

TOWN OF DERRY

Town Council
Derry Municipal Center

February 16, 2021
Tuesday - 7:00 PM

6:00 PM Non-Meeting – RSA 91A:2 (a)

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.

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

Roll Call: Councilor Tripp, Katsakiores, and Chairman Foote in-person and Councilor's Bourdon, Morgan, Chirichiello, and Wetherbee by Video.
Present: TA David Caron

Public Forum - *30 Minutes*

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

Roll Call Vote: 7-0-0

Ivan Gomez: Bayberry Ln – Had questions on if the Town had a way to leverage the internet service providers and was told to contact Cable Division Coordinator Owen Provencher for more information.

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

Roll Call Vote: 7-0-0

Consent Agenda

21-18 Approve Minutes – February 2, 2021

21-19 Resolution #2021-014 – Accept Unanticipated Revenues from Health Trust and Primex and transfer the Town's share to the CBA Implementation Trust Fund

21-20 Resolution #2021-017 – Approve a supplemental appropriation for Sunset Avenue Culvert Project

21-21 Acceptance of Planning Board Resignation – Jen Carrier

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

Roll Call Vote: 7-0-0

Chairman's Report – Charlie Foote

Chairman Foote presented the Derry Housing & Redevelopment Report. The DHRA administers 110 Section 8 Housing Choice Vouchers; the U.S. Department of Housing and Urban Development provides Administrative Fees to pay for the operations of the program. DHRA

owns 17 Peabody Rd and 1 & 3 Peabody Rd Annex – each building has 4, one bedroom apartments that are rented to low income/elderly/disabled residents. Heritage Commission Chair Karen Blandford- Anderson presented the Heritage Commission report. Net Zero Task Force Committee Chair Jeff Moulton presented the Net Zero Task Force Committee report. The task Force Mission is to explore and achieve cost effective solutions for reduced energy use and sustainable energy development on town controlled property, municipal buildings, vehicles, and schools, while developing a comprehensive plan to achieve the goal of “Net Zero” compliance by all key stakeholders by 2025. Additionally, to promote energy conservation, energy efficiency, and explore other ways to reduce carbon emissions among the Town’s residents and businesses. Lastly, to reduce water usage where feasible. The Town Administrator has forwarded the council the latest NHMA Legislative Bulletin. The NHMA will advocate for the town. It is also suggested that elected officials testify as they legislature is more likely to value their opinions.

Town Administrator’s Report – David Caron

Hood Park Steering Committee Chair Mark Brassard and Director of Public Works Mike Fowler gave a presentation on the Hood Park Community Engagement Key findings. Emergency Management Director and Fire Chief Mike Gagnon gave a report on the Town’s response to COVID-19. CFO Mark Fleischer gave a report on the FY21 2nd Quarter Financials.

The Governor released his FY 22-23 Biennium State Budget on February 11 which the town understands will maintain the Meals and Rooms Distributions to Deny in its present form, with an opportunity for more funding if the M&R receipts increase. The town is working with the New Hampshire Municipal Association to better understand the impacts of the budget upon the Town's FY 22 budget. At this point the town will budget the FY 21 allocation for FY 22. The Town has learned that the Biden Administration is providing 100% reimbursement for FEMA reimbursable expenses retroactive to January 2020. This determination should result in approximately \$6,000 more in federal dollars back to Deny, with potentially \$20K more if the town can adjust reimbursements from GOFERR. The town continues to monitor proposals by both the Biden Administration and Congress regarding additional relief, including direct payments to municipalities. The town should learn more in early March regarding potential aid amounts, program guidelines and eligible activities. The CFO reports that most revenues continue to maintain budgeted levels. Economic Development is coordinating the Derry Restaurant Month Pokeno. Patrons need to visit at least six establishments in February to be eligible for prizes and details are on the Town's website.

Public Hearing

21-07 Resolution #2021-006 – Approve Covenants and Commercial Industrial Tax Relief Application for 49 South Main Street – ***Applicant withdrew application***

21-08 Resolution #2021-007 – Approve Covenants and Commercial Industrial Tax Relief Application for 4 Peabody Road Annex – *Economic Development Director Bev Donovan presenting*

The Town Council adopted Ordinance #2019-010 on October 3, 2019 which expanded General Code, Chapter 138 to include a tax relief program for Commercial-Industrial property in Derry. To be eligible, the project must demonstrate that it will enhance the economic vitality of the Town and increase the commercial/industrial activity, including job creation. The program authorizes the Council to extend tax relief equal to 50% of the town and local school tax rate on the value of the improvements generated by the project, up to a period of ten years. The Town received an application from Steve Trefethen representing Lauralei LLC to construct a 17,000 sf contractor bay building on a property which currently houses a 6,180 sf office building. The proposer estimates that construction cost will be \$1.2M, with an estimate of 50 jobs. It appears from the application that the property owner is not directly associated with job creation with the project; it appears that the building is being erected on spec. Staff investigated options for tax incentives. The Town Council has adopted the provisions of 79-E (only available in the Downtown) and the Commercial-Industrial Tax Exemption (project eligible). The Town consulted with Town legal counsel and the New Hampshire Municipal Association to identify any other potential programs, communities do enter into multi-year tax agreements with some taxpayers, however, those per statute need to be affiliated with energy production. It is the Derry Commercial-Industrial Tax Exemption Program which staff recommends Council consideration.

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

Steve Trefethen: Windham, NH – Started designing the project a few years ago hoping to keep some of the 27 businesses that may be leaving Derry in Derry. The building is about 14,000 square feet. Have a few signed letters of intent, waiting on a few more to sign.

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

**Councilor Tripp MOVES THAT THE TOWN COUNCIL adopt Resolution #2021-007 which reads as follows [*Read the Resolution*], seconded by Councilor Morgan
Roll Call Vote: 6-1-0 (Councilor Wetherbee)**

New Business

21-03 Resolution #2021-001 Approve Covenants and Commercial-Industrial Tax Relief Application for 14 Rte. 111 – *Town Administrator Dave Caron presenting*

The Town Council adopted Ordinance #2019-010 on October 3, 2019 which expanded General Code, Chapter 138 to include a tax relief program for Commercial-Industrial property in Derry. To be eligible, the project must demonstrate that it will enhance the economic vitality of the Town and increase the commercial/industrial activity, including job creation. The program authorizes the Council to extend tax relief equal to 50% of the town and local school tax burden on the value of the improvements generated by the project, up to a period of ten years. The Council was alerted to the impending sale of the Brookstone Event Center some months ago

and the prospective buyer's interest in some form of early tax relief in order to make major investments into the facility. The property has been purchased by LaBelle Winery which has facilities in Amherst and Portsmouth. Renamed as LaBelle Winery Derry, the facility will continue to operate as an event facility and nine-hole golf course. In addition, LaBelle plans to expand operations to include an artisan culinary market, a 300 seat restaurant in the existing building, a new winery barn and three-acre vineyard. LaBelle estimate improvements at \$2.5M. Staff investigated options for tax incentives. The Town Council has adopted the provisions of 79-E (only available in the Downtown) and the Commercial-Industrial Tax Exemption (project eligible). The Town consulted with Town legal counsel and the New Hampshire Municipal Association to identify any other potential programs, communities do enter into multi-year tax agreements with some taxpayers, however, those per statute need to be affiliated with energy production. It is the Derry Commercial-Industrial Tax Exemption Program which staff recommends Council consideration.

Councilor Tripp MOVES THAT THE TOWN COUNCIL adopt Resolution #2021-001 which reads as follows [Read the Resolution], seconded by Councilor Katsakiores
Roll Call Vote: 7-0-0

21-22 Resolution #2021-015 – Enter into an Intermunicipal Agreement with the Town of Londonderry to provide wastewater services – *Director of Public Works Mike Fowler and Deputy Director Tom Carrier presenting*

In July 1981 Derry and Londonderry executed an intermunicipal agreement (IMA) for wastewater service, later amended in March of 1991, whereby Derry reserved for the Town of Londonderry 329,600 GPD of Wastewater Treatment Plant capacity. Additional capacity, under the existing IMA, is available to Derry and Londonderry up to the Plant's total 4.02 MGD capacity on a first come first served basis. The existing IMA outlines a complicated procedure for allocating costs for the upgrade of the Plant which effectively states that each municipality will pay their flow-proportional share of the costs to expand the plant. It is unclear if that flow is actual or planned. In 2001 the Derry Town Council reviewed the Wastewater Facility Plan and opted to not expand the Plant beyond its 4.02 MGD capacity primarily due to the substantial costs associated with constructing a secondary treatment facility and upsizing the effluent sewer discharge pipeline to the Merrimack River. This decision resulted in the redistribution of treatment capacity between Derry and Londonderry whereby Derry would limit Londonderry's capacity to 500,000 GPD. Londonderry has expressed concern over this limit as the Woodmont Orchards project is projecting 1 MGD of future sewer discharge. Londonderry's sewer master plan projects an additional 500,000 GPD for other municipal expansions. Londonderry has an agreement with Manchester which provides Londonderry sufficient capacity to meet their projected flows. Londonderry prefers to discharge to Derry since its infrastructure is in place and piping to Manchester would require significant capital cost. Manchester's user rate to Londonderry of \$0.811 per 100 cft (748 gals) is significantly less than Derry's rate of \$3.44 per 100 cft. On June 12, 2020, in accordance with the existing IMA, Derry's Town Administrator notified Londonderry of Derry's intent to terminate the Agreement and to revise it for the purpose of clarity and ease of administration. Londonderry has been amenable to revising the Agreement. The proposed IMA treats the Town of Londonderry as a single customer. As such, Londonderry continues to

pay Derry at Derry's prevailing retail sewer usage rate and will be subject to compliance with Derry's Sewer Use Ordinance as any other user. Derry reserves for Londonderry sewer capacity of 500,000 GPD provided Londonderry pays Derry's wastewater accessibility fee (WWAF) for that capacity. The IMA calls for a 12-year payment schedule in increments of 25,000 GPD per year at Derry's prevailing WWAF. As a single large user, Londonderry would not be subject to any other capital costs to upgrade the Wastewater Treatment Plant including the restoration of Lagoon 3. Those costs would be reflected in Derry's WWAF and user rates. This will result in Londonderry's financial obligation to Derry being based on their actual flows and purchased capacity. Derry and Londonderry staff drafted a new IMA which was reviewed by legal counsel and insurance carriers for both Towns. The proposed IMA, which includes the basic substantive elements discussed with the Town Council at a prior meeting, had been approved by the Londonderry Town Council.

**Councilor Tripp MOVES THAT THE TOWN COUNCIL adopt Resolution #2021-015 which reads as follows [Read the Resolution], seconded by Councilor Katsakiores
Roll Call Vote: 6-1-0 (Councilor Wetherbee)**

21-23 Resolution #2021-016 – Transfer unexpended appropriations to the CBA Implementation Trust Fund – *Chief Financial Officer Mark Fleischer presenting*
Allegiant Health Care premiums for FY2021 were not available when preparing the FY2021 budget. Per contract, health care premiums for the Teamsters Bargaining Unit cannot increase more than 8% in any given year. Since the actual rates were unknown at that time, the maximum 8% increase was used to formulate the budget. The actual rates for FY2021 from Allegiant were made available in early May, too late to change the budget. The actual rates increased only 6% rather than the estimated 8%. The differences in the rates resulted in unexpended appropriations for FY2021 in certain activity centers. Using the actual 6% rate yielded a total of \$12,869 in unexpended appropriations allocated as follows: Department of Public Works - \$9,932, Water Fund - \$1,192, Wastewater Fund - \$1,281. It is these funds that are being recommended be transferred to the CBA Implementation Trust.

**Councilor Tripp MOVES THAT THE TOWN COUNCIL adopt Resolution #2021-016 which reads as follows [Read the Resolution], seconded by Councilor Katsakiores
Roll Call Vote: 7-0-0
Resolution attached**

21-24 Resolution #2021-018 – Acceptance of a Wellness Grant – *Planning/Economic Development Assistant Elizabeth Robidoux presenting*
The Town of Derry continues to participate in HealthTrust's Wellness Coordinator Program. This year, HealthTrust awarded a Coordinator Grant in the amount of \$1,000.00 to be spent on programs that raise awareness of physical activity, social, physical, and mental health of the employees and their families. During the 2020 plan year, the grant was not expended. The funds have been retained and will be utilized for programs for this upcoming year. The specific use of the \$1,000.00 award is determined by the Wellness Coordinators and is typically used to fund any expenses of the programs and initiatives. The programs provided by the Wellness

Coordinators, under the auspices of this grant are available to all employees of the Town of Derry and not just those who are enrolled in the town's insurance program.

Councilor Tripp MOVES THAT THE TOWN COUNCIL adopt Resolution #2021-018 which reads as follows [*Read the Resolution*], seconded by Councilor Katsakiores

Roll Call Vote: 7-0-0

Resolution attached

Councilor Comments / Liaison Reports –

Councilor Tripp – Glad to see moving forward with recreational improvements and encouraged to see something happening with Hood Park.

Councilor Tripp moves to adjourn, seconded by Councilor Katsakiores

Roll Call Vote: 7-0-0

Adjournment: 9:50 p.m.



Town Clerk

Recording & Transcription by: Daniel Healey, Town Clerk

3/3/2021
Date



Resolution #2021-007

To Approve Covenants and Commercial-Industrial Tax Relief Application 4 Peabody Road Annex

WHEREAS, Section 5.1 of the Town Charter vests in the Town Council the powers of the legislative and governing bodies; and

WHEREAS, On October 1, 2019 the Council adopted Ordinance #2019-010 which enacted the Derry Commercial/Industrial Property Tax Exemption Program; and

WHEREAS, the Program is designed to spur economic development and job creation by granting a partial tax exemption on property improvements; and

WHEREAS, this application is consistent with the Ordinance's Purpose and Declaration of Public Benefit as set forth in Section 138-38;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Derry Town Council hereby declares:

- 1) Approval of the application constitutes a Public Benefit;
- 2) Approval of the covenants and the Commercial-Industrial Tax Relief Application for 4 Peabody Road Annex;
- 3) Tax relief shall equal 50% of the eligible new value for a period of three years, as calculated against the local school and town tax rates;
- 4) Authorizes the Town Administrator to execute all necessary documents.

This Resolution shall take effect immediately upon its passage.

Adopted February 16, 2021

Attest:

A handwritten signature in black ink, appearing to be "Charles Foote", written over a horizontal line.

Charles Foote, Council Chair

Date: 2/16/2021

A handwritten signature in black ink, appearing to be "Daniel Healey", written over a horizontal line.

Daniel Healey, Town Clerk

Date: 2/16/2021

Archival Ref: Agenda #21-08



Resolution #2021-001

To Approve Covenants and Commercial-Industrial Tax Relief Application for 14 Rte. 111

WHEREAS, Section 5.1 of the Town Charter vests in the Town Council the powers of the legislative and governing bodies; and

WHEREAS, On October 1, 2019 the Council adopted Ordinance #2019-010 which enacted the Derry Commercial/Industrial Property Tax Exemption Program; and

WHEREAS, the Program is designed to spur economic development and job creation by granting a partial tax exemption on property improvements; and

WHEREAS, this application is consistent with the Ordinance's Purpose and Declaration of Public Benefit as set forth in Section 138-38;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Derry Town Council hereby declares:

- 1) Approval of the application constitutes a Public Benefit;
- 2) Approval of the covenants and the Commercial-Industrial Tax Relief Application for 14 Rte. 111;
- 3) Tax relief shall equal 50% of the eligible new value for a period of ten years, as calculated against the local school and town tax rates;
- 4) Authorizes the Town Administrator to execute all necessary documents.

This Resolution shall take effect immediately upon its passage.

Adopted February 16, 2021

Attest:



Charles Foote, Council Chair

Date: 2/16/2021



Daniel Healey, Town Clerk

Date: 2/16/2021

Archival Ref: Agenda #21-03



RESOLUTION

Number 2021-015

To Enter into an Intermunicipal Agreements with the Town of
Londonderry to Provide Wastewater Services

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

WHEREAS, the Department of Public Works has maintained a lengthy relationship with the Town of Londonderry by providing wastewater disposal services; and

WHEREAS, the current agreement to provide said services to the Town of Londonderry was originally crafted in 1981 and its terms and conditions are in need of updating to reflect current regulations, development trends, and obligations; and

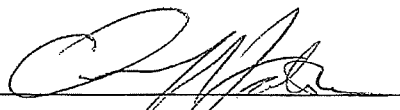
WHEREAS, the Londonderry Town Council voted to enter into the Agreement on February 1, 2021;


NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Town Administrator and the Town Council Chair are hereby authorized to execute an Intermunicipal Agreement, pursuant to RSA 149-I:4, between the Towns of Derry and Londonderry to continue providing Wastewater Services through February 2036.

This Resolution shall take effect immediately upon its passage.

Adopted: February 16, 2021

Attest:

x 
Charles Foote, Council Chair
Date: 2/16/2021

x 
Daniel Healey, Town Clerk
Date: 2/16/2021

Archival Ref: Agenda Item #21-22



RESOLUTION

Number 2021-016

To Transfer Unexpended Appropriations to the CBA Implementation
Trust.

WHEREAS, the Section 9.7 of the Town Charter authorizes the Town Administrator, with approval of the majority of the Town Council to transfer any unencumbered appropriation balance; and

WHEREAS, the Town partners with Allegiant Health Care to provide health insurance coverage for its employees; and

WHEREAS, FY 21 budgeted health insurance premiums for Allegiant exceeded the amount necessary to provide coverage; and

WHEREAS, the Town Council pursuant to Resolution #2017-038 created the CBA Implementation Expendable Trust Fund to assist with funding current or future collective bargaining agreements;


NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Town Administrator is hereby authorized to transfer \$12,869.00 from the following Departments to the CBA Implementation Expendable Trust Fund:

Department of Public Works -	\$ 9,932
Police Department	\$ 464
Water Fund	\$ 1,192
Wastewater Fund	\$ 1,281

This Resolution shall take effect immediately upon its passage.

Adopted February 16, 2020

Attest:

x 

Charles Foote, Council Chair

Date: 2/16/2021

x 

Daniel Healey, Town Clerk

Date: 2/16/2021

Archival Ref: TC agenda item #21-23



RESOLUTION

Number 2021-018

To Apply for and Accept Wellness Grant Funding from Health Trust

WHEREAS, the Section 9.15 of the Town Charter authorizes the Town Council to apply for, accept and expend funds received from the State; and

WHEREAS, the Town has participated annually in HealthTrust's Wellness Coordinator Program to raise awareness of the physical activity, social, and mental health of Town employees and their families; and

WHEREAS, these grant funds will be used to promote and fund activities designed to maintain and enhance the health of the Town's workforce;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Town Administrator is hereby authorized to accept and expend \$1,000.00 in Wellness Coordinator Grant funds from HealthTrust.

This Resolution shall take effect immediately upon its passage.

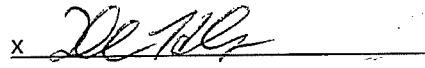
Adopted: February 16, 2021

Attest:

x 

Charles Foote, Council Chair

Date: 2/16/2021

x 

Daniel Healey, Town Clerk

Date: 2/16/2021

Archival Ref: TC agenda item #21-24