

## TOWN OF DERRY

Town Council  
Derry Municipal Center  
14 Manning Street



Tuesday November 22, 2022  
3rd Floor Meeting Room

### **MINUTES**

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

**Motion by Councilor Spencer to leave non-public session, seconded by Councilor Katsakiores**  
**Roll Call Vote: 6-0-0**

**Motion by Councilor Chirichiello to seal non-public minutes indefinitely, seconded by Councilor Foote**  
**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, Spencer, Flood, and Chairman Bourdon  
Absent: Councilor Wetherbee  
Present: TA Dave Caron, Town Clerk Tina Guilford

#### **Consent Agenda**

**22-131 Approve Non-Public Minutes – November 1, 2022 – Minutes Sealed**  
**22-132 Approve Minutes – November 1, 2022**

**Councilor Chirichiello moves to approve the consent agenda, seconded by Councilor Katsakiores**  
**Roll Call Vote: 5-0-1 Spencer Abstains**

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

**Motion by Councilor Foote to open Public Forum, seconded by Councilor Spencer**  
**All Agreed**

Steve Trefethen, North Shore Rd, Our Planning Board is looking at Form Based code. Form based code will cut out the Zoning Board as we have seen in the West Running Brook Zone. While there are some rules, Planning will be making decisions that should go through the Zoning process with no recourse. A single planning board approval without checks and balances is a mistake. We need those checks and balances to control growth. The Council needs to pay attention.

Kathy MacDonald, Silvestri Circle, while we have lots of great things in Derry, the Rail Trail is our gem. I have watched it grow for years. People feel safe on our rail trail, which is why this plan is perplexing. Derry taxpayers paid 5 million for 4A believing there would be a tunnel. Now the DOT pulls it. There are driveways backing onto the trail. A brook is incorporated in to the

plan and it will flood. Your allegiance is to this town, this is not safe. Why are you not standing up for us?

Mark Flattes, Linlew Drive, thank you to the people who put on the election. Looking for an explanation of the policy for unsealing the minutes? Can it be appealed? Lastly, help these people get a tunnel.

Brittany Walsh, Chester Rd (Online) There are no sidewalks where I live so we use the rail trail for my child to ride his bike safely. The trail is very important to the residents of this town.

Nancy Francis, Gulf Road, here to update you on the 6<sup>th</sup> Annual Pantry Plunge, December 10<sup>th</sup>. The food problems have not gone away. We will continue to raise money any way we can. So, you can Plunge for money or just donate, every dollar counts. Go to [pantryplunge.org](http://pantryplunge.org) for more information. We are freezing for a reason.

Donna LaPorte, Fairfax Ave, we need the tunnel. I see accidents and near misses every day on Broadway. This crossing is multiple lanes. This is disappointing, we need this safety matter resolved.

Mark Hughox, Salem NH, Cyclist who uses the rail trail. There needs to be consideration for E-Bikes, they are 40-80 pounds of bike. Navigating an e-bike is very different than a regular bike. Consider the e-bike and eliminate the hairpin turns and the grade issue.

Erich Whitney, Wilson Ave (Online) I came to the Town Council 15 years ago with a vision for the Rail Trail. I am requesting that this Council push back on DOT and continue to support the rail trail as you have in the past. The tunnel is the safe solution going forward. Push back on this bad decision.

Robert LaPlante, Hampshire Drive, wants to discuss voting. At 2 PM it was a 30 minute back up. My wife was in traffic for an hour at 5:00 PM, This is not the first time we have had traffic backups. We need a road engineer to review the traffic plan. The new tablets are great. We need locations that can accommodate more traffic.

Andy Day, East Broadway, I own Derry's first distillery, it cost us thousands of dollars to built what amounted to a bomb shelter for our distillery in the name of public safety. Derry After Dark is an event put on right here on Manning Street where we spend thousands on public safety. I also run a pub crawl, which starts at my location and runs up the rail trail, past the new Hood Pond section which is beautiful, and we cross the current two-lane road at this crossing point, and the solution on the table is garbage. This is worth fighting with DOT for. This will be a 4 lane road when done. I do want to thank the council for the approval of Abbot Court property, more people for the rail trail. Fight for the safety of Derry.

Paula Bedard, Goffstown (Online) On the board of Directors for the Bike Walk Alliance, the alternative plan is low quality and dangerous. The tunnel is the only sensible option. NH DOT is trying to save money at the expense of the Rail Trail community. Do your job and pay attention to your community.

Elizabeth Greenberg, North High Street, I had the opportunity to speak to Chris Pappas and Maggie Hassan. They are planning on talking to DOT and investigating further. It looks bad that our federal representation is on board with investigating and our local representation does not. Stand up for us. Recumbent tricycles will be horrible on the safety loop. About the election, I feel

it was horrible that some felt that they could not wait to vote, and I hope you investigate all options.

Richard Tripp, Windham Road, I will support all the Councilors with a donation if they do the Pantry Plunge. I appreciate all the Rail Trail people coming in, but this is only one side of the story. The Council needs to ask DOT to come in and explain why they are doing what they are doing.

Ed Vitonis, Kristen Drive, the Rail Trail is for ease of use and to limit interaction with cars. This is a new build and needs to be built to be safe. The area has changed dramatically, and will the rail trail end up in the way? The long-term plan could be marginalized. Look at Old Orchard Beach, it crosses the highway path and its horrible. 180 degrees on a bike, they are not designed to do that.

Ellen Phillips, Chester NH, (Online) Support the rail trail, this is becoming an equity issue. Safety and value are not being considered.

Tom Cardon, Cunningham Drive, Thank all the election workers and voters. About the Rail Trail, the only ones who can change this is the Town Council. The DOT is trying to save money.

Wayne Morris, Windham, works with Northeast passages through UNH, that provides adaptive sports for mobility issues. I do agree that the tunnel plan is the best for mobility user. The disenfranchisement of the elderly and those with physical issues. It will limit the use of the trail.

Chris Rosenweld, English Range Road, A continuous tunnel will help more economic development. I think people crossing at grade will back up traffic.

Mark Samsel, Windham NH, President of the Windham Rail Trail Alliance, 15 years ago came in front of this Council to talk about a vision. This Council moved faster than any other and got it done. Please look at the facts and the numbers and please act again.

Brody Miller, Bedard Ave, First time speaker and thinks the tunnel would be easier and safer. The spaghetti trail will cause issues with people on bikes, walking, horses. Put some thought into this.

Richard Tripp, Windham Road, DOT needs to speak their piece. Make sure you hear all sides of the story.

Mark Connors, Cabot Drive, would love to have an answer as to why the DOT is doing this. The numbers have changed, the excuses have changed, the slope of the road is there for the practical purposes, if there is a reason we need to know. What is the reason? This is not the best solution for Derry.

For the record, most of the room raised their hand in support of the tunnel.

**Motion by Councilor Chirichiello to close Public Forum, seconded by Councilor Spencer All Agreed**

**Chairman Report – Joshua Bourdon**

4A is probably the largest project in our town's history. The Council will continue to look into the Rail Trail and are working on it.

**Landfill Solar Project – Net Zero Task Force Chairman Jeff Moulton Presenting**

The current supply electricity contract with Standard Power at 6.575 cents/kwh expires in November 2023. Encore contract completion date is November 2023, however the current schedule is behind by 2 months. The Eversource Interconnect Application was submitted June 2022 with a requirement that Eversource respond in 90 days. Encore is still awaiting a response. We need pressure on Eversource and PUC to complete the application to minimize cost increases.

**Election Wrap Up – Town Moderator Lisa Hultgren and Town Clerk Tina Guilford presenting**  
Election day had a record turnout for Derry with 12034 voters, 60% of our electorate. While everything ran smoothly inside the polling place, there were logistical issues outside the polling location with traffic backups. A Workshop will be scheduled to review future polling locations.

**Town Administrator's Report – Dave Caron**

**FY23 Q1 Financials and 2022 Tax Rate – Chief Financial Officer Mark Fleischer**

September is 25% through the fiscal year. FY23 General-Operations are at 66% Revenues and 54% Expenses. Revenues and Expenses can run higher due to contractual obligations booked for the entire year.

For 2022 the Net Valuation is \$4,765,088,792.00 and the tax rate is \$19.04.

The Town has scheduled an auction of 9.5 Wildwood and 12 Forest for Thursday, December 8<sup>th</sup> at 2PM on site. The Tax Collector will be preparing a Resolution for the December 6<sup>th</sup> meeting on tax deeded properties listing which properties the Town should not move forward to auction at this time.

Mark Brassard, who is spearheading planning for passive recreation offerings at Hood Park is working with staff and students at Pinkerton. The design work is at about 70% completion. Please be aware that the municipal offices will be closed on Thursday and Friday of this week in observance of the Thanksgiving Holiday.

We have submitted an application for the CMAQ Grant for funding of electric vehicles for administrative purposes.

Federal Housing Relief has ended and the and our GA Administrator continues to utilize grant funds the Town applied for earlier this year for the same purpose. These funds expire in September and we anticipate an uptick in Town general assistance expenses through the balance of the fiscal year.

**Public Hearings**

**22-127**

Resolution #2022-083 – Accept a NH Highway Safety Grant for various traffic enforcement activities – *Police Chief George Feole presenting*

There are seven enforcement programs totaling \$24,000.00 The NH Highway Safety Agency will reimburse the Town for 100% of the salary-related expenses plus associated roll up costs for all hours worked under the grants. The Town is responsible for in kind cost matches for the 7

patrol grants totaling \$6,000.00. Those costs are soft match costs and are funds already budgeted for administering the grants, prosecuting any cases resulting from the enforcement efforts and equipment costs associated with conducting the patrols.

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

Richard Tripp, Windham Road, wants to know how productive these patrols are. Chief Feole replied that they are required to keep records and they are productive. Mr. Tripp then wanted to know what is the NH Clique Patrols? Chief Feole replied that is a seat belt patrol

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

**Councilor Spencer MOVES THAT THE TOWN COUNCIL adopt Resolution #2022-083 which reads as follows [Read the Resolution], seconded by Councilor Foote**  
**Roll Call Vote: 6-0-0**  
**Resolution attached**

**22-116** Resolution #2022-085 – Approve a supplemental Appropriation for equipment and to execute a Lease Purchase Agreement with TD Bank –  
*Chief Financial Officer Mark Fleischer presenting*

After soliciting bids for municipal lease services, TD Bank was chosen for their guaranteed fixed interest rates and no fees passed onto the community. The interest rate as of 10/25/2022 was 4.10% for a 3-year term, 4.013% for a 5-year term and 3.9842% for a 7-year term. Interest rates for borrowing are changing daily and we wish to lock in these rates. We have been approved for a \$2.2M credit line for this lease. The FY23 lease amount approved in the budget was \$2,049,368. Due to pricing changes, we are seeking a supplemental appropriation of \$114,801 for the General fund, \$35,375 for the Water Fund and \$10,000 for the Wastewater Fund for a total of \$160,176. Additionally, in activity center 35, lease revenue will be reduced by \$25,199 and the \$140,000 trade-in revenue will be added. Water lease revenue will be increased by \$35,375 and Wastewater lease revenue will be increased \$10,000. The adjusted amount to be financed with TD Bank will be \$2,069,544. We are also seeking approval to enter into a master lease agreement with TD Bank for these FY23 purchases.

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

No one from the public spoke.

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

**Councilor Spencer MOVES THAT THE TOWN COUNCIL adopt Resolution #2022-085 which reads as follows [Read the Resolution], seconded by Councilor Foote**  
**Roll Call Vote: 5-1-0 (Councilor Chirichiello – No)**  
**Resolution attached**

The Town purchased several properties in the Abbott Court area many years ago and has been attempting to redevelop the property as a stimulus for further economic development in the Downtown. Town staff has been engaged in discussions with the LMG Group for over a year now advancing a vision to redevelop Abbott Court. The Town Council approved a Memorandum of Understanding with LMG on November 21, 2021 which authorized LMG to proceed with a conceptual design and seek zoning variances for the project. While the Zoning Board granted a number of variances in support of the project; those approvals were appealed to Superior Court. Superior Court upheld the ZBA's decision and later denied a request for reconsideration. The plaintiffs have appealed to the NH Supreme Court. The Town would like to proceed with planning work, including the development of plans and drawings for the parking structure during the appeal period.

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

Mark Connors, Cabot Drive, question, parking structure? Administrator Caron replied It's the parking structure for the basement of the building. Mr. Connors replied he whole heartedly supports the Abbott Court project.

Mark Flattes, Linlew Drive, feels the Council does not understand contract language. Wants to know the full cost of the garage. Administrator Caron replied that it should be about \$30,000 per spot. Mr Flattes then wants to see an agreement that these funds will not be used to design the residential portion of the building. Administrator Caron states that the MOU the Council signed is available.

David Barka, East Derry Road, is an abutter but he strongly objects to this project. Wants to know the full extent of the Council's involvement and is concerned that the Council is exposing the Town to a potential quagmire. States the math does not add up with the parking structure. He feels the project has not been publicized. He is perplexed and thinks this project is sucking away at the revitalization of old apartments. Wants to know the actual involvement of the Town financially. Administrator Caron replied that we are only involved in the construction of the parking structure only.

Richard Tripp, Windham Road, wants to know the timeline with the Supreme Court. Administrator Caron says it's a several month backlog. Mr Tripp states that the Council needs to keep the project moving.

Tom Cardon, Cunningham Drive, wants to know if the money will return to the taxpayers. Administrator Cardon stated that it will. Mr Cardon wants to know about the cost of the garage and if it will cost the taxpayers more money. Administrator Caron states that there will be revenues from the leased parking spaces and from TIF revenue.

Steve Trefethen, North Shore Road , He believes it is 300 parking spaces not 240 and it will cost around 9 million. He feels the Council is paying for extra engineering to support the building and that the Town needs to be reimbursed for that. He feels that they are short about 70 spaces and that with winter parking bans there will be a real crunch for parking in the downtown.

Rosalind McGivern, East Derry Road, has a question about the TIF District wants to know where the money comes from. Administrator Caron has questions about the publication of the hearing and questions on minutes. This is a large project impacting Derry residents and there seems to be no financial benefit. We are losing spaces and we need a benefit. This is a large project and there needs to be more publicity.

Mark Connors, Cabot Drive, there is a lot of apathy in Town. It is an issue and citizens need to get involved. He wanted to know if there is a full on set of designed plans. Administrator Caron replied that there is no fixed plans as of yet. Mr Connors wants to know if there is additional parking in the part of the land.

Steve Trefethen, North Shore Road, Question on leasing parking, will we be towing people? Administrator Caron that none of that has been worked out yet.

Mark Flattes, Linlew Drive, is the Town going to get into the car space leasing business? Administrator Caron states that it will be the apartment leasing company leasing the spots.

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

**Motion to extend the meeting by 10 minutes by Councilor Foote seconded by Councilor Spencer**  
**All Agreed**

**Councilor Spencer MOVES THAT THE TOWN COUNCIL adopt Resolution #2022-086 which reads as follows [Read the Resolution], seconded by Councilor Foote**  
**Roll Call Vote: 6-0-0**  
**Resolution attached**

#### **New Business**

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

This resolution is to authorize the issuance of \$4.88M in loans from NHDES with a 20 year term at an interest rate of 2.536% =, with 30% of the principal forgiven on an annual basis by NHDES. This is to fund the extension of the municipal water system and interconnect the Rand-Shepard Hill, Barkland Acres and Morningside Drive community water systems.

**Councilor Spencer MOVES THAT THE TOWN COUNCIL adopt Resolution #2022-079 which reads as follows [Read the Resolution], seconded by Councilor Foote**  
**Roll Call Vote: 6-0-0**  
**Resolution attached**

**Motion to extend the meeting by 10 minutes by Councilor Foote seconded by Councilor Spencer**  
**All Agreed**

**22-122**

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

This resolution is to authorize the issuance of \$100,000 in loans through NHDES with 100% forgiveness to fund a study of the Hood Pond Watershed.

**Councilor Spencer MOVES THAT THE TOWN COUNCIL adopt Resolution #2022-082 which reads as follows [Read the Resolution], seconded by Councilor Foote**

**Roll Call Vote: 6-0-0**

**Resolution attached**

**Councilor Bourdon moves for an Emergency of Convenience relative to authorization to provide samples of alcoholic beverages at the Salem, NH Farmers Market held at LaBelle Winery Derry, seconded by Councilor Spencer**

**Roll Call Vote**

**6-0-0**

**22-130**

Resolution #2022-088 – Authorize Auspicious Brew to serve alcohol samples at the Farmers Market at LaBelle Winery – *Police Chief George Feole presenting*

This request was received today from Auspicious Brew to serve samples on Sundays at the Salem NH farmers Market held at LaBelle Winery Derry from the hours of 10AM and 2PM beginning on November 27<sup>th</sup> and ending on April 30<sup>th</sup>.

**Councilor Bourdon MOVES THAT THE TOWN COUNCIL adopt Resolution #2022-088 which reads as follows [Read the Resolution], seconded by Councilor Katsakiores**

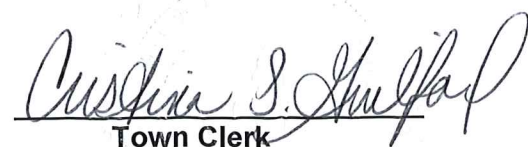
**Roll Call Vote: 6-0-0**

**Resolution attached**

**Councilor Comments / Liaison Reports –**

**Motion by Councilor Chirichiello to ADJOURN, seconded by Councilor Spencer  
All Agreed**

**Adjourn: 10:17PM**

  
Town Clerk

  
Date

**Recording & Transcription by: Cristina Guilford, Town Clerk**



## RESOLUTION

Number 2022-083

To Accept a NH Highway Safety Agency Grant for  
Various Traffic Enforcement Activities

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

WHEREAS, funding is available through the NH Highway Safety Agency; and

WHEREAS, the Town may receive funds for various traffic enforcement activities; and

WHEREAS, these activities enhance the safety of the travelling public in Derry;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL, pursuant to RSA 31:95-b, that the Town Administrator is hereby authorized to apply for, accept and expend \$24,000 derived from NH Highway Safety Agency grants and to enter into agreements with the State of New Hampshire as may be necessary to finalize receipt of this grant funding for the following programs:

- a) Speed Enforcement Patrols;
- b) DUI Enforcement Patrols;
- c) Distracted Driving Patrols;
- d) Pedestrian/Bicycle Patrols;
- e) Join the NH Clique Patrols;
- f) Drive Sober or Get Pulled Over Patrols;
- g) U Drive, U Text, U Pay Patrols

This Resolution shall take effect immediately upon its passage.

Adopted: November 22, 2022

Attest:

x

Joshua Burdon, Council Chair

Date: 11/22/22

Archival Ref: Agenda #22-127

x

Cristina Guilford, Town Clerk

Date: 11/22/22



## RESOLUTION

Number 2022-085

To Approve a Supplemental Appropriation to Purchase Capital Equipment  
and to Authorize the Execution and Delivery of a Master Lease Purchase  
Agreement Therefore

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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 approved the purchase of Capital Equipment as part of the FY23 budget adoption; and

WHEREAS, current economic conditions require a Supplemental Appropriation to complete the purchases; and

WHEREAS, the Town customarily finances these acquisitions through a lease purchase program; and

WHEREAS, these excess costs will be absorbed through multi-year lease purchase payments from the Town's Capital Reserve Funds; and

WHEREAS the Town of Derry, a body politic and corporate duly organized and existing as a political subdivision of the State ("Lessee"), is authorized by the laws of the State of New Hampshire to purchase, acquire and lease personal property for the benefit of Lessee and to enter into contracts with respect thereto; and

WHEREAS Lessee desires to purchase, acquire, finance and lease certain equipment with a cost not to exceed \$2,069,544.00 constituting personal property necessary for Lessee to perform essential governmental functions (the "Equipment"); and

WHEREAS Lessee proposes to enter into that certain Master Lease Purchase Agreement (the "Agreement"), with TD Equipment Finance, Inc. ("Lessor"), the form of which has been available for review by the governing body of Lessee prior to this meeting; and

WHEREAS the funds made available by Lessor under the Agreement will be deposited into an account designated in writing by Lessee for the purpose of administering the Funding Amount pursuant to this Lease (the "Funding Account") or pay to Lessee an amount equal to the Funding Amount.

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WHEREAS the Equipment is essential for Lessee to perform its governmental functions; and

WHEREAS, Lessee has taken the necessary steps, including those relating to any applicable legal bidding requirements, to arrange for the acquisition of the Equipment; and

WHEREAS the governing body of Lessee deems it for the benefit of Lessee and for the efficient and effective administration thereof to enter into the Financing Documents and any other documentation necessary, convenient or appropriate for the purpose of the financing the Equipment on the terms and conditions described therein;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the sum of One Hundred Sixty Thousand One Hundred Seventy-Six Dollars (\$160,176) is hereby raised to complete the purchase of Capital Equipment, to be allocated to the following funds:

General Fund	\$ 114,801
Water Fund	\$ 35,375
Wastewater Fund	\$ 10,000

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF LESSEE, that Lessee is hereby authorized to execute and deliver the Agreement with principal components of rental payments in an aggregate amount not to exceed \$2,069,544.00

BE IT FURTHER RESOLVED that the Financing Documents and the acquisition and financing of the Equipment under the terms and conditions as described in the Financing Documents are hereby approved. The Town Administrator of Lessee and any other officer of Lessee with the power to execute contracts on behalf of Lessee be, and each of them hereby is, authorized to execute, acknowledge and deliver the Financing Documents and any and all instruments, documents and certificates which may be required by or provided for in the Financing Documents or as may otherwise be required for or necessary, convenient or appropriate to the financing described in this resolution together with any changes, insertions and omissions therein as may be approved by the officer(s) who execute the Financing Documents, such approval to be conclusively evidenced by such execution and delivery of the Financing Documents. The \_Town Administrator of Lessee and any other officer of Lessee with the power to do so be, and each of them hereby is, authorized to affix the official seal of Lessee to the Financing Documents and attest the same.

BE IT FURTHER RESOLVED that the proper officers of Lessee be, and each of them hereby is, authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits and other documents and to do or cause to be done any and all other acts and things necessary or proper for carrying out this resolution and the Financing Documents.

BE IT FURTHER RESOLVED, that pursuant to Section 265(b) of the Internal Revenue Code of 1986, as amended (the "Code"), Lessee hereby specifically designates the Agreement as a "qualified tax-exempt obligation" for purposes of Section 265(b)(3) of the Code.

BE IT FURTHER RESOLVED, that nothing contained in this Resolution, the Agreement nor any other instrument shall be construed with respect to Lessee as incurring a pecuniary liability or charge upon the general credit of Lessee or against its taxing power, nor shall the breach of any agreement contained in this Resolution, the Agreement or any other instrument or document executed in connection therewith impose any pecuniary liability upon Lessee or any charge upon its general credit or against its taxing power, except to the extent that the rental payments payable under the Agreement are special limited obligations of Lessee as provided in the Agreement.

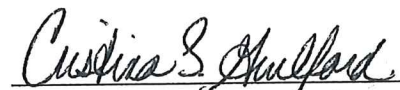
BE IT FURTHER RESOLVED, that if any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

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 22, 2022

Attest:

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

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

Archival Ref: TC Agenda Item #22-128



## RESOLUTION

Number 2022-086

To Approve a Supplemental Appropriation for Design Fees for the Derry  
Commerce Corridor TIF District Parking Structure

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 #2019-012 established the Derry Commerce Corridor Tax Increment Financing District to include the Downtown area; and

WHEREAS, the Derry Commerce Corridor TIF Implementation Plan cited additional parking and a Downtown Parking Garage as priority improvements; and

WHEREAS, the Town has partnered with LMG NH LLC for a mixed use development at Abbott Court ; and

WHEREAS, funds are available in the DCC TIF Fund Balance for this project;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the sum of Eight Hundred Forty-Five Thousand Two Hundred Fifty Dollars (\$845,250) is hereby appropriated from the DCC TIF Fund Balance for design of the DCC TIF Parking Structure;

FURTHER, BE IT RESOLVED IN COUNCIL that the Town Administrator is hereby authorized to execute all documents necessary with LMG NH LLC for the design of the structure.

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 22, 2022

Attest:

  
Joshua Bourdon, Council Chair

Date: 11/22/22

Archival Ref: TC Agenda Item #22-129

  
Cristina Guilford, Town Clerk

Date: 11/22/22



## RESOLUTION

Number 2022-079

To Enter into an Agreement with New Hampshire Department of  
Environmental Services for a Loan for Water Quality Improvements and  
Authorize Participation in the Principal Forgiveness Program

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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 Town Council pursuant to Resolution #2022-078 appropriated \$6.11M for this project; and

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

NOW, THEREFORE, BE IT RESOLVED that the Town Council, pursuant to the Municipal Finance Act, RSA Chapter 33, Town Administrator is hereby authorized to execute all necessary documents to participate in and benefit from the NHDES principal forgiveness program which will result in a 30% principal forgiveness for this project between the Town and the New Hampshire Department of Environmental Services to effect a borrowing in the principal amount not to exceed \$4,890,000 to finance the design and construction of a water main extension to serve Barkland Acres, Rand- Shepard Hill and Morningside Drive community water systems.

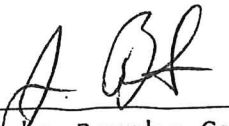
IT IS FURTHER RESOLVED that the Town Administrator is hereby designated as the Authorized Representative of the Applicant for the purpose of filing an application for a loan in accordance with New Hampshire Code of Administrative Rules, furnishing such information, data, documents and disbursements pertaining to the applicant for a loan as

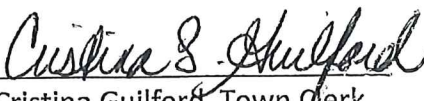
may be required; and otherwise to act as the authorized representative of the Applicant in connection with the loan application."

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 22, 2022

Attest:

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

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

Archival Ref: TC Agenda Item #22-119



## RESOLUTION

Number 2022-082

To Enter into an Agreement with New Hampshire Department of  
Environmental Services for a Loan for the Hood Pond Watershed Study and  
Authorize Participation in the Principal Forgiveness Program

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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 Department of Public Works is responsible for stormwater management to maintain compliance with EPA regulations; and

WHEREAS, the Hood Pond Watershed is critical to water quality in the Downtown; and

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


NOW, THEREFORE, BE IT RESOLVED that the Town Council, pursuant to the Municipal Finance Act, RSA Chapter 33, that the Town Administrator is hereby authorized to execute all necessary documents to participate in and benefit from the NHDES principal forgiveness program, which will result in a 100% principal forgiveness for this project between the Town and the New Hampshire Department of Environmental Services to effect a borrowing in the principal amount not to exceed \$100,000 to finance the Hood Pond Watershed Study.

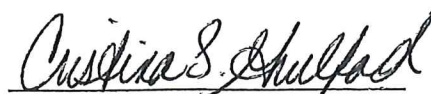
IT IS FURTHER RESOLVED that the Town Administrator is hereby designated as the Authorized Representative of the Applicant for the purpose of filing an application for a loan in accordance with New Hampshire Code of Administrative Rules, furnishing such information, data, documents and disbursements pertaining to the applicant for a loan as may be required; and otherwise to act as the authorized representative of the Applicant in connection with the loan application.

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 22, 2022

Attest:

  
Joshua Bourdon, Council Chair  
Date: 11/6/22

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

Archival Ref: TC Agenda Item #22-122



## RESOLUTION

Number 2022-088

To Authorize Auspicious Brew to serve alcohol samples at the Farmer's  
Market at LaBelle Winery.

WHEREAS, Section 5.1 of the Town Charter designates the Town Council as the governing and legislative body of the Town and, as such, it is empowered to act in accordance with RSA 179:44; and

WHEREAS, RSA 179:44 II-a authorizes wine manufacturers, beverage manufacturers, nano breweries and brew pubs to provide samples for tasting at a farmers' market, contingent upon written authorization by the Governing Body;

WHEREAS, the Town has received a request from Auspicious Brew to participate in the Farmer's Market at LaBelle Winery;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that Auspicious Brew is hereby authorized to provide alcohol tasting samples during Farmer's Market at LaBelle Winery, contingent upon compliance with all applicable state statutes and Town of Derry Ordinances.

This Resolution shall take effect immediately upon its passage and shall remain in effect until rescinded by the Town Council.

Adopted: November 22, 2022

Attest:

x

Joshua Bourdon, Council Chair

Date:

11/22/22

x

Cristina Guilford, Town Clerk

Date:

11/22/22