

TOWN OF DERRY

**Town Council
Derry Municipal Center**

**December 15, 2020
Tuesday - 7:00 PM**

6:30 PM Non-Public Session – RSA 91A:3 II (d)

7:00 PM Call to order

Although the Stay at Home Order has expired, Emergency Order #12 as issued by Governor Sununu remains in effect, which waives the requirement that a quorum be physically present in the meeting room; a meeting of a public body may be conducted with most or all members participating electronically. There is a contact number at the bottom of the Derry TV Cam screen with a phone number where members of the public can listen in and participate in the Public Forum and Public Hearing portions of the meeting. This access number was also posted along with the agenda and posted on the exterior doors of the Municipal Center. Please note that due to the physical absence of some Councilors, all votes taken shall be done by Roll Call.

**Motion by Councilor Tripp leave non-public session, seconded by Councilor Bourdon
Roll Call Vote: 6-0-0**

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

Roll Call Vote: 6-0-0

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

Roll Call: Chairman Foote in-person and Councilor's Bourdon, Morgan, Chirichiello, Wetherbee, Tripp and Katsakiores(7:10) by Video.

Present: TA David Caron, Town Clerk Daniel Healey

Public Forum - *30 Minutes*

Motion by Councilor Katsakiores to open public forum, seconded by Councilor Wetherbee

Roll Call Vote: 7-0-0

Nancy Francis(Pantry Plunge): Gulf Rd – The 4th Annual Pantry Plunge took place last weekend. Derry Parks and Recreation, Derry Fire, Department of Public Works and many others helped with the event. There were 38 people who participated with many returning from previous years. The event raised \$21,000 and will take place again next year on December 11, 2021. More information can be found at pantryplunge.org.

Motion by Councilor Katsakiores to close public forum, seconded by Councilor Wetherbee

Roll Call Vote: 7-0-0

Consent Agenda

20-123 Approve Minutes – November 24, 2020

20-124 Approve Minutes – December 1, 2020

20-125 Resolution #2020-061 – Accept a NH Highway Safety Agency Grant for various traffic enforcement activities

Motion by Councilor Tripp to approve the consent agenda, seconded by Councilor Katsakiores

Roll Call Vote: 7-0-0

Consent agenda approved

Chairman's Report – Charlie Foote

Councilor Morgan would like to invite State Legislative Director Christopher Ellms to Derry to discuss trying to make Derry as a municipality net zero by 2025. The Town would like to know what the governor needs in a bill in order to work with State Senator Birdsell on proposing a senate bill during this legislative cycle. The Council took a consensus vote and all agreed.

Town Administrator's Report – David Caron

Upper Room Capital Improvements plan – *Executive Director Brenda Guggisberg presenting*
The Upper Room building needs a few upgrades but staff there would like to be sure it will be worth the investment. They are requesting that the Town extend the lease at minimum another 10 years before the upgrades are started. Councilor Wetherbee suggested selling the building to the Upper Room at a price of \$1. Staff will look into the logistics of this and report back to the council.

Emergency Management Director and Fire Chief Mike Gagnon gave a report on the Town's response to COVID-19

Base paving was completed on the rail trail and final paving will occur in Spring of 2021. DPW is soliciting proposals for the design of the field expansion at West Running Brook, which is part of Phase 1 of the Recreation Bond. Construction will take place during Summer 2021. It is expected that the 150MWH annual production target at the Transfer Station solar array will be exceeded by the end of the month. The Hood Park Committee continues its work and plans to present before the Town Council at the January 19, 2021 meeting. As authorized by the Town Council, an application was made for additional COVID funding in the form of a CDBG Grant. The Town was notified that Sonshine Soup Kitchen will receive \$60,000 for equipment supplies and staffing, and CHS will receive \$51,120 for Homeless Housing and Emergency Assistance. The CHS award was much less than requested and the town will be conferring with staff from the Community Development Finance Authority on Thursday to provide additional information to support an increased grant amount. Revenues continue to meet expectations expect for interest earnings, which are expected to remain dismal through FY 21. Tax revenues are behind simply cause by a later due date than in 2019. The Economic Development Advisory Committee did meet last week to review the bylaws which transitions the group to an ad-hoc committee and plans on two economic development summits per year in conjunction with the Town Council. The first is tentatively scheduled for April 6. The Brookstone Event Center located on Route 111 has been purchased by LaBelle Winery Derry, who have plans to create a champagne house, a marketplace, a wedding and event center and a restaurant. The facility will continue to operate a

9-hole par three golf course and begin work on a new vineyard. The former Nestle property on Crystal Avenue has closed and will become a branch of Bangor Savings Bank.

2020 Property Taxes

- Whitney Consultants contracted to manage assessment function
- Reassess property every two years
- Update values every other year (if necessary) to ensure equity among all taxpayers
- A revaluation does not increase tax revenues but redistributes the tax burden equitably, so no taxpayer pays more than their proportionate share
- Sale prices are approximately 17% higher than the most recent assessments
- The relatively strong real estate market is the cause of increased assessments
- All property values have not changed in a uniform way
- Many of the larger increases were in the more affordable end of the single-family market and condominiums – Only one arms-length sales of a single-family property at less than \$200,000 in Derry
- There are properties that have increased more than average
- The assessments have been adjusted to account for the increasing demand and relatively short supply in the real estate market

Derry is the fourth largest community in the State; a community's tax rate is the relationship between funds needed for services and the size of the tax base to pay for those services; Derry funds most town and school services through its property tax base; Compared to rural/suburban communities, municipal costs are higher on more densely populated communities; Derry compares very favorably to the efficient use of taxpayer dollars.

Public Hearing

20-117 Resolution #2020-057 – Accept the 2020 Hazardous Mitigation Plan Update –
Fire Chief/Emergency Management Director Mike Gagnon and Southern New Hampshire Planning Commission Assistant Planner Madeline Dillonno presenting

The Southern New Hampshire Planning Commission and the Town of Derry Emergency Management Staff in collaboration with all other Town Departments has completed the review and redrafting of the 2020 updated Hazardous Mitigation Plan. The purpose of this plan is to identify hazard concerns in our community and establish mitigation plans to reduce the impact of the hazard during times of emergency. The plan has been submitted to New Hampshire Homeland Security and Emergency Management and FEMA and is expected to receive conditional approval. After a public hearing is held, and the Plan is adopted by the Town Council - FEMA will grant final approval of the 2020 updated Town Hazardous Mitigation Plan. In compliance with the Disaster Mitigation Act of 2000 and Section 201.6 (c) (4) of 44 CFR -the Derry Hazardous Mitigation Plan has been reviewed and updated by the Derry Hazardous Mitigation Committee for adoption by the Town and approval by FEMA.

Motion by Councilor Tripp to open public hearing, seconded by Councilor Katsakiores
Roll Call Vote: 7-0-0

Lisa Hultgren: Warner Hill Rd – The Town website is not very user friendly.

Motion by Councilor Katsakiores to close public hearing, seconded by Councilor Tripp
Roll Call Vote: 7-0-0

Councilor Tripp MOVES THAT THE TOWN COUNCIL adopt Resolution #2020-057, which reads as follows [Read the Resolution], seconded by Councilor Katsakiores
Roll Call Vote: 7-0-0
Resolution attached

20-118 Ordinance #2020-009 – Adopt Chapter 28 of the General Code, Electioneering by Board, Committee or Commission Members Prohibited – *Town Administrator Dave Caron presenting*

The Town Council directed that an Ordinance be crafted which would ensure separation between an appointed official's duties as set forth by statute, charge, bylaw or ordinance and that official's advocacy on a particular question or candidacy on a past, present or future ballot. The goal of this Ordinance is to ensure that citizens can have confidence that all official duties are administered in a fair and equitable manner. The proposed ordinance applies only to officials appointed by the Town Council to a Town board, committee, or commission. Elected officials such as the Town Clerk, Trustees of Trust Funds, Supervisors of Checklist and Town Moderator all have statutory duties with a removal process set forth in statute. Town Councilors are currently subject to removal proceedings pursuant to Section 5.6 of the Town Charter for cause, including but not limited to prolonged absence from or other inattention to duties, crime or misconduct in office, or as specified in the Charter. The Ordinance has been constructed to focus upon the conduct of appointees in their official capacities only and does not address other election activities on town property. For instance, an appointed official could run for elective office and campaign on town property in accordance with other regulations, statutes and ordinances and not run afoul of Chapter 38.

Motion by Councilor Katsakiores to open public hearing, seconded by Councilor Tripp
Roll Call Vote: 7-0-0

Tina Guilford: Beaver Lake Rd – There should be a process when a person takes the oath, they are provided with paperwork and they need to sign an acknowledgment form.

Motion by Councilor Katsakiores to close public hearing, seconded by Councilor Tripp
Roll Call Vote: 7-0-0

Councilor Tripp MOVES THAT THE TOWN COUNCIL adopt Ordinance #2020-009, which reads as follows [Read the Ordinance], seconded by Councilor Bourdon
Roll Call Vote: 6-1-0 (Councilor Chirichiello)
Ordinance attached

20-119 Ordinance #2020-010 – Amendment to Chapter 55, Food Establishments (Mobile Food Units) – *Code Enforcement Officer Bob Mackey and Health Officer Courtney Provencher presenting*

The Town adopted Chapter 55. Food Service Establishments, in 1982, which, for the most part, adopted by reference the State of NH Chapter He-P 2300 Sanitary Production and Distribution of Food. The last adoption by Town Council occurred July 2020, with an addition of a dog-friendly outdoor dining variance option for license holders.

The Public Health Department seeks to propose the following amendments to Chapter 55. Food Service Establishments:

1. Classification of Type 7 and Type 8 added to simplify licensing MFUs.
2. Inclusion of a summary provided for those persons desiring to operate MFUs in Town of Derry, NH which outlines perimeters for the business owner(s) in regard to Zoning, Code Enforcement, Health and Fire and Life Safety Codes.

**Motion by Councilor Katsakiores to open public hearing, seconded by Councilor Tripp
Roll Call Vote: 6-0-0 (Councilor Wetherbee temporarily absent)**

No one from the public spoke.

**Motion by Councilor Katsakiores to close public hearing, seconded by Councilor Tripp
Roll Call Vote: 7-0-0**

Councilor Tripp MOVES THAT THE TOWN COUNCIL adopt Ordinance #2020-010, which reads as follows [Read the Ordinance], seconded by Councilor Katsakiores

Roll Call Vote: 7-0-0

Ordinance attached

20-120 Ordinance #2020-011 – Adopt Chapter 119 of the General Code Hawkers, Peddlers and Itinerant Vendors – *Economic Development Director Beverly Donovan and Planning & Economic Development Assistant Elizabeth Robidoux presenting*

The Economic Development Department has developed guidelines for hawkers, peddlers, and itinerant vendors in collaboration with the Police, Health, Code Enforcement, and Planning offices. The intent is to coordinate with the businesses that operate in this fashion and ensure the applicable health, public, and life safety codes are met for the benefit of the citizens of Derry. There has been a long history of businesses that sell food, beverages, or merchandise from a place other than a storefront. Some offer product, wares, and services from the residence as a home occupation, others offer mobile services, or locate temporarily on commercial properties within the Town of Derry. The intent of this ordinance is to ensure there is a process in place to make sure that mobile businesses, other than food trucks, are operating in accordance with the laws and rules of the State of New Hampshire with regard to Health Code, public safety laws and applicable life safety codes. For mobile vendors, there may be an additional requirement to complete the Change in Use process to ensure adequate traffic circulation and site conditions. The purpose of the ordinance is not to impose restrictions on this type of vendor, but rather to make sure the public benefit is protected while allowing our businesses with no storefront an opportunity to grow, prosper, and expand within the town.

Motion by Councilor Tripp to open public hearing, seconded by Councilor Katsakiores

Roll Call Vote: 7-0-0

Steve Trefethen: Windham, NH – Does not believe this is fair to permanent businesses in Town and is not in favor of this ordinance.

Motion by Councilor Katsakiores to close public hearing, seconded by Councilor Tripp
Roll Call Vote: 7-0-0

Councilor Tripp MOVES THAT THE TOWN COUNCIL adopt Ordinance #2020-011, which reads as follows [Read the Ordinance], seconded by Councilor Wetherbee
Roll Call Vote: 5-2-0 (Councilor's Tripp and Katsakiores)
Ordinance attached

New Business

20-126 Resolution #2020-060 – Extend the Downtown Commerce Corridor Façade Improvement Program – *Economic Development Director Beverly Donovan presenting*

In September of 2017, the Town Council recapitalized the Derry Revolving Loan Fund and directed \$100,000 be earmarked for downtown revitalization. Following the direction of Town Council, Economic Development staff created application and design criteria for a facade improvement program which provided a 50:50 matching grant up to \$5,000 per storefront for improvements in the designated district. In 2019, Town Council resolved to expand the program to include the entire Derry Commerce Corridor (Manchester Road, Crystal Ave, parts of Birch Street, East and West Broadway) and provided an additional appropriation of \$250,000. Of that amount, \$100,000 was earmarked for 50:50 grants up to \$5,000 for improvements <\$200,000; 50:50 grants up to \$5,000 for blight removal (if the property was on the Property Maintenance Committee's list) and \$100,00 for \$20,00 grants for facade improvement work costing in excess of \$200,000. The 2019 program was extended into 2020. With the advent of COVID-19, businesses went into survival mode and any planned expansions were put on hold. There were nine applications received and approved for that funding cycle. Of the \$250,00 set aside for the program, \$11,993 was provided in grants and an additional \$32,500 is encumbered for approved but not yet completed projects. To extend the program, the Council is asked to approve new application and construction deadlines, it is staff's understanding that the Council has requested a status update should an additional \$100,000 be encumbered.

Councilor Tripp MOVES THAT THE TOWN COUNCIL adopt Resolution #2020-060, which reads as follows [Read the Resolution], seconded by Councilor Katsakiores
Roll Call Vote: 7-0-0
Resolution attached

20-127 Resolution #2020-062 – Approve a polling location for the March 2021 Town and School Elections – *Town Administrator Dave Caron presenting*

Derry has utilized a number of different polling locations throughout the Town. Due to the ongoing COVID-19 Pandemic and its potential impact on the number of available poll workers, the Council is encouraged to continue supporting the concept of one polling location for the March 2021 Town and School elections and continue to aggressively publicize the availability of

absentee ballots. It is recommended that West Running Brook Middle School be designated as the central polling location. The Town Council is required by Town Charter and NH RSA to establish the polling locations for elections. Under Charter Section 2.5(b) of the Town Charter the Council "shall establish polling places and balloting hours" and under NH RSA 658:9 I "The selectmen of each town and ward shall provide for a suitable place in which to hold state elections and shall see that the same is warmed, lighted, and furnished with proper supplies and conveniences". The Town Clerk's office has reached out to Calvary Bible Church and has been informed that the facility is not available. Contact has been made with the School Superintendent and after consultation with the Chief of Police concerning traffic management, the recommendation of West Running Brook Middle School is presented. The Town would need to erect a tent to comply with the School District's mask mandate (similar to Pinkerton Academy) and has offered to deep clean the facility after usage, similar to the Town's actions with the September and November elections. It is anticipated that WRB will be in remote learning that day, thus easing any traffic or parking concerns.

Councilor Tripp MOVES THAT THE TOWN COUNCIL adopt Resolution #2020-062, which reads as follows [*Read the Resolution*], seconded by Councilor Katsakiores
Roll Call Vote: 7-0-0
Resolution attached

Councilor Comments / Liaison Reports –

Councilor Chirichiello – Would like notices posted for the change in polling locations.

Councilor Morgan – Merry Christmas.

Councilor Katsakiores moves to adjourn, seconded by Councilor Morgan

Roll Call Vote: 7-0-0

Adjournment: 9:15 p.m.



Town Clerk

Recording & Transcription by: Daniel Healey, Town Clerk

1-11-21

Date



RESOLUTION

Number 2020-057

To Approve the 2020 Hazardous Mitigation Plan Update

WHEREAS, the Southern New Hampshire Planning Commission received funding from the New Hampshire Department of Safety – Homeland Security and Emergency Management under a Pre-Disaster Mitigation Grant to assist the Town of Derry in the preparation of the Derry Hazard Mitigation Plan Update; and

WHEREAS, several public planning meetings/hearings were held between February 2020 and December of 2020 regarding the development and review of the Derry Hazard Mitigation Plan Update; and

WHEREAS, the Derry Hazard Mitigation Plan Update contains several potential future projects to mitigate hazard damage in the Town of Derry; and

WHEREAS, Council acceptance of the Update is required in order for the Town to remain eligible for federal disaster assistance;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the 2020 Hazardous Mitigation Plan Update is hereby approved and adopted.

This Resolution shall take effect immediately upon its passage.


Adopted: December 15, 2020

Attest:

x 

Charles Foote, Council Chair

Date: 12/15/20

x 

Daniel Healey, Town Clerk

Date: 12/15/2020

Archival Ref: TC agenda Item #20-117



ORDINANCE

Number 2020-009

Adopt Chapter 28 of the General Code, Electioneering by Board,
Committee and Commission Members Prohibited

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, it is hereby declared to be a public purpose that all appointed officials conduct town business in an impartial manner; and

WHEREAS, communications of any kind advocating for a candidate or question in a past, present or future election while conducting official town business undermines the public's confidence in the fair and equitable administration of town affairs; and

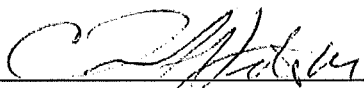
WHEREAS, all appointed officials deserve clarity regarding the expectations of their office;

NOW, THEREFORE, THE TOWN OF DERRY ORDAINS that Chapter 28 of the General Code, Electioneering by Board, Committee and Commission Members, is hereby adopted as attached.

This Ordinance shall take effect 30 days after its adoption.

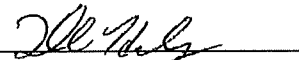
Adopted: December 15, 2020

Attest:

x 

Charles Foote, Council Chair

Date: 12/15/20

x 

Daniel Healey, Town Clerk

Date: 12/15/2020

Archival Ref: Agenda Item #20-118



ORDINANCE

Number 2020-010

Amend Chapter 55 of the General Code, Food Establishments

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, there is a need to revise Chapter 55 to include Mobile Food Units (MFU); and

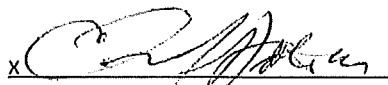
WHEREAS, the adoption of these amendments will provide regulations and expectations for Mobile Food Units to ensure the safety of the community and equity with all food establishments;

NOW, THEREFORE, THE TOWN OF DERRY ORDAINS that the Chapter 55 of the General Code, Food Establishments is hereby amended as attached.

This Ordinance shall take effect 30 days after its adoption.


Adopted: December 15, 2020

Attest:

x 

Charles Foote, Council Chair

Date: 12/15/20

x 

Daniel Healey, Town Clerk

Date: 12/15/2020

Archival Ref: Agenda Item #20-119



ORDINANCE

Number 2020-011

Adopt Chapter 119 of the General Code, Hawkers, Peddlers and Itinerant
Vendors

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, there is a need to provide guidance and management to commercial businesses which do not operate from a set location; and

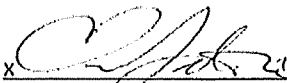
WHEREAS, implementation of these regulations would protect consumers and ensure that these businesses operate in compliance with state and local regulations;

NOW, THEREFORE, THE TOWN OF DERRY ORDAINS that Chapter 119 of the General Code, Hawkers, Peddlers and Itinerant Vendors, is hereby adopted as attached.

This Ordinance shall take effect 30 days after its adoption.

Adopted: December 15, 2020

Attest:

x 

Charles Foote, Council Chair

Date: 12/15/20

x 

Daniel Healey, Town Clerk

Date: 12/15/2020

Archival Ref: Agenda Item #20-120



Resolution #2020-060

To Extend the Downtown Commerce Corridor Façade Improvement Grant Program

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

WHEREAS, On August 13, 2019 the Council adopted Resolution #2019-038 which funded and created the Downtown Façade Improvement Program; and

WHEREAS, local businesses have actively participated in the program by investing in private properties; and,

WHEREAS, expansion of the program throughout the Derry Commerce Corridor would further support economic revitalization activities;

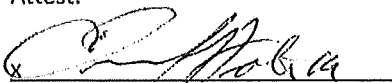
NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Derry Town Council hereby extends the program deadlines including applications to be received by June 30, 2021 and improvements completed by December 31, 2021; and,

FURTHER, RESOLVED that the Town Administrator shall return to the Council for further authorization should an additional \$100,000 in funds as authorized under Resolution #2019-038 be obligated.

This Resolution shall take effect immediately upon its passage.

Adopted December 15, 2020

Attest:

x 

Charles Foote, Council Chair

Date: 12/15/20

x 

Daniel Healey, Town Clerk

Date: 12/15/2020

Archival Ref: Agenda #20-126



RESOLUTION

Number 2020-062

To Approve the Central Polling Location for the March 2021 Town and School Elections

WHEREAS, State Statutes designate the responsibility to provide polling locations to the Town Council; and

WHEREAS, it is in the best interest of the community that ease of access and safety are paramount to encourage voter participation; and

WHEREAS, the COVID-19 Pandemic will require a consolidation of election workers and resources; and

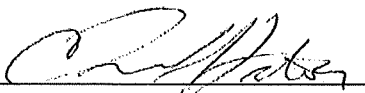
WHEREAS, encouraging the use of absentee ballots will also assist with the orderly voting process

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Town Council hereby designates West Running Brook Middle School as the Town's Central Polling Location for the March 2021 Town and School Elections

This Resolution shall take effect immediately upon its passage.

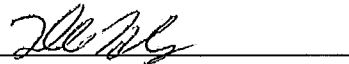
Adopted: December 15, 2020

Attest:

x 

Charles Foote, Council Chair

Date: 12/15/20

x 

Daniel Healey, Town Clerk

Date: 12/15/2020

Archival Ref: TC agenda Item #20-127