

## TOWN OF DERRY

Town Council  
Derry Municipal Center

April 20, 2021  
Tuesday - 7:00 PM

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6:00 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:** Councilors, Katsakiores, Foote and Chairman Morgan (In-person) and Councilor's Bourdon, Spencer, and Wetherbee by Video. Absent: Councilor Chirichiello  
Present: TA David Caron, Town Clerk Daniel Healey

### **Budget Workshop**

#### **Emergency Management**

*Fire Chief Mike Gagnon*

*Assistant Fire Chief James Richardson*

Department Mission: Leads the community effort to prepare the Town of Derry to effectively mitigate, prepare for, respond to, and recover from any natural or human-made disaster. Emergency management assists other town departments in developing contingency emergency plans and maintains a comprehensive all hazards Emergency Operations plan.

**Councilor Katsakiores moves the bottom line at \$44,245, seconded by Councilor Foote**  
**Roll Call Vote: 6-0-0**

#### **Fire (Prevention & Emergency Services)**

*Fire Chief Mike Gagnon*

*Assistant Fire Chief James Richardson*

Department Mission: The mission of the Derry Fire Department is "Plan, Prevent, Provide." To plan for emergency incidents and events, to prevent those incidents from occurring, and when they are unable to prevent them; to provide the highest level of fiscally responsible, effective, and efficient services in order to enhance the health, welfare and safety of the citizens, visitors, and businesses in the Town of Derry.

Flagged line item 140

**Councilor Wetherbee moves the bottom line at \$11,456,068, seconded by Councilor Foote (Subject to flagged items)**  
**Roll Call Vote: 6-0-0**

## **Police**

*Chief of Police Ed Garone*

*Captain George Feole*

Department Mission: To protect life and property, enforce the laws of society, maintain order in the community and to assist the public at large in a manner consistent with the rights and dignity of all persons as provided for by law and under the Constitutions of the United States of America and the State of New Hampshire. Councilor Morgan made note that the budget went up \$600,000 from last year due to CBA agreements and the retirement system.

**Councilor Wetherbee moves the bottom line at \$9,825,373, seconded by Councilor Katsakiores**

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

## **Animal Control**

*Chief of Police Ed Garone*

*Captain George Feole*

Department Mission: A function of the Operations Division of the Police Department. It is charged with the responsibility of enforcing Town Ordinances and State statutes relative to domestic animals. Responsible for the enforcement of the licensing ordinance for dogs, responding to citizen complaints, apprehending stray animals, and maintaining a kennel and placement of strays or unwanted animals when appropriate.

**Councilor Wetherbee moves the bottom line at \$99,486, seconded by Councilor Foote**  
**Roll Call Vote: 6-0-0**

## **Consent Agenda**

**21-41** Approve Non-Public Minutes – April 6, 2021 – **minutes sealed**

**21-42** Approve Minutes – April 6, 2021

**21-43** Accept Planning Board Member Resignation – Mark Grabowski

**Motion by Councilor Foote to approve the consent agenda, seconded by Councilor Katsakiores**

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

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

**Motion by Councilor Katsakiores to open public forum, seconded by Councilor Foote**

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

No one from the public spoke.

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

## **Chairman's Report – James Morgan**

Town Council Chair James Morgan read a proclamation presented by the Town Council to Braeden Foote for achieving the designation of Eagle Scout.

**Chairman Morgan moves to appoint Raymond Fontaine as an alternate member of the Taylor Library Board of Trustees for a term to expire March 31, 2022, seconded by Councilor Katsakiores**

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

### **Town Administrator's Report – David Caron**

CFO Mark Fleischer presented the FY 21 3<sup>rd</sup> Quarter Financial Report.

The Town of Derry partnered with the Lafayette Trail and the William G Pomeroy Foundation on a historic marker, commemorating General Lafayette's visits to the Town of Derry in 1825. Derry was fortunate enough to have three visit sites on his farewell tour of the United States. The Town will be dedicating the historic marker, located at 17 Nesmith Street on May 4 at 10:00am. CHS, the Town's General Assistance Administrator is preparing to unveil the Community Development Block Grant Program which is designed to aid Derry residents who are encountering difficulties with paying housing related costs, such as rent, mortgage, utilities, heating costs or at risk homelessness. This program includes assistance with those costs and temporary shelter needs, if appropriate. CHS is partnering with Derry landlords to provide a conduit for tenants to connect with CHS to determine their eligibility. Officer Dan Komenda gave his notice of retirement effective June 1<sup>st</sup>, 2021. Dan will have served the agency and the citizens of Derry for more than 33 years. Dan sets a new record as the longest serving Patrol Officer in the history of the Derry Police Department surpassing a previous record of 29+ years. The Town of Derry ranked first on applications submitted for the SNHPC region related to the rail trail. The SNHPC Technical Advisory Committee (TAC) voted to endorse the SNHPC staff recommendations. If the recommendations are approved by both the SNHPC Commissioners at their April 27<sup>th</sup> meeting, then the project list will be forwarded to the NHDOT for their review during the month of May. The Town has been placed into nomination to the New Hampshire Planners Association for the 2020 Derry Master Plan to be considered for the Plan of the Year Award.

### **Public Hearing**

**21-34** Ordinance #2021-003 – Amend Chapter 131 of the General Code – Stormwater Management to address Chloride Usage for Winter Maintenance – *Public Works Director Mike Fowler presenting*

In accordance with Federal Regulations, the Town of Derry implemented a Storm Water Management Program designed to reduce discharge of pollutants from the Town's Storm water system to the maximum extent practicable in order to protect water quality. The federal requirements are specified under the town of Derry's Phase II Municipal Separate Storm Sewer System General Permit (MS4GP) issued by USEPA through the National Pollution Discharge and Elimination System (NPDES) Program. The MS4GP regulations and permit were revised and reissued in 2017, becoming effective July 1, 2018. Under the new MS4 Permit, municipalities in which there is an approved Total Maximum Daily Load (TMDL) for chloride, a component of road salt, require specific actions designed to achieve chloride reduction on private facilities and private roads that drain to the Town's stormwater system. These actions include requiring the use of commercial salt applicators trained and certified in accordance with NH Env-Wq 2203, also referred to as the NHDES Green SnowPro Program. The Green SnowPro Program offers snow and ice management professionals training and certification in state-of-the-art salt reduction practices that prioritize public safety while mitigating salt usage. In

return for their efforts, commercial salt applicators certified by NHDES Green SnowPro under RSA 489-C, and property owners or managers who hire them, are granted liability protection against damages arising from snow and ice conditions under RSA 508:22. At the same time, contractors and regulated property owners could see a cost savings on the amount of salt used while protecting water quality. To ensure compliance with this regulation, it is proposed to revise Chapter 131-7.

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

No one from the public spoke.

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

**Councilor Foote MOVES THAT THE TOWN COUNCIL adopt Ordinance #2021-003 which reads as follows [Read the Ordinance], seconded by Councilor Katsakiores**  
**Roll Call Vote: 6-0-0**  
**Ordinance attached**

**21-35** Ordinance #2021-004 – Amend Chapter 128 of the General Code – Solid Waste Ordinance – *Public Works Director Mike Fowler presenting*

Chapter 128 of the Town Code was adopted in 1990 to establish regulations for management of solid waste and recycling products. This chapter was narrowly focused on managing products typically brought to the Derry Transfer Station. Several trash receptacles maintained by the Town have been placed in downtown (year-round) and at several parks (seasonally) throughout Derry. The Parks Department attends to trash removal several times per week at these locations. There has been a proliferation of household trash being dumped in these receptacles which negatively impacts the Town through a) more frequent pickups and b) the possibility of taking trash from unauthorized sources. The remote locations of many of the trash receptacles makes it relatively easy to dump large quantities of trash which would have ordinarily been brought to the Derry Transfer Station or deemed ineligible as out-of-town trash. There is currently no regulation to prohibit this practice and/or to impose fines against offenders. There are proposed amendments to Chapter 128 that have been reviewed with legal counsel to address these concerns.

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

No one from the public spoke.

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

**Councilor Wetherbee MOVES THAT THE TOWN COUNCIL adopt Ordinance #2021-004 which reads as follows [Read the Ordinance], seconded by Councilor Katsakiores**  
**Roll Call Vote: 6-0-0**  
**Ordinance attached**

**21-36** Ordinance #2021-005 – Amend Chapter 104 of the General Code – Public Gatherings – *Economic Development Director Beverly Donovan presenting*  
The evolving business landscape, as well as the changes necessitated by the COVID-19 Pandemic has highlighted the need to provide a mechanism by which Special Events may be hosted on either public or private property when otherwise not permissible. The proposed new language under Chapter 104-1.1 -A Special Event is an event whether indoors or outdoors, and not otherwise exempt, held on public property or streets, non-profit organization property, or non-residential private property that can reasonably be expected to cause a public gathering that is not part of the normal course of business at the location and may require public services. To qualify as a Special Event, the event must not be permissible or permittable by any other committee, board or officer of the Town of Derry under Town ordinances, policies, or by-laws. This new language will streamline the process of permitting and meet temporary needs of businesses and residents for events that fall outside the guidelines of the original language of the ordinance.

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

No one from the public spoke.

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

**Councilor Katsakiores MOVES THAT THE TOWN COUNCIL adopt Ordinance #2021-005 which reads as follows [Read the Ordinance], seconded by Councilor Foote**  
**Roll Call Vote: 6-0-0**  
**Ordinance attached**

**21-37** Ordinance #2021-006 – Amend Article VI of the Zoning Ordinance to amend Permitted Uses in the General Commercial District – *Planning Director George Sioras presenting*  
The Town Administrator and Town Council has asked both the Planning & Economic Development staff to review the various zoning districts in town and review the permitted uses in each zone and recommend revisions which are consistent with both the Town Council and Planning Board long-term goals to encourage new development as well as redevelopment opportunities. The purpose of the amendment is to encourage new development as well as redevelopment opportunities in the General Commercial zoning district. The General Commercial zone is in two parts. One is on Crystal Avenue, from Sal's Pizza north to Hood Plaza. The second is on Route 111 near the Derry/Atkinson town line. The Planning Board held several workshop meetings and the changes are straightforward.

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

No one from the public spoke.

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

**Councilor Foote MOVES THAT THE TOWN COUNCIL adopt Ordinance #2021-006 which reads as follows [Read the Ordinance], seconded by Councilor Katsakiores**  
**Roll Call Vote: 6-0-0**  
**Ordinance attached**

**21-38** Resolution #2021-024 – Amend the Development Plan and Tax Increment Financing Plan for the Gateway TIF District – *Town Administrator Dave Caron presenting*

The Town successfully developed the Ash Street TIF District after its establishment in 2004. With District debt service completely retired in FY 20, and its close proximity both physically and economically with the planned Exit 4A corridor, an opportunity presented itself to apply proceeds from the Captured Assessed Value to expand economic opportunities in this area. The Council under Resolution #2020-015 did expand the District and rebranded the area as the Gateway TIF District. The Council also established an Expendable Trust for the financing and planning for future infrastructure projects and additional service responsibilities, primarily for those associated with the expanded 4A Corridor along Folsom and Madden Roads. The proposed development plan includes the following anticipated activities: Completion of Phase II of the Rail Trail to the Londonderry line - Current estimate of \$825K expended in FY 25 & 26; Hiring an additional Highway employee for road maintenance beginning in FY 25 at an initial cost of \$90K annually; Lease/Purchase a six wheel dump truck beginning in FY 25 at an annual cost of \$31,500; Additional infrastructure within the corridor which may include a realignment at Laconia Street to access the Police Station property and property north of Folsom (may be shared with DCC TIF) - FY 25 at \$750K. This area has been identified in the 2020 Master Plan as a focus area for enhanced development. The area was also identified by the Council during the FY 19 goal setting process for enhancements to Franklin Street Extension for better access to the Town's industrial areas. Further, the regional rail trail is planned to traverse through this area. Financial planning at this juncture is prudent to ensure that adequate funds are available for the visioned improvements to support economic development in that neighborhood. All funds collected are generated by the Captured Assessed Valuation within the Gateway TIF District and do not impact the tax rate.

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

No one from the public spoke.

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

**21-39** Resolution #2021-026 – Accept and Expend American Rescue Plan Funds –  
*Town Administrator Dave Caron presenting*

The anticipated severe economic impact resulting from the COVID-19 Pandemic has been well documented throughout society. The Town has experienced revenue shortfalls and adverse economic impacts to the general community. The United States Congress enacted the American Rescue Plan Act to provide direct funding to municipalities to aid in the recovery from the Pandemic. RSA 31:95-b allows municipalities to accept unanticipated funds which may become available to the Town during the year from a variety of sources, including the federal government. Should the Council adopt Resolution #2021-026, funds would be placed in the Expendable Trust for the Derry Recovery Plan as established under Resolution #2021-025. The Council has been named as Agents to Expend therefore any expenditures would require a future affirmative Resolution from the Council. The United States Treasury is responsible for issuing rules on the expenditure of these funds, which will be released by mid-May. The Town anticipates the rules will provide further guidance on the legislative intent associated with this funding.

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

No one from the public spoke.

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

**Councilor Foote MOVES THAT THE TOWN COUNCIL adopt Resolution #2021-026 which reads as follows [Read the Resolution], seconded by Councilor Katsakiores**  
**Roll Call Vote: 6-0-0**  
**Resolution attached**

**Councilor Comments / Liaison Reports –**

Councilor Bourdon – Questioned if Opportunity Zones were still valid. Was told that we are in year 2 and they are in place for 10 years.

**Councilor Katsakiores moves to adjourn, seconded by Councilor Foote**  
**Roll Call Vote: 6-0-0**

  
Town Clerk

  
Date

**Recording & Transcription by: Daniel Healey, Town Clerk**



## ORDINANCE Number 2021-003

Amend Chapter 131 of the General Code – Stormwater Management to  
address Chloride Usage for Winter Maintenance

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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 amend Chapter 131, Stormwater Management, to comply with USEPA regulations; and,

WHEREAS, this amendment would require owners of private streets or parking lots with 10 or more spaces to use certified commercial salt applicators; and,

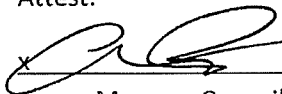
WHEREAS, such actions are necessary to ensure Town compliance with its Phase II Municipal Separate Storm Sewer System General Permit (MS4GP);

NOW, THEREFORE, THE TOWN OF DERRY ORDAINS that Chapter 131 of the General Code, Stormwater Management is hereby amended by adding Section 131-7. B. Compliance with Best Management Practices.

This Ordinance shall take effect 30 days after its adoption.

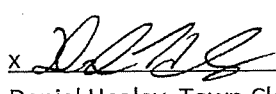
Adopted: April 20, 2021

Attest:

x 

James Morgan, Council Chair

Date: 4/20/2021

x 

Daniel Healey, Town Clerk

Date: 4/20/2021

Archival Ref: Agenda Item #21-34





## ORDINANCE

Number 2021-004

Amend Chapter 128 of the General Code – Solid Waste Ordinance

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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 amend Chapter 128, Solid Waste Ordinance, governing the use of public trash receptacles; and,

WHEREAS, there has been a proliferation of household trash being dumped in the receptacles which are designed for use by visitors to the Downtown and our public parks; and,


WHEREAS, currently there is no regulation to prohibit such practices and/or to impose fines against offenders;

NOW, THEREFORE, THE TOWN OF DERRY ORDAINS that Chapter 128 of the General Code, Solid Waste Disposal is amended by adding a section to Section 128-13, Public Trash Receptacles and adding penalty language to Section 128-6, Violations and Penalties.

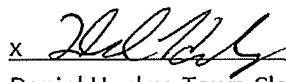
This Ordinance shall take effect 30 days after its adoption.

Adopted: April 20, 2021

Attest:

x   
James Morgan, Council Chair

Date: 4/20/2021

x   
Daniel Healey, Town Clerk

Date: 4/20/2021

Archival Ref: Agenda Item #21-35



## ORDINANCE Number 2021-005

Amend Chapter 104 of the General Code – Public Gatherings

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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 amend Chapter 104, Public Gatherings, governing the issuance of Special Event Permits; and,

WHEREAS, the onset of the COVID-19 Pandemic has demonstrated the need for the Town to address Special Events hosted on either public or private properties for which there are no permitting processes by any other board, committee or officer of the Town; and,


WHEREAS, approving this flexibility in the Town's General Code will allow the Town to enhance its responsiveness to the community;

NOW, THEREFORE, THE TOWN OF DERRY ORDAINS that Chapter 104 of the General Code, Public Gatherings is amended by adding a provision to Section 104-1.1 Special Events and other minor additions in support of this initiative on Special Events.

This Ordinance shall take effect 30 days after its adoption.

Adopted: April 20, 2021

Attest:

x 

James Morgan, Council Chair

Date: 4/20/2021

x 

Daniel Healey, Town Clerk

Date: 4/20/2021

Archival Ref: Agenda Item #21-36



## ORDINANCE

Number 2021-006

Amend Article II, Word Uses and Definitions and Article VI, District  
Provisions for the Industrial IV District.

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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, the Planning Board has been reviewing allowable uses within the General Commercial District, and

WHEREAS, in support of economic activity and business and commerce movements, amendments are necessary to maintain and enhance the viability of the General Commercial District; and

WHEREAS, the Planning Board has held the requisite public hearing and voted to recommend this amendment to the Town Council;

NOW, THEREFORE, THE TOWN OF DERRY ORDAINS that the Derry Zoning Ordinance is hereby amended as follows:

To AMEND Article VI District Provisions, Section 165-32.1.A, General Commercial District, Permitted Uses, resulting in an amended list of permitted uses in the zone.

This Ordinance shall take effect thirty days after its adoption.

Adopted: April 20, 2021

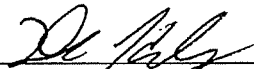
Attest:

x 

James Morgan, Council Chair

Date: 4/20/2021

Archival Ref: Agenda Item #21-37

x 

Daniel Healey, Town Clerk

Date: 4/20/2021



## RESOLUTION

Number 2021-026

To Accept and Expend American Rescue Plan Funds from the United States  
Government

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

WHEREAS, Congress has passed and the President has signed the American Rescue Plan Act of 2021; and

WHEREAS, the Act provides funds to the Town for various purposes, all designed to assist the Town in its recovery from the impacts of the COVID-19 Pandemic; and


WHEREAS, the Town Council previously enacted Resolution #2021-025 which established an Expendable Trust for the Derry Recovery Plan to ensure transparency and accountability with these funds;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL, pursuant to RSA 31:95-b, that the Town Administrator is hereby authorized to accept \$3,315,043.21 from the United States Government and deposit in the Expendable Trust Fund for the Derry Recovery Plan.

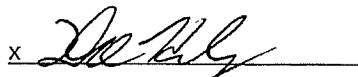
This Resolution shall take effect immediately upon its passage.

Adopted: April 20, 2021

Attest:

x   
James Morgan, Council Chair

Date: 4/20/2021

x   
Daniel Healey, Town Clerk

Date: 4/20/2021

Archival Ref: Agenda #21-39