

TOWN OF DERRY

Town Council
Derry Municipal Center
14 Manning Street



Tuesday September 20, 2022
3rd Floor Meeting Room

MINUTES

7:00 PM Call to order – Chair Bourdon

Motion to come out of Non-Public by Councilor Wetherbee, seconded by Councilor Katsakiores – all agreed

Motion by Councilor Wetherbee to seal the minutes indefinitely, seconded by Councilor Katsakiores – all agreed

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

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

Present: PWD Mike Fowler, Town Clerk Tina Guilford, Town Attorney Brenda Keith

Public Forum - *30 Minutes*

Motion by Councilor Katsakiores to open public forum, seconded by Councilor Foote – all agreed

Butch Tempe, Bowers Road, wanted to congratulate the candidates that won the primary on Tuesday and wanted to especially thank the Town Clerk and the Town Moderator. Wants to address the behavior and apparel of the Town Council at the election and said it was unprofessional. Was especially disappointed in Councilor Wetherbee and demands his resignation.

Steve Trefethen, North Shore Drive, concern on no economic development advisory committee. Feels we need checks and balances. Exit 4A meeting is Thursday night. Is hoping that the meeting will shed more light on exactly what he will be able to bring for economic development to Derry and promises no housing.

Tom Cardon, Cunningham Drive, Concern on the economic development committee being dissolved. Assistance for professional staff is important. Like Net Zero, citizens can help. For example, Derry After Dark was a great event, a citizen event.

Richard Tripp, Windham Road, Staff Report was available, but he wanted to read the Resolution 2022-066 prior to the meeting and it was not available. He would like to see them available for review in the future.

Motion by Councilor Chirichiello to close public forum, seconded by Councilor Wetherbee – all agreed

Councilor Wetherbee states that he will not resign as long as we have the First Amendment.

Consent Agenda

22-105

Approve Non-Public Minutes September 6, 2022 – Minutes Sealed

22-106

Approve Minutes – September 6, 2022

Councilor Katsakiores motion to approve Consent Agenda, seconded by Councilor Spencer – 7-0-0

Chair Report – Joshua Bourdon

Town Clerk Tina Guilford and Town Moderator Lisa Hultgren give an overview of The Primary Election on September 13, 2022. Discussion on why results were not announced until 3AM and what steps are being taken to make sure results are done in a timelier fashion in November. Discussion on Overvotes, Hand Counts and Write – Ins that will require additional poll workers for the November election. Machine Testing will happen on November 2nd for the November election.

Chairman Bourdon presents a second request for a letter to be sent to all the State Representatives running for election showing the Town of Derry's support for the legalization of cannabis in the non-binding question on the Town ballot in March of 2022. Council could not come to an agreement and no letter will be sent at this time.

Chairman Bourdon presents a second request for a letter to be sent to Pinkerton Academy to encourage them to investigate the possible solar options that may be available to the Academy. Council agrees to sign the letter and send to Pinkerton.

Chairman Bourdon requests the Town attorney to look into the legality of an ordinance for apparel for election officials.

Town Administrator's Report – Mike Fowler

With two months into the fiscal year, motor vehicle permit revenues are slightly ahead of the FY22 actuals. As expected, we have seen a significant jump in interest earned on deposits compared to last year, whereby the Town has earned over a 1/3 of the estimate annual revenue during the month of July. Transfer station revenues remain strong.

Also, congrats to the finance team for coordinating the Town's use of the P-Card program offered through Citizens Bank.

The Town has selected TF Moran as the design consultant for the Hood Park Improvement project.

A contract for architectural and engineering services will be awarded to Mitchell Associates of Voorheesville, NY. The firm has designed hundreds of fire stations across the country. Staff met with the firm last week to finalize details and scheduling, which includes cost eliminating in three different phases to ensure the building program meets budget.

The NHDOT Exit 4A meeting will be on Thursday, September 22, 2022, and will be aired live on Derry CAM.

Before opening the Public Hearing, Chairman Bourdon asks if anyone on the Council has an issue with him participating and voting since he is a resident of Village Brook Lane. All Councilors vote to allow Chairman Bourdon to participate.

Public Hearings

22-98 Resolution #2022-066 – Accept a dedication of an access easement as a Class A trail at Harvest Estates – *Public Works Director Mike Fowler*

Harvest Estates is a subdivision off Hampstead Road which includes Harvest Drive and Village Brook Lane. During the approval process in 1987 and subsequent discussions on this matter in 2006, the Planning Board concurred not to connect Harvest Drive and Village Brook Lane but instead reserved a 50-foot easement for emergency vehicle access only between the two streets. The area in question is paved, with bollards to prevent use as a street. Over the years, this area has been used for pedestrian and bicycle travel, predominately by students traveling to and from the East Derry School. In 2022 the property was sold to a new owner who does not want pedestrians using this access road and the property owner's attorney has indicated to the Town a lawsuit is forthcoming.

Motion by Councilor Foote to open public hearing, seconded by Councilor Wetherbee – all agreed

Ed Sullivan, attorney representing the property owner on Village Brook Lane, disagrees with the assessment. He states that the trail was not an accepted right of way and that this pedestrian traffic is affecting his clients quality of life. His clients are concerned about property values, and he requests this hearing be tabled until October 28th when the courts will decide. In his opinion the Town does not have the authority to take action.

Joe Brackett, Harvest Drive, Children use this path to go to school. The property owner was aware of the path when he bought it and it does not diminish the value, since he bought it.

Kristen Fawcett, Harvest Drive, bought her home with the intention of walking her children to school. Feels the owners are selective in who is being allowed to use the trail. Is offering to get an attorney to counter the lawsuit being filed.

Jack, Harvest Drive, states he lives in this neighborhood so he can walk to school that is why his parents picked this house.

Hannah, Harvest Drive, this is how the kids get to school. And the path gives her a greater ability to ride her bike rather than just up and down one street since Hampstead Rod is much too busy.

Lucy Burgess, Village Brook Road, she almost bought the property in question back in the 1990's but was concerned about the path becoming an actual road. But what is happening now

is that her road is now very congested because parents are driving their children since they can not walk on the path.

Joe Todisco, Harvest Drive, the thought that children walking on a path will hinder your lifestyle is absurd. Children should be allowed to walk to school.

Steve Trefethen, North Shore Road, Advises the Council to wait for the court decision before taking any action on the resolution.

Richard Tripp, Windham Road, he recalls that the Town built the road easement and built it to Town standards. It was agreed that the bollards and gate would be placed and that the Fire Department would have the keys. People should be able to walk on it.

Lisa Hultgren, Warner Hill Road, has many friends on both roads and there is a wonderful sense of community. She has taken her own children there to trick or treat and to see Christmas lights. This loss of the path would destroy the wonderful sense of community the roads all have and children should be able to walk safely to school.

Karen Blandford Anderson, Village Brook Lane, there has always been an easement there. It was supposed to be a full road, but residents of Village Brook Lane protested, and it became the access road that we now have. She suggests that the new homeowners put in a new driveway, so they are not bothered by the path and pedestrian traffic.

Ed Sullivan, previous speaker, appreciates the feelings but that the Town made the condition for authorized emergency vehicles only and that it was not to be used as a pedestrian road. He also feels that the access road was conditional on a deed that was never executed.

Richard Tripp, previous speaker, wants to know if it was just for emergency vehicles why is anyone using it as a driveway.

Ed Sullivan, previous speaker, states that there was an exception, and that the Town has never done any maintenance on this road.

Motion by Councilor Chirichiello to close public hearing, seconded by Councilor Katsakiores – all agreed

**Councilor Wetherbee MOVES THAT THE TOWN COUNCIL adopt Resolution #2022-066 which reads as follows [*Read the Resolution*], seconded by Councilor Foote
Roll Call Vote: 7-0-0
Resolution attached**

New Business

22-107 Resolution #2022-070 – Revise the Economic Development process and oversight – *Director of Economic Development Beverly Donovan*

In 2016 the Town Council created the Economic Development Advisory Committee to assist in creating an environment that attracts businesses to Derry. Since that time, the Town now retains an Economic Development Professional on staff and the Town, with Significant public input created a Master Plan in 2020. The Town Council also continuously develops initiatives to advance the Town's commerce.

Councilor Foote MOVES THAT THE TOWN COUNCIL adopt Resolution #2022-070 which reads as follows [Read the Resolution], seconded by Councilor Wetherbee
Roll Call Vote: 7-0-0
Resolution attached

22-104 Resolution #2022-071 – Authorize Expenditures from the Police Revolving Fund
– Deputy Chief George Feole

This Resolution is to authorize the Town Administrator to transfer and expend funds from the Police Detail Revolving Fund to facilitate the project to acquire the APEX OFFICER Training Simulator.

Councilor Foote MOVES THAT THE TOWN COUNCIL adopt Resolution #2022-071 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 is concerned about having enough poll workers for November 8th and wants to revisit the pay scale we are paying poll workers. He also wants to look at the credits for combat vets versus non-combat vets as he is getting calls on the issue.

Councilor Spencer is also getting calls on the vet credits. Also announces that the Derry Public Library and The Greater Derry Arts Council are holding events at the Opera House starting October 19th.

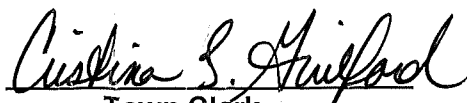
Councilor Wetherbee also wants to look at more pay for poll workers and thinks we should look at shift-based pay.

Councilor Foote wants to thank all our election workers for all their hard work.

Councilor Bourdon Derryfest was a great event. Big thank you to Mike Fowler for stepping into Dave Caron's place for 2 meetings.

Councilor Chirichiello MOTIONS TO ADJOURN, seconded by Councilor Katsakiores – all agreed

Adjourn: 9:24PM


Town Clerk


Date

Recording & Transcription by: Cristina Guilford, Town Clerk



Town Council

September 20, 2022

Dr. Timothy J. Powers, Headmaster
Dr. William A. Nevius, President, and members of the Board of Trustees
Pinkerton Academy
5 Pinkerton Street
Derry, NH 03038

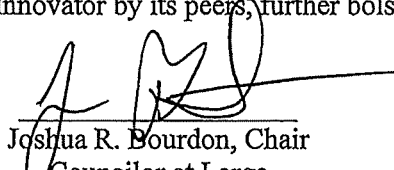
RE: Solar Power Opportunities at Pinkerton

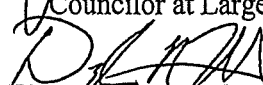
Dear Dr. Powers, Dr. Nevius and members of the Board of Trustees


The Derry Town Council would like to encourage you and the Pinkerton Academy Board of Trustees to consider the installation of a solar array at the Academy to help stabilize operating costs for Pinkerton and ultimately, the sending communities.

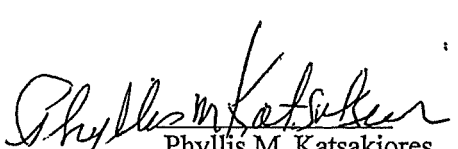
Our Net Zero Task Force has been at the forefront of such initiatives for the Town. With the passage of HB315 in 2021, RSA 229 was amended to allow entities such as Pinkerton to construct facilities up to 5 megawatts of generating capacity to capitalize on the advantages of net metering under New Hampshire law. Currently, we have approved agreements with Derry Solar LLC to construct a 2.2 MW system at the closed landfill to cover the electricity needs of 30 Town buildings.

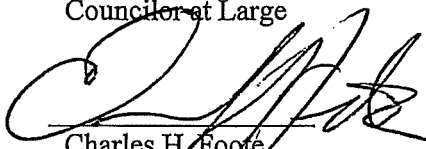
Please let us or our Net Zero Task Force know how we can assist in the evaluation and implementation of a similar project at Pinkerton. Similar to the budding collaboration between Pinkerton and the development of the passive recreation areas at Hood Park, perhaps this initiative could provide another opportunity for your STEM program. In addition to the real economic savings realized from the project, Pinkerton will be viewed as an innovator by its peers, further bolstering its reputation as a leader and visionary in secondary education.

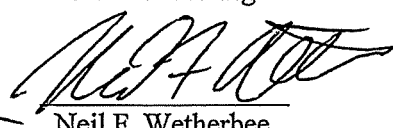

Joshua R. Bourdon, Chair
Councilor at Large



Douglas R. Flood
Councilor at Large


Erin A. Spencer
Councilor District #1


Phyllis M. Katsakiores
Councilor at Large


Charles H. Foote
Councilor District #2


Neil F. Wetherbee
Councilor District #3


Brian K. Chirichiello
Councilor District #4



RESOLUTION

Number 2022-066

To Accept a Dedicated Easement as a Class A Trail at Harvest Estates

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

WHEREAS, RSA 231-A provides for the acceptance of a dedicated access easement as a Class A Trail; and

WHEREAS, the Town Council, as the Legislative body, pursuant to state statute is the only body that accepts dedicated ways; and

WHEREAS, an "Easement for Future Access"—a dedication—is shown on a plan recorded in the Rockingham County Registry of Deeds as Plan D-18363 and said access runs from Lot 10115-23 (also known as 29 Village Brook Lane) and land that was later subdivided as Harvest Estates; and

WHEREAS, the Town Council has not previously formally accepted the dedicated access from Village Brook Lane to Harvest Drive; however, the developer has taken such actions such as installing a paved way with Bollards installed at each end so as to afford access to emergency vehicles as an emergency lane as well as a public, non-motorized way; and

WHEREAS, the Town Council now finds it necessary to accept the dedication of this access, with the improvements as is, as a Class A Trail to ensure continued use by the public; and

WHEREAS, public trail use restrictions shall restrict use to bicycle, foot and other non-motorized travel with the exception that the owners of 27 Village Brook Road and 29 Village Brook Road can continue to use the trail for vehicular access; and

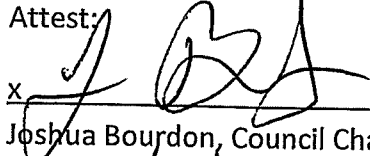
WHEREAS, the use restrictions shall not affect nor extinguish the use as an emergency access lane opened to emergency vehicles;

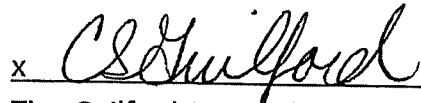
NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the dedicated access is hereby accepted as a Class A Trail across lot 10115-23 as shown on the Plan D-18363.

This Resolution shall take effect immediately upon its passage.

Adopted: September 20, 2022.

Attest:

x 
Joshua Bourdon, Council Chair
Date: 9/20/22

x 
Tina Guilford, Town Clerk
Date: 9-20-22

Archival Ref: TC Agenda Item #22-98



RESOLUTION

Number 2022-071

To Authorize Expenditures from the Police Revolving Fund

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 adopt resolutions and ordinances, including the appropriation of funds; and

WHEREAS, the Derry Police Department provides special detail services for businesses, groups and individuals requiring specialized traffic control, crowd control and other security; and,

WHEREAS, the Town Council under Resolution #2017-020 authorized the creation of a Police Detail Revolving Fund pursuant to RSA 31:95-h to separately account for and expend funds for this purpose; and,

WHEREAS, the Town Council under Resolution #2022-060 accepted a Bureau of Justice Assistance grant for a virtual reality simulator for the Police Department; and

WHEREAS, the local share of the project can be funded from surplus funds in the Detail Revolving Fund;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Town Council hereby authorizes the withdrawal of \$56,315 from the Police Detail Revolving Fund for the non-federal share of an APEX OFFICER Training Simulator.

This Resolution shall take effect immediately upon its passage.

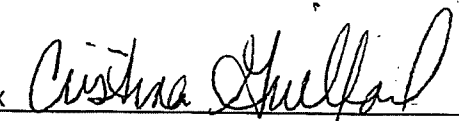
Adopted: September 20, 2022.

Attest:

x 

Joshua Bourdon, Council Chair

Date: 9/20/22

x 

Cristina Guilford, Town Clerk

Date: 9-20-22



RESOLUTION

Number 2022-070

To Revise the Derry Economic Development Process and Oversight

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

WHEREAS, the Town Council previously established the Economic Development Advisory Committee to actively plan and implement economic development activities for Derry; and

WHEREAS, the Town Council goals for FY17 as adopted pursuant to Resolution #2016-028 identified the retention of an economic development professional to lead these efforts; and

WHEREAS, the Town Council has continuously prioritized economic development as a community goal; and

WHEREAS, the Town's 2020 Master Plan further reinforced the community's economic development goals; and

WHEREAS, the Town's Economic Development Office is staffed with an economic development professional who collaborates with administration, town staff, community groups and development professionals to advance Town economic development goals with regular interaction with the Town Council as the governing body; and

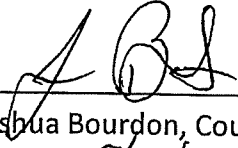
WHEREAS, it is a common goal of all stakeholders to bring efficiencies to local government;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Town Council hereby dissolves the Economic Development Advisory Committee, extends its appreciation to the past and former town residents who have contributed to economic development initiatives in Derry, and further requires quarterly reports to the Council on economic development activities.

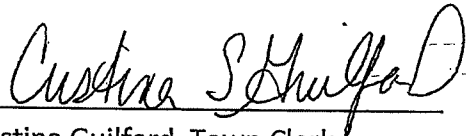
This Resolution shall take effect immediately upon its passage.

Adopted: September 20, 2022

Attest:

x 

Joshua Bourdon, Council Chair
Date: 9/20/22

x 

Cristina Guilford, Town Clerk
Date: _____