to move up on the agenda item 21-104, seconded by Councilor Wetherbee – all agreed

21-131 Resolution #2021-072 – Adjust Council District Boundaries – *Town Administrator Dave Caron*

Section 1.5 of the Town Charter requires the Council to redraw District boundaries based upon the decennial census as completed by the federal government. The Southern New Hampshire Planning Commission (SNHPC) has provided 2020 census information on all census blocks in Derry, which reveal the current inequities. Currently, all District boundaries align with census block boundaries, except for five lots on the east side of Mill Road which are included in District 1. The above numbers do not reflect the assignment of these lots into District; to maintain clean District boundaries, it is recommended that these five lots revert to District #2, which would also meet the spirit and intent of RSA 44:4-a.

Recommendation #1:

It is recommended that the Council embrace a maximum variance of 0.5% from the target population of 8,579 per District, which would then allow a minimum number of residents per District of 8,536 and a maximum of 8,622.

Recommendation #2:

Based upon the results of the census, 8,579 citizens reside in District 1, which matches the target number; thus, no changes are recommended for District 1.

Recommendation #3:

District 2 has approximately 48 more residents than the target. Based upon data provided by SNHPC, the following census blocks should be moved from District 2 to District 4: South side of Humphrey Road between South Main Street and Cemetery Road; North side of Island Pond Road between South Main and Cemetery. This action results in 8,580 residents remaining in District 2.

Recommendation #4: To amend the District 2 boundaries by adding the following to District 4: Northerly by the south side of Humphrey Road, Westerly by the east side of Cemetery Road, Southerly by the north side of Island Pond Road and Easterly by the west side of South Main Street. District 4's population is now 354 residents above the target (307 from the census and 47 from Recommendation #4); District 3 per the census has 354 residents below the target. To resolve this inequity, the following census blocks movements from District 4 to District 3 are recommended: South side of Brewster and East side of Scobie Pond; North side of A Street to South side of Manchester Road; South side of Manchester Road by East Side of Folsom Road by North side of Franklin Street Ext by West side of B Street; West side of B Street by South side of Franklin Street Ext by East Side of Folsom Road by North Side of Beaver Brook to the Londonderry town line; South side of Beaver Brook by East side of North High Street by North side of Ash Street Extension to the Londonderry town line. This action results in a revised District 4 census of 8,563 and District 3 census of 8,595.

Recommendation #5:

To move the following boundaries from District 4 to District 3: Westerly by Londonderry town line; Northerly by south sides of Brewster and Manchester Roads, Easterly by west sides Scobie Pond Road and North High Street, Southerly by north sides of Folsom and Ash Street Extension.

Motion by Councilor Wetherbee to open public hearing, seconded by Councilor Bourdon – all agreed

Mark Connors: Cabot Dr – Questioned if this took into consideration proposals for apartment complexes and condos. Was told it was based off of the 2020 Census and the town cannot account for what might happen in the future.

Motion by Councilor Foote to close public hearing, seconded by Councilor Wetherbee – all agreed

Councilor Wetherbee MOVES THAT THE TOWN COUNCIL adopt Resolution #2021-072 which reads as follows [*Read the Resolution*], seconded by Councilor Katsakiores
Roll Call Vote: 7-0-0
Resolution attached

Councilor Spencer needed to leave the meeting at this time. (9:45PM)

21-132 Resolution #2021-073 – Supplemental Appropriation to purchase capital equipment – *Director of Public Works Mike Fowler*

During the budget review in May 2021, it was determined that entering a competitively bid master lease agreement for capital improvement purchases over the next five to seven years would be cost effective for the town. After soliciting bids for municipal lease services, Bank of America was chosen again for their guaranteed fixed interest rates and no fees passed onto the community. The projected interest rate as of 10/26/21 was 1.4045% for a 5-year term and 1.6455% for a 7-year term. The Town has been approved for a \$1.1M credit line for this lease. The FY2022 lease amount approved in the budget was \$848,000.00. The Town Council has since approved a supplemental appropriation from the Public Work's Water and Wastewater divisions to purchase a 10-wheel dump at a cost of \$184,753.00 which will be included in this lease schedule. In addition to the 10-wheel dump mentioned above, the equipment incorporated into this master lease agreement are (2) Trucks with Plows, Tractor w/Mower, 6-wheel Dump and Trash Trailer for various Public Work's divisions, and an Ambulance and Shift Commander vehicle for Fire. The total cost for these vehicles and equipment is \$1,032,753. Public Works is finding however, that for some items, the pricing in the marketplace is greater than what was estimated when the FY2022 budget was established. Therefore, Public Works is seeking approval of a supplemental appropriation of \$50,000 to cover unknown pricing fluctuations. Additionally, although the Council's approval of Resolution #2016-025 contemplated adjustments to the list of acquisitions, Bank of America has again requested a formal Council amendment to the Resolution for FY2022 purchases.

Motion by Councilor Wetherbee to open public hearing, seconded by Councilor Chirichiello – all agreed

No one from the public spoke.

Motion by Councilor Foote to close public hearing, seconded by Councilor Wetherbee – all agreed

Councilor Foote MOVES THAT THE TOWN COUNCIL adopt Resolution #2021-073 which reads as follows [*Read the Resolution*], seconded by Councilor Wetherbee

Roll Call Vote: 6-0-0

Resolution attached

21-133 Resolution #2021-074 – Water Treatment at Autumn Woods – *Deputy Director of Public Works Tom Carrier*

Derry owns and operates a community water system(CWS) in the Autumn Woods (AW) neighborhood of Derry (off English Range Rd.) which consists of 29 single family homes. There are two bedrock wells which provide water to these homes. The AW CWS has historically remained in compliance with the EPA's maximum contaminant limit (MCL) for arsenic of 10 parts per billion (10 ppb). Arsenic at AW has ranged between 5 and 7 ppb between 2014 and 2020. Effective July 1, 2021, New Hampshire implemented a new stricter limit of 5 ppb. The arsenic levels at AW for the last 12 months average 6 ppb. As a result, NH DES has issued a

Notice of Violation to the Town for exceeding the water quality standards and is requiring public notification to the residents. Neither altering the operation of the AW wells nor adding cartridge filters has lowered the arsenic to meet the new MCL. Two alternatives were assessed to address the MCL violation: extending public water to AW or installing treatment. The most cost-effective solution is to install a new arsenic absorption system within the existing pumphouse. Concurrent with this work, public works is recommending the installation of a new level transducer, well pump and variable frequency drive on each of the two wells and to clean, repair and epoxy coat the existing atmospheric and pneumatic storage tanks. The engineers' estimate for the recommended work is \$280,000. Current rates for the NH Drinking Water State Revolving Loan Fund are 0.785% for a 10-year note. (1.256% for 20 years). Based on the 10-year note, the annual payment of \$30K for 10 years would have a \$0.06 impact on current water rates or 1.5% on the average residential bill (\$5/y r.)

Motion by Councilor Wetherbee to open public hearing, seconded by Councilor Foote – all agreed

No one from the public spoke.

Motion by Councilor Katsakiores to close public hearing, seconded by Councilor Wetherbee – all agreed

Councilor Wetherbee MOVES THAT THE TOWN COUNCIL adopt Resolution #2021-074 which reads as follows [*Read the Resolution*], seconded by Councilor Katsakiores
Roll Call Vote: 6-0-0
Resolution attached

21-134 Ordinance #2021-012 – Amend Zoning Ordinance to rezone twelve properties in the Gateway District – *Planning Director George Sioras*

With the pending Exit 4A project moving forward the Planning Department staff and the Planning Board began to look at rezoning certain residential properties in the vicinity of the proposed new connector road from I-93 to Madden and Folsom Roads. After review by staff, the Planning Board, and the Planning Board Zoning Subcommittee, it was decided to rezone twelve residential properties to the Industrial VI District. These parcels are adjacent to two existing industrial/mixed-use commercial zones and would maintain a contiguous zoning area and in keeping in character of the surrounding area of where the new connector road will be built. The Planning Board held a workshop on August 18, 2021, and a Public Hearing on October 20, 2021, and decided to move forward on rezoning these properties. The purpose of the amendments, if approved, is to encourage new development as well as redevelopment opportunities in the Industrial VI zoning district. The Ash Street Corporate Park abuts these twelve parcels. As cited in the newly adopted 2020 Master Plan, one of the recommended Goals was to review this area of Town for future development opportunities created in the new Gateway District and the pending Exit 4A project. These amendments are consistent with those goals for future economic development and business expansion and growth.

Motion by Councilor Wetherbee to open public hearing, seconded by Councilor Foote – all agreed

No one from the public spoke.

Motion by Councilor Wetherbee to close public hearing, seconded by Councilor Chirichiello – all agreed

Councilor Foote MOVES THAT THE TOWN COUNCIL adopt Ordinance #2021-012 which reads as follows [Read the Ordinance], seconded by Councilor Wetherbee
Roll Call Vote: 6-0-0
Ordinance attached

Motion by Councilor Foote to extend the meeting by 10 minutes, seconded by Councilor Bourdon – all agreed

New Business

21-142 Resolution #2021-077 – Authorize a Master Lease/Purchase Agreement to finance the acquisition of certain capital equipment – *Chief Financial Officer Mark Fleischer*

During the budget review in May 2021, it was determined that entering a competitively bid master lease agreement for capital improvement purchases over the next five to seven years would be cost effective for the town. After soliciting bids for municipal lease services, Bank of America was chosen again for their guaranteed fixed interest rates and no fees passed onto the community. The projected interest rate as of 10/26/21 was 1.4045% for a 5-year term and 1.6455% for a 7-year term. The Town has been approved for a \$1.1M credit line for this lease. The FY2022 lease amount approved in the budget was \$848,000.00. The Town Council has since approved a supplemental appropriation from the Public Work's Water and Wastewater divisions to purchase a 10-wheel dump at a cost of \$184,753.00 which will be included in this lease schedule. In addition to the 10-wheel dump mentioned above, the equipment incorporated into this master lease agreement are (2) Trucks with Plows, Tractor w/Mower, 6-wheel Dump and Trash Trailer for various Public Work's divisions, and an Ambulance and Shift Commander vehicle for Fire. The total cost for these vehicles and equipment is \$1,032,753. Public Works is finding however, that for some items, the pricing in the marketplace is greater than what was estimated when the FY2022 budget was established. Therefore, Public Works is seeking approval of a supplemental appropriation of \$50,000 to cover unknown pricing fluctuations. Additionally, although the Council's approval of Resolution #2016-025 contemplated adjustments to the list of acquisitions, Bank of America has again requested a formal Council amendment to the Resolution for FY2022 purchases.

Councilor Wetherbee MOVES THAT THE TOWN COUNCIL adopt Resolution #2021-077 which reads as follows [Read the Resolution], seconded by Councilor Bourdon
Roll Call Vote: 6-0-0
Resolution attached

21-143 Resolution #2021-078 – Accept Valerie Lane as a Class V Town Road – *Public Works Director Mike Fowler*

Valerie Lane is a new five lot subdivision road located off Bedard Avenue. This subdivision is the former well lot owned by Pennichuck Water Works. The road is approximately 800 feet long

along with a cul-de-sac. On November 3, 2021, Derry Planning Board recommended acceptance of a Valerie Lane as a Class V road. The plan (D-41830) was recorded on November 3, 2019. All construction was inspected by the Department of Public Works. The Department of Public Works endorses the acceptance of Valerie Lane as a Town maintained road. Town roadway maintenance costs are estimated at \$6,000 per mile/per year, although a new road typically carries minimal maintenance cost to the Town in the early years other than plowing and salting.

Councilor Wetherbee MOVES THAT THE TOWN COUNCIL adopt Resolution #2021-078 which reads as follows [Read the Resolution], seconded by Councilor Foote

Roll Call Vote: 6-0-0

Resolution attached

Motion by Councilor Foote to extend the meeting by 10 minutes, seconded by Councilor Wetherbee – all agreed

Councilor Comments / Liaison Reports –

Councilor Chirichiello – Thought that the Town Council voted to shut off the lights at Hood Park by 9PM 2 years ago but they remain on past that time. The “Friends of Hood Park” group is looking at speeding cars and littering not overall revitalization of the park. Believes that volunteer groups should not be demonized.

Adjourn: 10:15pm



Town Clerk

Recording & Transcription by: Daniel Healey, Town Clerk



Date

TOWN OF DERRY, NH
RESOLUTION #2021-071
AUTHORIZING THE ISSUANCE OF REFUNDING BONDS
November 16, 2021

WHEREAS: The Town of Derry, New Hampshire (the "Town") has issued certain \$3,400,000 General Obligation Bonds dated November 15, 2011 with final maturity on November 15, 2031 (the "2011 Bonds") to finance road reconstruction within the Town's Route 28 Corridor Tax Increment Financing District;

WHEREAS: The 2011 Bonds maturing on or after November 15, 2022, are subject to redemption at par prior to their stated dates of maturity, at the option of the Town, on or after November 15, 2021 (the "2011 Refunded Bonds"); and

WHEREAS: TD Bank, N.A. has offered to purchase a general obligation refunding bond of the Town in principal amount of \$2,110,000 (the "Refunding Bond," the proceeds of which will be used to fully refund the Refunded Bonds on a current basis;

NOW, THEREFORE, BE IT RESOLVED that the Town, acting by and through its Town Council, hereby accepts the Commitment Letter of TD Bank, N.A., dated October 20, 2021, in form presented to this meeting, and the Town Administrator and the Town's Chief Financial Officer, acting singly, are authorized to sign said Commitment Letter in acceptance, and any such prior action is ratified and confirmed;

IT IS FURTHER RESOLVED that the issuance of the Refunding Bond in the name of the Town pursuant to the provisions of RSA 33:3-d is hereby authorized, the proceeds of which shall be utilized to refund the Refunded Bonds on a current basis;

IT IS FURTHER RESOLVED that the Refunding Bond be signed by a majority of the Town Council and countersigned by the Town Treasurer, with the official seal of the Town, if any, affixed thereto, and otherwise be in such form and contain such terms and provisions not inconsistent herewith, as they shall approve, their approval to be conclusively evidenced by their execution thereof, and that any signature thereon may be by facsimile to the extent permitted by law;

IT IS FURTHER RESOLVED that the Refunding Bond be issued in the name of the Town and in registered form transferable only on the registration books of the Town, which registration books may be kept by the Town or its transfer agent, upon surrender thereof with a written instrument of transfer, duly executed by the registered owner or his/her attorney duly authorized in writing;

IT IS FURTHER RESOLVED that the Town Treasurer is authorized, as applicable, to designate the Refunding Bond as a qualified tax-exempt obligation within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the "Code");

IT IS FURTHER RESOLVED that (i) no part of the proceeds of the Refunding Bond shall be used, directly or indirectly, to acquire any securities and obligations, the acquisition of which would cause any portion of the Refunding Bond to be "arbitrage bonds" within the meaning of Section 148 of the Code, and (ii) the proceeds of the Refunding Bond and the project financed by the Refunding Bond shall not be used in a manner that would cause any portion of the Refunding Bond to be "private activity bonds" within the meaning of Section 141 of the Code;

IT IS FURTHER RESOLVED that the Treasurer is authorized to covenant on behalf of the Town to file any information report and pay any rebate due to the United States in connection with the issuance of the Refunding Bond, to take all other lawful actions necessary to ensure the interest on the Refunding Bond will be excludable from the gross income of the owners thereof for purposes of federal income taxation and to refrain from taking any action which would cause interest on the Refunding Bond to become includable in the gross income of the owners thereof;

IT IS FURTHER RESOLVED that the appropriate officials of the Town are authorized to execute and deliver on behalf of the Town such other documents and certificates as may be required in connection with such borrowing and to do or cause to be done all such acts and things, not inconsistent herewith, as may be necessary or desirable in order to effect the issuance, sale and delivery of the Refunding Bond;


IT IS FURTHER RESOLVED that the Treasurer in consultation with Bond Counsel is authorized to implement written procedures with respect to the Refunding Bond for the purpose of: (i) ensuring timely "remedial action" for any portion of the Refunding Bond that may become "non-qualified bonds," as those terms are defined in the Code and regulations thereunder; and (ii) monitoring the Town's compliance following the issuance of the Refunding Bond with the arbitrage, yield restriction and rebate requirements of the Code and regulations thereunder;

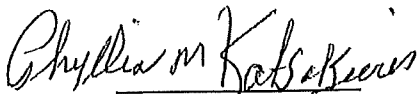
IT IS FURTHER RESOLVED that if the Town Treasurer or Town Clerk for any reason are unavailable to, as applicable, approve, execute, or attest the Refunding Bond or any related financing documents, the person or persons then acting in any such capacity, whether as assistant, deputy, or otherwise, is authorized to act for such unavailable official with the same force and effect as if such official had himself/herself performed such act;

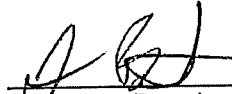
IT IS FURTHER RESOLVED that if any of the officers or officials of the Town who have signed, attested, or sealed the Refunding Bond shall cease to be such officers or officials before the Refunding Bond so signed, attested, and sealed shall have been actually authenticated or delivered by the Town, such Refunding Bond nevertheless may be authenticated, delivered, and issued with the same force and effect as though the person or persons who signed, attested, or sealed the Refunding Bond had not ceased to be such officer or official; and also, any such Refunding Bond may be signed, attested, or sealed on behalf of the Town by those persons who, at the actual date of execution of the Refunding Bond, shall be the proper officers or officials of the Town,


although at the nominal date of the Refunding Bond any such person shall not have been such officer or official; and

IT IS FURTHER RESOLVED that an attested copy of this Resolution be filed with the minutes of this meeting.


James Morgan, Chair
Councilor at Large



Phyllis M. Katsakiores
Councilor at Large


Joshua R. Bourdon
Councilor at Large


Charles Foote
Councilor District #2

Erin Spencer
Councilor District #1


Neil Wetherbee
Councilor District #3


Brian Chirichiello, Pro-Tem
Councilor District #4

Archival Ref: Agenda #21-130



RESOLUTION

Number 2021-072

To Adjust Council District Boundaries

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

WHEREAS, Section 1.5 of the Town Charter requires that the Town Council, shall, if necessary, adjust and establish new district boundaries based upon decennial Census data; and,

WHEREAS, information on the decennial Census provided by the Southern New Hampshire Planning Commission confirms the need to redistrict in a reasonably fair and practicable manner to maintain equal representation; and,

WHEREAS, the Council completed this process within the following guiding principles:

- 1) Nonpartisan.
- 2) Did not review or consider party affiliations in any areas of the Town.
- 3) Relied upon logical extensions to or deletions from Districts.
- 4) Maintained geographical integrity.
- 5) Enacted changes within the recommended variances of the target District population.
- 6) Avoided disruptions to neighborhoods.

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Town Council hereby approves the 2020 Decennial Restricting of Council District boundaries as follows:

Policy Action #1 – To maintain a correlation between federal census blocks and Council Districts, the five lots on the east side of Mill Street currently included in District #1 shall revert to District #2.

Policy Action #2 – To maintain equal representation so far as reasonably fair and practicable as required in Section 1.5 of the Town Charter, there is hereby established a maximum variance between Districts of 0.5% from the target population of 8579 per District, or a minimum number of District residents of 8536 and a maximum of 8622.

Archival Ref: Agenda Item #21-131

Policy Action #3 – No further changes to District 1 boundaries, as the census population of 8579 matches the District target population.

Policy Action #4 – District 2 boundaries are hereby amended by adding the following areas to District 4, which results in a District 2 population of 8589:

Northerly by the south side of Humphrey Road, Westerly by the east side of Cemetery Road, Southerly by the north side of Island Pond Road and Easterly by the west side of South Main Street.

Policy Action #5 – District 4 boundaries with District 3 are hereby amended by adding the following areas to District 3, which results in a District 3 population of 8595 and District 4 population of 8563:

Westerly by Londonderry town line; Northerly by south sides of Brewster and Manchester Roads, Easterly by west sides Scobie Pond Road and North High Street, Southerly by north sides of Folsom and Ash Street Extension.

This Resolution shall take effect immediately upon its passage.

Adopted: November 16, 2021.

Attest:

x 

James Morgan, Council Chair

Date: 11/16/2021

x 

Daniel Healey, Town Clerk

Date: 11/16/2021

Archival Ref: Agenda Item #21-131



RESOLUTION

Number 2021-073

To Approve a Supplemental Appropriation to Purchase Capital Equipment

WHEREAS, the Town Charter establishes the Town Council as the appropriating authority of the Town and as such it is empowered by Section 9.6 of the Charter to make supplemental appropriations after the annual budget is adopted; and

WHEREAS, the Town Council pursuant to Resolution #2021-021 approved the FY2022 budget which included purchases of various Capital Equipment and Vehicles funded via a Capital Lease.

WHEREAS, current marketplace conditions has necessitated the need to increase the original estimates outlined in the FY2022 budget;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the sum of Fifty Thousand Dollars (\$50,000) is hereby raised to complete the purchase of Capital Equipment and Vehicles and to authorize funding of this increase via a Capital Lease, with lease payments from Capital Reserve Funds.

This Resolution has been adopted by a two-thirds majority of the entire Council as required by Charter and shall take effect immediately upon its passage.

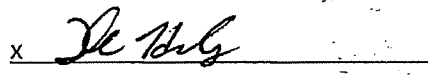
Adopted: November 16, 2021

Attest:

x 

James Morgan, Council Chair

Date: 11/16/2021

x 

Daniel Healey, Town Clerk

Date: 11/16/2021

Archival Ref: Item #21-132



RESOLUTION

Number 2021-074

To Approve a Supplemental Appropriation for Water Treatment at Autumn Woods

WHEREAS, the Town Charter establishes the Town Council as the appropriating authority of the Town and as such it is empowered by Section 9.6 of the Charter to make supplemental appropriations after the annual budget is adopted; and

WHEREAS, the Water Division operates a community water system at Autumn Woods; and

WHEREAS, the NH Department of Environmental Services recently lowered the acceptable limit of arsenic concentration, thus requiring additional treatment to this system;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the sum of Two Hundred Eighty Thousand Dollars (\$280,000) is hereby raised to install an arsenic absorption system, to be financed by bond or lease instruments financed by existing Water Division revenues.

This Resolution has been adopted by a two-thirds majority of the entire Council as required by Charter and shall take effect immediately upon its passage.

Adopted: November 16, 2021

Attest:

A handwritten signature in black ink, appearing to read "James P. Morgan".

James P. Morgan, Council Chair

Date: 11/16/2021

A handwritten signature in black ink, appearing to read "Daniel Healey".

Daniel Healey, Town Clerk

Date: 11/16/2021

Archival Ref: TC Agenda Item #21-133



RESOLUTION

Number 2021-076

To Appoint an Acting Town Administrator for a Specific Period of Time

WHEREAS, the Section 8.5 of the Town Charter requires that the Town Council appoint a person to act in the absence of the Town Administrator; and

WHEREAS, the Town Administrator will be absent from the town for a period of time and unavailable to perform certain duties; and

WHEREAS, competent existing professional staff is experienced in the role of Acting Town Administrator and is available to serve in that capacity; and

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that Director of Public Works Mike Fowler is hereby appointed as Acting Town Administrator to serve in that capacity from Thursday, December 2, 2021, through Friday, December 10, 2021; and

BE IT FURTHER RESOLVED that Mr. Fowler's exercise of the authority of the Town Administrator shall be limited to those duties of a general management and ministerial nature, and any duties required of him to address emergencies.

This Resolution shall take effect immediately upon its passage.

Adopted: November 16, 2021

Attest:

A handwritten signature in black ink, appearing to read "James Morgan", written over a horizontal line.

James Morgan, Council Chair

Date: 11/16/2021

A handwritten signature in black ink, appearing to read "Daniel Healey", written over a horizontal line.

Daniel Healey, Town Clerk

Date: 11/16/2021

Archival Ref: TC agenda item #21-141



ORDINANCE

Number 2021-012

Amend Zoning Ordinance to Rezone Twelve Properties in the Gateway

District

WHEREAS, Section 5.1 of the Town Charter designates the Town Council as the governing and legislative body of the Town, and pursuant to Section 6.1, the Council shall legislate by ordinance; and

WHEREAS, the Planning Board has been planning for the construction of the Exit 4A Corridor, and

WHEREAS, the Exit 4A Corridor and other developments are anticipated to alter the character of certain areas and enhance development opportunities; and

WHEREAS, these properties are best served by rezoning to more appropriate uses;

NOW, THEREFORE, THE TOWN OF DERRY ORDAINS that the Derry Zoning Ordinance is hereby amended as follows:

To AMEND Article V Zoning Map and District Boundaries, Section 165-30, Zoning Map, to move twelve properties from the Medium High Density II Residential District to the Industrial IV District.

Adopted: November 16, 2021

Attest:

x 

James Morgan, Council Chair

Date: 11/16/2021

x 

Daniel Healey, Town Clerk

Date: 11/16/2021

Archival Ref: Agenda Item #21-134



RESOLUTION

Number 2021-077

To Amend Resolution 2016-025, as previously amended and
supplemented by Resolutions 2017-079, 2018-064, 2018-064A and
2019-061, 2020-049

and Authorize an additional Schedule to the Master Equipment
Lease/Purchase Agreement to Finance the Acquisition of Certain Capital
Equipment

WHEREAS, Section 7.1 of the Town Charter designates the Town Council ("Council") as the
Legislative Body of the Town, which is then empowered by New Hampshire law to incur debt
on behalf of the Town; and

WHEREAS, the Council incorporated a lease-to-purchase method of financing the acquisition
of certain capital equipment into the Fiscal Year 2022 Town Budget; and

WHEREAS, the Council previously approved a Master Equipment Lease/Purchase Agreement
(the "Agreement") with Banc of America Public Capital Corp (or one of its affiliates) under
Resolution 2016-025;

WHEREAS, the Council amended Resolution 2016-025 under Resolution 2017-079 which was
further amended and supplemented by Resolutions 2018-064, 2018-064A, 2019-061 and
2020-049, all of which authorized the financing of additional items of capital equipment
under the Agreement; and

WHEREAS, the Agreement allows for additional schedules to be entered thereunder to
finance the Fiscal Year 2022 capital acquisitions;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Town is hereby authorized to enter
into subsequent Schedules to the Agreement to include the following capital items (together
with related attachments and equipment):

Buildings & Grounds Truck w/ Plow	\$50,000
Highway Truck w/ Plow	\$50,000
Highway Tractor w/Mower	\$120,000
Highway 6-Wheel Dump	\$200,000
Fire Ambulance	\$308,000

Fire Shift Commander Vehicle	\$70,000
Transfer Station Trash Trailer	\$100,000
Water/Wastewater 10-Wheel Dump	\$184,753
Total	\$1,082,753

Further, that this authorization shall not increase appropriations beyond what has been previously authorized under separate Council action; this lease includes a fiscal funding clause; and the Town Administrator is hereby authorized to execute and deliver the Schedule and any exhibits thereto or documents and certificates contemplated thereby, including but not limited to, an escrow and account control agreement for the creation of an escrow account as contemplated by the Agreement; and to take such other actions as may be necessary to fulfill the intent and purposes of this Resolution and to consummate the acquisition of the capital equipment described herein and the financing of such capital equipment.

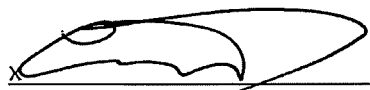
The prior actions of the Town Administrator and the designees of the Town Administrator relating to the transactions contemplated hereunder, as well as all related subject matters and processes, are hereby ratified and affirmed.

All resolutions or parts thereof in conflict or inconsistent herewith, if any, are hereby repealed to the extent of such conflict and inconsistency with respect to this Resolution.


This Resolution shall take effect immediately upon its passage.

Adopted: November 16, 2021

Attest:



 James Morgan, Council Chair
 Date: 11/16/2021



 Daniel Healey, Town Clerk
 Date: 11/16/2021



RESOLUTION

Number 2021-078

To Accept Valerie Lane as a Class V Town Road

WHEREAS, RSA 674:40 and 674:40-a authorizes the Town Council to accept streets as shown on a subdivision plan approved by the planning board; and

WHEREAS, the Derry Planning Board on November 3, 2021 recommended acceptance of Valerie Lane as a Class V road; and

WHEREAS, the Department of Public Works has inspected the road and also recommends acceptance as a town road;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that Valerie Lane is hereby accepted as a Class V road.

This Resolution shall take effect immediately upon its passage.

Adopted: November 16, 2021.

Attest:

A handwritten signature in black ink, appearing to be "James Morgan", written over a horizontal line.

James Morgan, Council Chair

Date: 11/16/2021

A handwritten signature in black ink, appearing to be "Daniel Healey", written over a horizontal line.

Daniel Healey, Town Clerk

Date: 11/16/2021

Archival Ref: TC Agenda Item #21-143