

TOWN OF DERRY

Town Council
Derry Municipal Center
14 Manning Street



Tuesday February 15, 2022
3rd Floor Meeting Room

MINUTES

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

Motion by Councilor Katsakiores leave non-public session, seconded by Councilor Wetherbee
Roll Call Vote: 7-0-0

Motion by Councilor Chirichiello to seal RSA 91A:3 II (a) because it was determined divulgence of this information would render a proposed action ineffective, seconded by Councilor Spencer
Roll Call Vote: 4-1-2 (Councilor Wetherbee – no, Councilors Morgan and Foote abstained)

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

Roll Call: Councilors Katsakiores, Chirichiello, Spencer, Wetherbee, Bourdon, and Chairman Morgan – In Person, Councilor Foote - Virtual
Present: TA Dave 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

Craig Cunningham: Hunter Dr – Wishes that there was more awareness for Pride Month. Disappointed with the testimony by Representative Love on his bill related to library background checks. Representative Love made some false statements during the testimony regarding the Drag Queen Story Time even that took place in Derry.

(Representative) David Love: Maple St – Stated that his bill was drafted as he is interested in protecting children. “How would you feel if someone brought a stripper, a pole dancer to teach kids, no leave them alone”. Stated that during Drag Queen Story Time, he was told by his constituents that there was inappropriate dancing by the drag queen. Stated that he read about the Nashua drag queen in a newspaper in a grocery store but could not recall which paper.

Michael Layon: Tsienneto Rd – With more affordable houses in Derry, he believes crime will go up, including murder and rape. Believes no one wants that to come to Derry.

Richard Tripp: Windham Rd – There will be a discussion at the next School Board meeting on the 21st regarding the mask mandate update. The schools will no longer be requiring masks starting next week.

Tom Cardon: Cunningham Dr – Believes that a 40-50 million dollar safety complex will be hard for the taxpayers. Thanked the Council for the Pride Month recognition/proclamation. He is the grandfather of a transgender teenage girl and she is very happy. Everyone loves and respects her and it is great to see.

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

Roll Call Vote: 6-0-1 (Councilor Morgan)

Consent Agenda

22-17 Approve Non-Public Minutes – February 1, 2022

22-18 Approve Minutes – February 1, 2022

22-19 Resolution #2022-014 – Apply for, accept and expend a New Hampshire Department of Safety Grant for Body Worn and Cruiser Dashboard Cameras

22-20 Resolution #2022-015 – Apply for, accept and expend a New Hampshire DES MtBE Grant for Water Division Pump Station Modifications

Councilor Katsakiores moves to approve the consent agenda, seconded by Councilor Wetherbee

Roll Call Vote: 7-0-0

Chairman Report – James Morgan

Chairman Morgan read a proclamation recognizing Pride Month. The Town Council of Derry hereby proclaimed June 28th as Derry's official LGBTQ Pride Day and recognizes this proclamation by displaying the Pride Flag annually from June 1 to June 30th.

Stated that he decided not to re-run for Council because he is buying a farm and moving out of Derry in July or August of this year. Councilor Katsakiores said that she thoroughly enjoyed the years working with Chairman Morgan.

The Derry Town and School Elections will take place on Tuesday March 8, 2022 at Calvary Bible Church for all districts. The polling hours will be from 7AM to 8PM.

The two candidate forums are scheduled for March 2nd for School Board and March 3rd for Town positions. Both will take place at the Derry Opera House starting at 6:30PM.

Town Administrator's Report – Dave Caron

There are no appreciable changes in trends in finances as the town enters the 3rd quarter of the fiscal year. The Capital Improvements Plan is included in the Town Councilors binders to be presented at the Planning Board on February 16th. The FY23 Budget process scheduled is also included in the Councilors binders. NHDOT recently advertised Contract D which involves the demolition of five structures in Derry, 4 on Folsom and 1 on Ferland. Bids are due on February 17. Please note that during the construction period when private property is purchased and possibly demolished and before the project is complete with some properties repurposed, the Town will experience a reduction in assessed valuation. As the area of Contract B, where most of the demolitions will occur, is part of the Gateway TIF District, the loss value will be assigned to the District under state statute and not impact the Town's overall tax base. As of April 1, 2021, the Captured Assessed Value within the District was \$20.9M, and the assessed value of these five structures total \$1.8M, or 8.6% of the District's taxable value. There are a number of

other structures which have been acquired by NHDOT and not yet removed; the value of these properties is \$3.55M; which results in approximately 25% of the District's value will be impacted. HB1429 was filed to give the State more authority to regulate massage establishments; we have several in Derry and some of those have not maintained up to date records with the Town. It is the Town's understanding that the Executive Committee is recommending Interim Study, and there is momentum to delegating regulatory authority to local governments, which would work well for the Town.

Public Hearing

22-14 Resolution #2022-011 – Authorize a payment in lieu of taxes for the Solar Array at the Closed Landfill – *Public Works Director Mike Fowler and Net Zero Task Force Chair Jeff Moulton*

The Net Zero Task Force and Department of Public Works issued a Request for Proposal (RFP) to build a solar panel array on top of the Town owned landfill located at Kendall Pond Road. The solicitation asked vendors to provide responses to design, permit and construct a 2.2 MW system to cover the electricity needs of 30 Town buildings. Proposals were submitted by seven qualified vendors. The RFP was structured to ask vendors to provide two options:

- 1) Direct Purchase - Prices ranged from \$4.7 million to \$7.5 million
- 2) Power Purchase Agreement (PPA) - Prices ranged from 6.8 cents per kWh to 10 cents per kWh

The NetZero Task Force recommended acceptance of a proposal for Power Purchase Agreement provided by Encore Renewable Energy of Burlington, Vermont. On November 2, 2021, Town Council endorsed this recommendation and provided direction to move forward with contract negotiations with Encore. The 2.2 MW solar field will generate approximately 3.7 million kWh annually to be distributed to the DPW campus/WWTP along with several other Town facilities. Excess generated electricity will be exported and net metered according to NHPUC rules. It is anticipated that Encore will utilize the remainder of 2022 to present the proposal to the Derry Planning Board, attain environmental permits and complete technical interconnection agreement with Eversource. Construction will likely start in Spring 2023, with the system energized by November 2023. The Town Council is requested to authorize the Town Administrator to sign three contract documents:

1. Power Purchase Agreement
2. Land Lease Agreement
3. Payment in Lieu of Taxes (PILOT) Agreement

All agreements have been reviewed by the Town's legal counsel and are structured for a 25-year period.

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

Roll Call Vote: 7-0-0

No one from the public spoke.

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

Roll Call Vote: 7-0-0

Councilor Bourdon MOVES THAT THE TOWN COUNCIL adopt Resolution #2022-011 which reads as follows [Read the Resolution], seconded by Councilor Spencer

Roll Call Vote: 7-0-0

Resolution attached

New Business

22-21 Resolution #2022-012 – Transfer funds from the Expendable Maintenance Trust for Building and Grounds – *Interim Fire Chief James Richardson*

The Town Council Chair on April 6, 2021, appointed Councilors Foote, Bourdon and Spencer to formulate a subcommittee with staff to evaluate the condition of the Town's public safety facilities and report back to the Council. The Committee made a presentation to the Council on June 15, 2021, which outlined the conditions, concerns and opportunities to enhance public safety facilities and responses to the community. The challenges and opportunities were seen as (in no order):

- A. Enhance Fire and EMS Response to Southwest Derry
- B. Construct a public safety facility to address deficiencies in both police headquarters and central fire station.
- C. Construction separate headquarters for both police and fire.
- D. Construct a new fire substation in SW Derry should a new central fire or public safety facility not be situated in that area.

After the presentation the Council determined that more precise information on a building program was needed and authorized staff to proceed to secure technical assistance. Fire and Police leadership solicited a RFQ from experienced designers and architectures in the field, with the Town Administrator ultimately signing an agreement with Mitchell Associates from New York state to conduct this analysis. Although Mitchell's primary experience has been with fire and public safety facilities, the team included an architect formerly with Kaestle-Boos, a Connecticut design firm with extensive experience in police facility work, including the Londonderry Police Department. The Town Council reviewed the report and directed that technical review work be completed on the town-owned Rockingham Road site. The Town Council determined at its February 1 meeting that staff should further investigate the potential use of a piece of the Alexander-Carr Park on Rockingham Road for a fire or police building. The Council directed that work take place to determine whether a facility (public safety, fire HQ, or fire substation) can be located on the parcel. Should the Council approve Resolution #2022-012, \$10,000 will be transferred from the EMT-B&G, as staff will proceed along two separate tracts:

- 1) Engage the services of an architectural/survey firm to review the land and lay out the location of a public safety facility, fire headquarters or fire substation on this property.
- 2) Legal would:
 - a) Engage with the Charitable Trust Division at the Attorney General's Office to confirm that the land may be used for a fire station - the Town may have to compensate the Alexander- Carr Trust for the fair market value of the land ultimately used; and
 - b) Should the design professional determine that additional land is needed, legal counsel would file a Petition of Cy Pres with the Court to "unencumber" additional land from the Trust. It should be noted that this area under consideration is on the "back side" away from the land at the Park,

which is used for the sliding hill, skateboard park, lodge, etc. and should have no impact on park operations

Councilor Spencer MOVES THAT THE TOWN COUNCIL adopt Resolution #2022-012 which reads as follows [Read the Resolution], seconded by Councilor Wetherbee
Roll Call Vote: 7-0-0
Resolution attached

22-22 Resolution #2022-013 – Transfer funds from the Bridge Fund – *Public Works*
Director Mike Fowler

DPW had identified the need to upgrade an existing metal pipe culvert on Franklin Street at Cheryl Avenue. The culvert has had some settling which is indicative of future structural issues. The existing culvert is believed to have been installed in the 1970's. Preliminary borings were conducted in 2021 to initially explore the soil conditions and utilities present near the culvert. The Town's bridge design consultant has submitted a design cost of \$100,000 to design and permit the new precast concrete structure to replace the existing metal pipe. The Town has replaced a number of culverts/bridges in the past 20 years using proceeds from the Bridge Fund, established and sustained by reimbursements from the NHDOT Bridge Aid program. This culvert replacement will not qualify reimbursement as the program funds are not sufficient to accept new projects. This project will be locally funded for both design and construction. Therefore, it imperative to initiate design work on the culvert in calendar year 2022 to afford the opportunity for construction in Summer 2023 (FY 24). The FY 23 - FY 28 Capital Improvement Plan (CIP) includes an entry for \$600,000 to construct the replacement culvert. Currently, the Bridge Fund has a fund balance of \$177,586.32, the transfer of \$100,000 will bring the balance to \$77,586.32. For the \$100,000 required for design work, no tax impact as the Bridge Fund has available proceeds for this purpose.

Councilor Wetherbee MOVES THAT THE TOWN COUNCIL adopt Resolution #2022-013 which reads as follows [Read the Resolution], seconded by Councilor Katsakiores
Roll Call Vote: 7-0-0
Resolution attached

Councilor Comments / Liaison Reports –

Councilor Bourdon – Watched the last School Board meeting and wanted to give kudos to a former student who spoke and did an excellent job. Sits on the Alexander-Eastman board and they recently signed over a check to Art McLean at the Derry Boy's and Girl's Club for all the work that they do.

Councilor Chirichiello – Rental assistance is available from Rockingham County. It includes back rent and future rent. Most landlords are signed up with the program already and it is an easy application to complete. More information can be found on the county website.

Adjourn: 8:20pm



Town Clerk

Recording & Transcription by: Daniel Healey, Town Clerk

5/4/2022
Date

