

TOWN OF DERRY

Town Council
Derry Municipal Center
14 Manning Street



Tuesday November 1, 2022
3rd Floor Meeting Room

MINUTES

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

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

Motion by Councilor Wetherbee to seal non-public minutes indefinitely, seconded by Councilor Katsakiores
Roll Call Vote: 6-0-0

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

Roll Call: Councilors Katsakiores, Chirichiello, Foote, Wetherbee, Flood, and Chairman Bourdon

Absent: Councilor Spencer

Present: TA Dave Caron, Town Clerk Tina Guilford

Public Forum - *30 Minutes*

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

Anthony Henry, Maurice Rd, Pinkerton is having a Veterans Day Breakfast on Veterans Day and all Veterans are invited to attend.

Mark Connors, Cabot Drive, requested the council have the Rail Trail tunnel situation on the agenda and is disappointed that it is not. There seems to be no interest among the council to do so. This is about safety, nothing else. There seems to be a lot of land being lost for development and the area where this alternate route is going will most probably be developed at a later date.

Alex Holt, Bedford NH, provided the Council with handouts on ongoing maintenance costs over 100 years as being long term costs to the Town to maintain and grade profiles that show how easy he believes it will be for NH DOT to regrade the road to accommodate the tunnel as the spaghetti loop does not even fit the NH DOT criteria.

Dave Topham, Salem NH, representing The NH Rail Trail Coalition, is very surprised with the spaghetti tunnel as this is a Transportation Corridor, as defined by NH DOT, not just a recreational trail. As such, there should be no spaghetti trail.

Dan Leonard, Brookview Dr, representing Barkland Acres, is here about the water system public hearing, is interrupted by Councilor Wetherbee that he can speak during the actual public hearing.

Chairman Bourdon asks how many in the audience in support of the Rail Trail, 20-25 people raise their hands in the meeting room. Online 4 hands raised in support.

Tom Cardon, Cunningham Dr, the tunnel is the safest way to go. This is an important issue, and the Town Council needs to not let this go.

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

Consent Agenda

22-125	Approve Non-Public Minutes – October 18, 2022 – Minutes Sealed
22-126	Approve Minutes – October 18, 2022

Councilor Katsakiores moves to approve 22-125 and 22-126 consent agenda, seconded by Councilor Foote
Roll Call Vote: 4-0-2 Flood, Wetherbee Abstain

22-127	Resolution #2022-083 – Accept a NH Highway Safety Grant for various traffic enforcement activities
22-128	Resolution #2022-085 – Approve a Supplemental Appropriation for equipment and to execute a Lease Purchase Agreement with TD Bank
22-129	Resolution #2022-086 – Approve a Supplemental Appropriation for design fees for the Derry Commerce Corridor TIF District Parking Structure

Councilor Wetherbee moves to approve consent agenda, seconded by Councilor Foote
Roll Call Vote: 6-0-0

Chairman Report – Joshua Bourdon

Election Reminder – Lisa Hultgren, Town Moderator

We vote next Tuesday, November 8, 2022, at Calvary from 7AM to 8PM. Our Accuvote Testing is on November 2, 2022, at 11AM and will be available to watch on demand.

Town Administrator's Report – Dave Caron

Revenues generally meeting expectations; ambulance collections are up from last October; however, motor vehicle fees are slightly lagging behind last year's revenues, and we are seeing a drop in construction and demolition debris.

The Town and School District has submitted all their forms to DRA to set the tax rate.

The Town has scheduled an auction of 9.5 Wildwood and 12 Forest for Thursday, December 8th at 2PM on site.

A private group held a Snodeo Event on Big Island Pond last winter. The event varied significantly from the original presentation to the Town therefore we have had a preliminary meeting with the event organizer much like we do with Derry After Dark. We will keep the Council informed as communication progresses.

Mark Brassard, who is spearheading planning for passive recreation offerings at Hood Park is working with staff and students at Pinkerton.

Staff will be investigating a project to work on the exterior of the AC Lodge.

Derry Little League has approached the Town regarding a collaborative effort to reconfigure fencing, dugouts, and other improvements at Vets/O'Hara fields.
A Reminder there is a planning board workshop of Form Based Zoning is Scheduled for Wednesday, November 9, 2022 at 5:30PM.

Public Hearings

22-115 Resolution #2022-074 – Approve a Supplemental Appropriation for Hood Pond Watershed Management Plan – *Public Works Director Mike Fowler presenting*

DPW staff submitted pre-applications to the NHDES Clean Water SRF (CWSRF) grant program. The grant will fund a project to assess Hood Pond for impairments such as phosphorus loading and other parameters. This project scored favorably at #8 out of 30 applications.

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

No one from the public spoke.

Motion by Councilor Katsakiores to close public hearing, seconded by Councilor Wetherbee
Roll Call Vote: 6-0-0

Councilor Wetherbee MOVES THAT THE TOWN COUNCIL adopt Resolution #2022-074 which reads as follows [Read the Resolution], seconded by Councilor Foote
Roll Call Vote: 6-0-0
Resolution attached

22-116 Resolution #2022-075 – Accept Unanticipated Revenues from NHDES to complete a watershed Management Plan for Big Island Pond – *Public Works Director Mike Fowler presenting*

A second pre-application to NHDES Clean Water SRF (CWSRF) grant program. The program will fund up to \$100,000 for each project for stormwater planning and watershed management plans. The Town seeks to partner with the Big Island Pond Corporation for the development of a watershed management plan for Big Island Pond. The project will assist the Town in remaining in compliance with the EPA MS4 permit for stormwater. The project scored favorably at #5 out of 30 applications.

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

No one from the public spoke.

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

Councilor Katsakiores MOVES THAT THE TOWN COUNCIL adopt Resolution #2022-075 which reads as follows [Read the Resolution], seconded by Councilor Foote
Roll Call Vote: 6-0-0
Resolution attached

22-117 Resolution #2022-077 – Authorize the Town to apply, receive and expend a grant from the New Hampshire Police standards and training Council for personnel hiring expenses – *Police Chief George Feole presenting*

The New Hampshire Police Standards and Training Council has funds for reimbursing agencies for the cost of psychological testing in the recruitment process for police officers. By applying and providing proof of payment for our psychological testing, the Town of Derry would be reimbursed for up to \$750.00 dollars per examination. We typically see an expense of \$250.00 for each psychological examination. Derry PD has budgeted for the cost of these examinations, so this would provide the town an offsetting revenue for this expense.

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

No one from the public spoke.

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

Councilor Wetherbee MOVES THAT THE TOWN COUNCIL adopt Resolution #2022-077 which reads as follows [Read the Resolution], seconded by Councilor Foote
Roll Call Vote: 6-0-0
Resolution attached

22-118 Resolution #2022-078 – Approve a Supplemental Appropriation and accept an ARPA Grant for Water Quality Improvements – *Public Works Deputy Director Tom Carrier presenting*

This presentation is to cover four resolutions. The first step is to raise and appropriate \$6.11M for this project, and to accept \$1.22M in ARPA funds against this appropriation. The Rand Shepard Hill (RSH) neighborhood community water system (CWS) is owned and operated by the Town of Derry. In order to solve the water quality issues in this system, we need to interconnect it to the major Town System that the closest junction is at Tsienetto and 28 Bypass. While we were investigating this connection the Town was petitioned by the Barkland Acres Association (BAA), who own and operate the Barkland Acres CWS off Tsienneto Road, to acquire and operate their water system. The water supply exceeds NHDES MCL for arsenic and are under an administrative order to either install treatment or interconnect with the Derry Public system. The costs for such improvements would, in part, be assessed to the BAA residents. The Morningside Drive CWS, which is privately owned and operated by the Morningside Drive Condominium Association, has historically been prone to leaks. However, recent water quality testing now shows that Morningside CWS exceeds NHDES MCL for per- and polyfluoroalkyl substances (PFAS); specifically, the MCL for Perfluorooctanoic Acid (PFOA) of 12 ppt. The system must either provide treatment or interconnect with the Derry Public Water system. With multiple neighborhoods off Tsienneto needing assistance, it seems the time to extend Town water.

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

Dan Leonard, Brookview Drive, 5 years ago the Barkland residents did pay to try to remediate the arsenic level, however with the lowering of the allowed levels, our water quality is so poor we do not stand a chance of getting the levels low enough. Very much in support of this project.

John Dunne, Faith Drive, Rand Shepard Hill I have lived there for 20 years, and we always have water restrictions. This will help, I support.

Steven Mayo, Faith Drive, Rand Shepard Hill, wants to be sure hydrants will be installed, and they are on the plans.

Richard Tripp, Windham Road, I support this, I think it's a good thing, but I wish to know if these wells were tested. Is that something that happens often? Tom Carrier responds that yes, they are tested. Wants to be sure other properties are regularly being tested.

Jonathan West, Scenic Drive, Water Infrastructure is important, and I am a member of Barkland CWS, I fully support this project. Individuals can get a free testing kit from Home Depot and EZ Test Pools here in Derry.

Motion by Councilor Katsakiores to close public hearing, seconded by Councilor Wetherbee
Roll Call Vote: 6-0-0

Councilor Wetherbee MOVES THAT THE TOWN COUNCIL adopt Resolution #2022-078 which reads as follows [*Read the Resolution*], seconded by Councilor Foote
Roll Call Vote: 6-0-0
Resolution attached

22-119 Resolution #2022-079 – Issue loans through NHDES for Water Quality Improvements – *Public Works Deputy Director Tom Carrier presenting*

This is part of Item 22-118

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

No one from the public spoke.

Motion by Councilor Foote to close public hearing, seconded by Councilor Katsakiores
Roll Call Vote: 6-0-0

Second Hearing to be held November 22, 2022

22-120 Resolution #2022-080 – Accept the Barkland Acres Water System and Levy Betterment Assessments Thereon – *Public Works Deputy Director Tom Carrier presenting*

This is part of Item 22-118 and authorizes the acquisition of Barkland Acres CWS and levy an annual betterment assessment of \$556 per property per year for a period of twenty years for all applicable properties.

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

No one from the public spoke.

Motion by Councilor Wetherbee to close public hearing, seconded by Councilor Chirichiello
Roll Call Vote: 6-0-0

Councilor Foote MOVES THAT THE TOWN COUNCIL adopt Resolution #2022-080 which reads as follows [Read the Resolution], seconded by Councilor Foote
Roll Call Vote: 6-0-0
Resolution attached

22-121 Resolution #2022-081 – Adopt a revised user rate schedule for Derry Water customers – *Public Works Deputy Director Tom Carrier presenting*

This is part of item 22-118 and authorizes an increase to the Derry municipal water rates of \$0.41 per 100 cubic feet to offset the cost of this project to become effective beginning the fiscal year of the first loan payment to NHDES.

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

No one from the public spoke.

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

Councilor Wetherbee MOVES THAT THE TOWN COUNCIL adopt Resolution #2022-081 which reads as follows [Read the Resolution], seconded by Councilor Foote
Roll Call Vote: 6-0-0
Resolution attached

22-111 Resolution #2022-082 – Issue loans through NHDES for the Hood Pond Watershed Study – *Public Works Director Mike Fowler presenting*

This is part of item 22-115 for \$100,000 in loans through NHDES with 100% principal forgiveness.

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

Richard Tripp, Windham Rd, Is phosphorus load a new test on the list? Mike Fowler responds that the testing has been done for at least 10 years.

Lisa Hultgren, Warner Hill Rd, Is the end goal for the kids to swim? Mike Fowler responds that might be an issue of staffing more than the water quality. Lots of kids would love to be lifeguards is expensive, especially for the testing so they could be the staff that the Town needs.

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

Second Hearing to be held November 22,2022

New Business

22-130 Resolution #2022-084 – Establish the Captured Assessed Value for the Derry Commerce Corridor and Gateway Tax Increment Financing Districts – *Town Administrator Dave Caron presenting*

Staff has calculated the amount of Captured Assessed Value for the two TIF districts in Town to be retained to fund infrastructure, operating and debt service costs associated with the TIF District Development Plan. The Derry Commerce Corridor TIF District \$67,151,300 and Gateway TIF District \$34,913,472

Councilor Wetherbee MOVES THAT THE TOWN COUNCIL adopt Resolution #2022-084 which reads as follows [Read the Resolution], seconded by Councilor Foote
Roll Call Vote: 6-0-0
Resolution attached

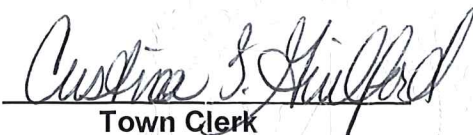
Councilor Comments / Liaison Reports –

Councilor Chirichiello – Please watch the program that was filmed for Derry TV that can assist residents who need utility assistance. The County still has rental assistance, please apply.

Councilor Bourdon – Congratulations to Susan Ochoa named Citizen of the Year by the Chamber of Commerce. Voting is Tuesday, November 8th, please vote. Veterans Day is coming November 11th, thank a veteran.

Motion by Councilor Foote to ADJOURN, seconded by Councilor Katsakiores
All Agreed

Adjourn: 8:36PM


Town Clerk


Date

Recording & Transcription by: Cristina Guilford, Town Clerk



RESOLUTION

Number 2022-074

To Approve a Supplemental Appropriation for the Hood Pond Watershed
Management Plan

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 preservation of clean water is a top priority of the Town; and

WHEREAS, the New Hampshire Department of Environmental Services (NHDES) has ranked the Hood Park Watershed Management Plan as a statewide priority; and

WHEREAS, NHDES has loans available for this project with 100% principal forgiveness, resulting in no net cost to the Town; and

WHEREAS, implementation of this project will allow the Town to remain in compliance with its EPA MS4 permit for stormwater


NOW, THEREFORE, BE IT RESOLVED IN COUNCIL:

- 1) That the sum of One Hundred Thousand Dollars (\$100,000) is hereby raised to implement the Hood Pond Watershed Study;
- 2) That the Town is hereby authorized to secure loans from NHDES up to One Hundred Thousand Dollars (\$100,000) to fund this study;
- 3) The Town Administrator is hereby authorized to execute any and all study and loan documents necessary to complete this project.

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 1, 2022

Attest:


Joshua Bourdon, Chair

Date: 11/1/22
Archival Ref: TC Agenda Item #22-115


Cristina Guilford, Town Clerk

Date: 11/1/22



RESOLUTION

Number 2022-075

To Accept Unanticipated Revenues from NHDES for the Big Island Pond
Watershed Study.

WHEREAS, the Section 9.15 of the Town Charter authorizes the Town Council to apply for, accept and expend funds received from a variety of sources to be used for public purposes; and

WHEREAS, there is a need to complete a watershed study of Big Island Pond to help preserve clean water; and

WHEREAS, the New Hampshire Department of Environmental Services (NHDES) has awarded a grant of up to One Hundred Thousand Dollars (\$100,000) for this study:

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Town Administrator is hereby authorized to accept up to \$100,000 in unanticipated revenues from NHDES and to execute all documents necessary to accept these funds and complete a Watershed Management Plan for Big Island Pond.

This Resolution shall take effect immediately upon its passage.

Adopted November 1, 2022

Attest:

x


Joshua Bourdon, Council Chair

Date: 11/1/22

x


Cristina Guilford, Town Clerk

Date: 11/1/22



RESOLUTION

Number 2022-077

To Authorize the Town to apply, receive and expend a grant from the New Hampshire Police Standards and Training Council for Personnel Hiring Expenses

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, the Police Department incurs expenses during the recruitment process for new officers, including the cost of psychological examination; and

WHEREAS, the State of New Hampshire Police Standards and Training Council has funds available to reimburse for these expenses; and

WHEREAS, acceptance of these funds would help defray a portion of the local expenses to hire police officers;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Town Administrator is hereby authorized to apply for, accept and expend reimbursement for psychological examinations from the New Hampshire Police Standards and Training Council.

This Resolution shall take effect immediately upon its passage and remain in effect unless rescinded.

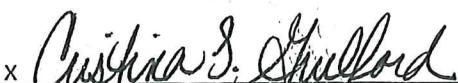
Adopted: November 1, 2022

Attest:

x 

Joshua Bourdon, Council Chair

Date: 11/1/22

x 

Cristina Guilford, Town Clerk

Date: 11/1/22



RESOLUTION

Number 2022-078

To Approve a Supplemental Appropriation and Accept an ARPA Grant for
Water Quality Improvements

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 presented information to the Council during the FY23 budget process identifying Water Division priorities to address substandard water quality, including the Barkland Acres, Rand-Shepard Hill and Morningside Drive community water systems; and

WHEREAS, the NH Department of Environmental Services recently made available grants, low interest loans and principal forgiveness to assist with these projects; and

WHEREAS, the impending construction of the Exit 4A corridor adds urgency to this matter; and

WHEREAS, this project is essential to provide quality water in the most economical fashion;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the sum of Six Million, One Hundred Ten Thousand Dollars (\$6,110,000) is hereby appropriated to extend the municipal water system to Barkland Acres, Rand-Shepard Hill and Morningside Drive water systems;

FURTHER, BE IT RESOLVED IN COUNCIL that the Town Administrator is hereby authorized to apply, accept and expend up to One Million Two Hundred Twenty Thousand Dollars (\$1,220,000) in ARPA funds from NHDES to be applied against this appropriation.

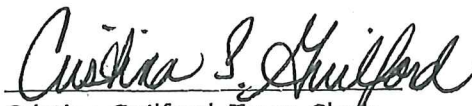
This Resolution has been adopted by a two-thirds majority of the entire Council as required by Charter and shall take effect immediately upon its passage.

Adopted: November 1, 2022

Attest:


Joshua Bourdon, Council Chair

Date: 11/1/22
Archival Ref: TC Agenda Item #22-118


Cristina Guilford, Town Clerk
Date: 11/1/22



RESOLUTION

Number 2022-080

To Accept the Barkland Acres Water System and Levy Betterment
Assessment Thereon

WHEREAS, RSA 31:95-e authorizes the Town Council to accept gifts, other than money, to be used for any public purpose; and

WHEREAS, the Barkland Acres Water System is experiencing water quality issues and has requested that the Town accept ownership and operation of the system; and

WHEREAS, the Town Council previously adopted Resolution #2022-079 which appropriates funds for water quality improvements, including those served by the Barkland Acres Water System; and

WHEREAS, the customers of the Barkland Acres Water System shall be responsible for a share of the cost of improvements required to conform with NH Department of Environmental System requirements;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Town Administrator is hereby authorized to accept ownership of the Barkland Acres Water System and to connect said system to the Derry Municipal Water Supply; and

BE IT FURTHER RESOLVED IN COUNCIL that all Barkland Acres properties benefitting from the availability of municipal water as shown on the attached map shall be subject to an annual betterment assessment in the amount of \$556 per property per year for a period of twenty years, as authorized pursuant to RSA 38:27.

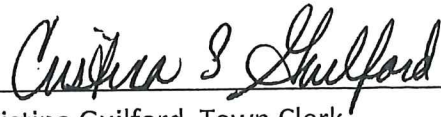
This Resolution shall take effect immediately upon its passage.

Adopted: November 1, 2022

Attest:

x 

Joshua Bourdon, Council Chair
Date: 11/1/22

x 

Cristina Guilford, Town Clerk
Date: 11/1/22



RESOLUTION

Number 2022-081

To Approve Revised User Rate Schedules for Derry Water Customers

WHEREAS, RSA 38:28 authorizes the Town Council to adjust water rates to meets the needs of the Water Division; and

WHEREAS, the Town Council pursuant to Resolution #2022-079 has appropriated funds to enhance water quality in certain areas of the Derry Water System; and


WHEREAS, water rates need to be adjusted to help fund the local share of expenses associated with the Water Quality Extension Project;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that it is necessary to adjust water user rates by \$0.41 per 100 cubic feet to offset the cost of the Water Quality Extension Project.

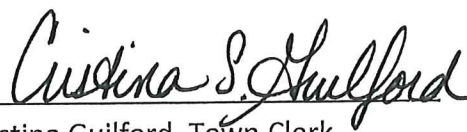
This Resolution shall take effect immediately with water rates adjusted beginning the fiscal year of the first loan payment to NHDES.

Adopted: November 1, 2022

Attest:

x 

Joshua Bourdon, Council Chair
Date: 11/1/22

x 

Cristina Guilford, Town Clerk
Date: 11/1/22



Resolution #2022-084

To Establish the Captured Assessed Value for the Derry Commerce Corridor and Gateway Tax Increment Financing (TIF) Districts

WHEREAS, The Town previously enacted the provisions of Chapter 162-K, Municipal Economic Development and Revitalization Districts; and

WHEREAS, the Town established and actively supports its two TIF Districts (Ash Street and Derry Commerce Corridor) by investing in their development for the benefit of the Districts and the entire community; and,

WHEREAS, RSA 162-K:10 requires that the Town Councilor establish the Captured Assessed Value to be retained to fund infrastructure, operating and debt service costs associated with the TIF District Development Plan; and

WHEREAS, staff has calculated the amount of Captured Value necessary to implement the TIF District Development Plans,

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Captured Assessed Value shall be established as follows:

Derry Commerce Corridor Tax Increment Financing District \$67,151,300

Gateway Tax Increment Financing District \$34,912,472

This Resolution shall take effect retroactively to April 1, 2022.

Adopted November 1, 2022.

Attest:

x

Joshua Bourdon, Council Chair

Date: 11/8/22

x

Cristina Guilford, Town Clerk

Date: 11/1/22