

TOWN OF DERRY

Town Council
Derry Municipal Center

November 19, 2019
Tuesday - 7:00 PM

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

Councilor Tripp moves to leave non-public session, seconded by Councilor Bourdon – all agreed

Councilor Tripp moves to seal RSA 91A:3 II (d), seconded by Councilor Morgan – all agreed

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

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

Present: TA David Caron, Town Clerk Daniel Healey

Public Forum - *30 Minutes*

Open Public Forum – all agreed

Nancy Francis: Pantry Plunge – The Pantry Plunge will take place on Saturday, December 14, 2019, at Gallien's Beach on Beaver Lake to raise money for the FBC Community Food Pantry. Anyone interested may fill out a pledge sheet and show up on the day of the event.

Tina Guilford: Salvation Army – The Salvation Army delivered 100 complete Thanksgiving meals to local families today. They currently have angel tags out that will help local families with toys and clothing for Christmas. Anyone interested in ringing the bell may contact the Salvation Army. They have 2, 4, 6, and 8 hour shifts available.

Tom Cardon: Cunningham Dr – He is concerned about the 4A route and the amount of traffic lanes. Is a member of the Net Zero Task force but speaking on his own opinion, hopes that the town gets a good deal on Solar at the landfill site.

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

Consent Agenda

19-129 Approve Non-Public Minutes – November 5, 2019 – **minutes sealed**

19-130 Approve Minutes – November 5, 2019

19-131 Acceptance of Resignation – Derry Housing & Redevelopment Authority tenant representative

19-132 Resolution #2019-067 – Release of Public Servitude – land off Juniper Road

Consent agenda approved

Chairman's Report – Neil Wetherbee

A Very Derry Holiday Celebration will take place on Saturday November 30th beginning at 1pm with a parade brought to the town by the Derry Rotary and the Greater Derry Londonderry Chamber of Commerce. Derry Rotary will be collecting canned goods. From 2pm to 5pm at Derry Parks and Recreation there will be free activities including cookie decorating, face painting, wooden toy creations, and balloon artistry from Silly Solutions. From 3pm to 5pm, Santa Claus will be available for pictures at the Adams Memorial Opera House. At 5:30pm the Tree Lighting Celebration will take place at pocket park.

Chairman Wetherbee recognized town staff that received years of service awards at the annual employee luncheon.

Chairman Wetherbee moves to appoint Timothy Peloquin as an alternate member of the Economic Development Advisory Committee for a term to expire March 31, 2022, seconded by Councilor Tripp

Roll Call Vote: 6-0-0

Chairman Wetherbee moves to appoint Kristina Fuccione as an alternate member of the Economic Development Advisory Committee for a term to expire March 31, 2020, seconded by Councilor Tripp

Roll Call Vote: 6-0-0

Chairman Wetherbee moves to appoint Carol Yanzo-Murphy as a member of the Derry Housing & Redevelopment Authority for a term to expire March 31, 2020, seconded by Councilor Tripp

Roll Call Vote: 6-0-0

Town Administrator's Report – David Caron

Frank R. Biron, CPA, Principal and Zackary Fentross, CPA, Audit Manager from Melanson Heath presented the audit report for the year ended on June 30, 2019. Melanson Heath did not discover any deficiencies in internal control that they consider to be material weakness. There may be material weakness that has not been identified. Melanson Heaths recommendations include Ensuring Compliance with Uniform Guidelines, Preparing for GASB Statements 84 and 87, and Expanding the Chart of Accounts.

Accounting Manager Mark Fleischer presented the First Quarter Financial Report prepared by CFO Susan Hickey. September 30th is 25% through the fiscal year. General Fund revenue and expenditures are at 19% and 31% respectively. Cable revenue and expenditures are at 0% and 16% respectively. Water revenue and expenditures are at 1% and 182% (due to Southern NH Regional Water Interconnection project) respectively. Wastewater revenue and expenditures are at 4% and 21% respectively.

EMERGENCY PREAMBLE

On Monday, November 18, 2019, the Town received the approval letter for a proposed charter amendment from the Secretary of State, Attorney General and Commissioner of the department of Revenue, and Pursuant to RSA 49-B:5, I (b), the Town Council has seven (7) days from the receipt of the approvals to order the proposed amendment to be placed on the ballot, and The Council has a scheduled meeting tonight, and The Town did not receive the State approval in time to include it in tonight's posted and noticed agenda, and the next Council meeting is well beyond the seven-day requirement to vote to place the proposed amendment on the ballot. Be it ordained that an emergency exists for the passage of a vote to address the timing of ordering the proposed amendment to the ballot. Therefore, be it resolved that, the Deny Town Council declares an emergency exists under Sections 10.6 (A)(B) of the Derry Town Charter, and because the matter must be acted upon for the immediate preservation of the peace, health, safety or convenience of the town, the Derry Town Council hereby authorizes this emergency meeting to make its necessary decisions tonight at its scheduled meeting, Tuesday, November 19, 2019.

Councilor Morgan moves to authorize an emergency preamble, seconded by Councilor Tripp

Roll Call Vote: 6-0-0

Emergency Preamble attached

Councilor Morgan MOVES THAT THE TOWN COUNCIL adopt Resolution #2019-056A, which reads as follows [*Read the Resolution*], seconded by Councilor Foote

Roll Call Vote: 6-0-0

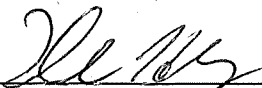
Resolution attached

Councilor Comments

Councilor Tripp –The Southern New Hampshire Planning Commission will be having an age friendly housing forum at Saint Anslem's College on November 21st at 5pm. The forum is free, but you need to register to attend.

Councilor Chirichiello – Sports betting in town will most likely be another ballot question for Derry residents to consider in March. The Planning Board has been busy looking at locations in town where sports betting would be ideal.

Adjournment: 7:45 p.m.



Town Clerk

Recording & Transcription by: Daniel Healey, Town Clerk

12-4-19
Date

**TOWN OF DERRY
EMERGENCY PREAMBLE**

WHEREAS: On Monday, November 18, 2019, the Town received the approval letter for a proposed charter amendment from the Secretary of State, Attorney General and Commissioner of the department of Revenue; and

WHEREAS: Pursuant to RSA 49-B:5, I (b), the Town Council has seven (7) days from the receipt of the approvals to order the proposed amendment to be placed on the ballot; and

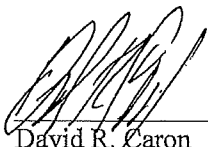
WHEREAS: The Council has a scheduled meeting tonight; and

WHEREAS: The Town did not receive the State approval in time to include it in tonight's posted and noticed agenda; and

WHEREAS: The next Council meeting is well beyond the seven-day requirement to vote to place the proposed amendment on the ballot.

BE IT ORDAINED that an emergency exists for the passage of a vote to address the timing of ordering the proposed amendment to the ballot.

THEREFORE, BE IT RESOLVED, the Derry Town Council declares an emergency exists under Sections 10.6 (A)(B) of the Derry Town Charter, and because the matter must be acted upon for the immediate preservation of the peace, health, safety or convenience of the town, the Derry Town Council hereby authorizes this emergency meeting to make its necessary decisions tonight at its scheduled meeting, Tuesday, November 19, 2019.



David R. Caron
Town Administrator

Posted: 11/19/19 – DMC, Derry Public Library, Taylor Library



RESOLUTION

Number 2019-056A

Final Order on a Town Charter Amendment Vote Relative to
Section 9.4(A) Limitation of Budget Increases (Tax Cap)

WHEREAS, Section 5.1 of the Town Charter establishes the Town Council as the governing and legislative body of the Town, thereby empowering the Council to implement laws as may be enacted by the State Legislature; and

WHEREAS, the voters of the Town enacted Section 9.4 (A) of the Town Charter which places a limitation on the annual increase to the town tax rate; and

WHEREAS, although voters did approve specific exceptions to the tax cap in subsections (A) & (B) of Section 9.4, the Supreme Court recently ruled in a case involving the City of Nashua that a general override of the tax cap pursuant to RSA 49-D:3 I (e) shall be included in a Town Charter in order to maintain the validity of a Tax Cap; and

WHEREAS, voters have supported the Tax Cap and the Town Council seeks a remedy to maintain the Tax Cap; and

WHEREAS, the Town Council held a public hearing on this matter on October 1, 2019, and recently received confirmation from the Attorney General, Secretary of State and Department of Revenue Administration that no objections are raised on this matter;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that a question shall be placed on the Official Ballot of the March 10, 2020 municipal election, worded as follows:

"Shall the Town adopt Section 9.4 (C) of the Town Charter which provides for an override of the tax cap upon a two-thirds vote of the entire Derry Town Council" (Failure to enact this subsection will invalidate the Tax Cap):

(C) Override of Tax Cap: The Council may vote to exceed the limit on annual increases under the tax cap provision in Sec. 9.4 (A) for the specific budget year under consideration upon a two- thirds vote of the entire Derry Town Council.

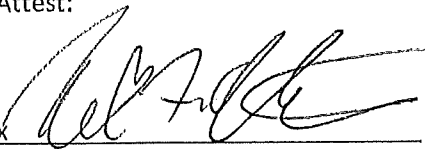
Archival Ref: TC agenda Item #19-109

(This amendment will bring the Charter into compliance with RSA 49-D:3, I, (e) which requires override thresholds for charters containing municipal tax caps. *See also Teeboom v. City of Nashua et al.* 213 A.3d 877, NH July 2, 2019. The *Teeboom* case invalidated the City of Nashua's tax cap, which contained nearly identical language to Derry's current tax cap, because it did not include the override provision as required by the statute.)

This Resolution shall take effect immediately upon its passage.

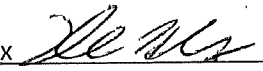
Adopted: November 19, 2019

Attest:

x 

Neil Wetherbee, Chair

Date: 11/19/19

x 

Daniel Healey, Town Clerk

Date: 11/19/19

Archival Ref: TC agenda Item #19-109