

TOWN OF DERRY

Town Council
Derry Municipal Center

May 21, 2019
Tuesday - 7:00 PM

6:15 PM RSA 91A:3 II 9(b, d)
7:00 PM Call to order

Councilor Tripp moves to leave non-public session, seconded by Councilor Morgan – all agreed

Councilor Tripp moves to seal RSA 91A:3 II (b, d), seconded by Councilor Katsakiores – all agreed

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

Roll Call: Councilors Chirichiello, Foote, Tripp, Morgan, Katsakiores, Bourdon and Chairman Wetherbee

Present: TA David Caron, Town Clerk Daniel Healey, CFO Susan Hickey

Public Forum - *30 Minutes*

Open Public Forum – all agreed

No one from the public spoke.

Motion by Councilor Morgan to close public forum, seconded by Councilor Bourdon – all agreed

Consent Agenda

19-54 Approve Budget Review Workshop Minutes – April 30, 2019

19-55 Approve Non-Public Minutes –May 7, 2019 – **minutes sealed**

19-56 Approve Minutes May 7, 2019

Consent agenda approved

Chairman's Report – Neil Wetherbee

The Memorial Day Parade will be held on Monday, May 27th, 2019 at 11:00am. The parade will begin at Hood Commons, travel down Crystal Ave., and will end at MacGregor Park on East Broadway with traditional observances. Councilor Morgan will be filling in for Chairman Wetherbee as he will not be able to attend. Last fall, Logan Cove began organizing a sweatshirt collection that drew in more than 100 items to be donated to area service organizations. Logan began an official non-profit organization known as LMC Charities with a youth board of directors that meets regularly to discuss ideas for events and brainstorm how to continue to make a difference. The Town Council acknowledged, honored, and expressed their sincere gratitude by presenting Logan with a proclamation. Councilor Foote read a proclamation for Lt. Kathryn Mayes and Lt. Kimberly Clark who have been assigned to the Derry Salvation Army for the past few years. The Town Council thanked them for all the work they have done. They will be relocating to Ohio and Portsmouth, NH respectively.

Chairman Wetherbee moves to appoint Jennifer Thielker to the Taylor Library Board of Trustees as an Alternate member with a term to expire March 31, 2020, seconded by Councilor Morgan
Roll Call Vote: 7-0-0

Town Administrator's Report – David Caron

The Town sought proposals to provide assessing services for FY 20-24 and after a comprehensive review of the proposals received and consideration of qualifications, experience and cost, the Town Administrator has appointed Stephan Hamilton and Whitney Consulting, LLC as Assessor for the Town of Derry with a term to expire December 31, 2023.

Councilor Tripp MOVES THAT THE TOWN COUNCIL adopt Ordinance #2019-032, which reads as follows [Read the Resolution], seconded by Councilor Katsakiores
Roll Call Vote: 7-0-0
Resolution attached

Economic Development Coordinator Bev Donovan and Town Administrator Dave Caron met with the regional director for the 2020 census. The vast majority of work will be completed electronically, and on-site visits will begin approximately 1 year from now. May 27th the 3rd Floor meeting room will be closed while a new carpet will be installed. It will be completed in time for the next council meeting. There is a powerpoint in the Town Councilor's packets regarding an RFP proposal for solar at the Cole Landfill. There will be a presentation at the June 4th council meeting. There will be two options available, one being to bond and purchase the solar field or an option to buy at year 5. The parklets used for Derby Day on May 4th were successful and may be used for more events in the future. There has been one solar powered speed monitored installed on West Broadway and a few more are planned throughout town in the next few weeks. A staff report and April statistics for the Human Services department is in the council's packet.

Public Hearing

19-45 Ordinance #2019-003 -Amend Zoning Ordinance -Article VI, District Provisions, Section 165-32, General Commercial, to add Medical Office as a permitted use -
Planning Director George Sioras

Over the last two years both the Derry Town Council and Planning Board worked on their respective Goals and requested staff to review the permitted uses in the existing Industrial and Commercial Districts. The above referenced zoning amendment continues the ongoing steps in meeting those Goals. The purpose of the amendment is to clarify the list of permitted uses in the zone. Medical office was a permitted use under the definition of "Professional Office" until the definition of "Medical office" was created in 2013. With the pending Exit 4A project moving forward the Planning Department has had some inquiries for future medical office development in the north end of town. Additionally, the Land Development Control Regulations parking requirements are different for medical office uses versus professional office uses. By clarifying the uses there will be no interpretation issues; this makes it easier for staff.

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

No one from the public spoke.

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

Councilor Morgan MOVES THAT THE TOWN COUNCIL adopt Ordinance #2019-003, which reads as follows [*Read the Resolution*], seconded by Councilor Chirichiello

Roll Call Vote: 7-0-0

Resolution attached

19-46 Resolution #2019-029 - Accept a Bureau of Justice Assistance Grant for Personal Body Armor - *Police Chief Ed Garone*

Recently the Police Department was notified by the Bureau of Justice Assistance (BJA) that the Department is eligible to receive an award under the Fiscal Year 2019 Bulletproof Vest Partnership (BVP) program. The department has participated in the program for a number of years. The award may be used for National Institute of Justice (NIJ) compliant armored vests. The awarded funds can be used until August 31, 2021. Based on their history and current needs, it is projected that the police department will need to purchase 41 bulletproof vests during this timeframe. It is anticipated that the BJA will award the department \$16,523 which is half of the cost of the estimated forty-one bulletproof vests. The BJA would reimburse the police department for up to 50% of each vest after the purchase has been made.

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

No one from the public spoke.

Motion by Councilor Tripp to close public hearing, seconded by Councilor Bourdon – all agreed

Councilor Foote MOVES THAT THE TOWN COUNCIL adopt Resolution #2019-029, which reads as follows [*Read the Resolution*], seconded by Councilor Katsakiores

Roll Call Vote: 7-0-0

Resolution attached

New Business

19-57 Resolution #2019-030 - Direct Tax Collector not to execute a tax deed on certain properties - *Tax Collector Diane Mulholland*

On April 13, 2017 the unpaid balances of the 2016 tax bills were lienied at the Rockingham County Registry of Deeds. According to RSA 80:76 (attached), "the collector, after 2 years from the execution of the real estate tax lien, shall execute to the lienholder a deed of the land subject to the real estate tax lien and not redeemed." RSA 80:76 also provides the Town Council specific (Paragraph II) and subjective (Paragraph II-a) reasons to waive tax deeding. For a multitude of reasons, the Town presently has 53 parcels that are eligible for tax deeding. The execution of the Tax Collector's Deed on the parcels will reduce tax revenues. The intent of

tax deeding, however, is to sell the property in anticipation of collecting an equal or greater amount of revenue and returning the properties to the tax rolls.

Councilor Morgan MOVES THAT THE TOWN COUNCIL adopt Resolution #2019-030, which reads as follows [Read the Resolution], seconded by Councilor Tripp

Roll Call Vote: 7-0-0

Resolution attached

19-58 Resolution #2019- 031-Authorize Long Blue Cat Brewing to serve alcohol samples at the Derry Homegrown Farm and Artisans Market -*Town Administrator Dave Caron*

The Derry Homegrown Farm and Artisans Market is planning its 2019 season and has received a request from Long Blue Cat Brewing seeking Council approval to serve samples; Resolution #2019-031 provides authorization within the mandates of NH RSA 179:44, which requires that such activity be authorized by the town or city's governing body and that the authorization must be in writing. In accordance with the Town Charter and State law, the Town Council is the governing body of the town and has the sole authority to grant the requested authority to provide samples under that statute. The authority requested is narrow as to the location and time of operation of the Market.

Councilor Tripp MOVES THAT THE TOWN COUNCIL adopt Resolution #2019-031, which reads as follows [Read the Resolution], seconded by Councilor Katsakiores

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

Resolution attached

19-59 Resolution #2019-033 - Authorize Tax Collector to waive minor balances on property tax accounts -*Tax Collector Diane Mulholland*

There is a list of properties with a balance of less than \$5 as of April 16, 2019 on their 2018 tax bill. These balances are due to under payment by the taxpayer. Also included is .01 cent from the 2017 and .19 cents from the 2016 tax lien procedures. The final payments received on these accounts did not include the full amount of interest accrued on the accounts, resulting in a remaining principal balance of under \$5. All payments are applied to interest first then to principal, resulting in a principal balance due. The fiscal impact of abating these tax balances is \$62.81 which is far less than the cost of collecting these small balances.

Councilor Morgan MOVES THAT THE TOWN COUNCIL adopt Resolution #2019-033, which reads as follows [Read the Resolution], seconded by Councilor Tripp

Roll Call Vote: 7-0-0

Resolution attached

Old Business

19-37 Resolution #2019-012 - Amend the Development Plan and Tax Increment Financing Plan for the Rte. 28 North Tax Increment Financing District -*Town Administrator Dave Caron*

The Town previously enacted the provisions of Chapter 162-K, Municipal Economic Development and Revitalization Districts and the Town established and actively supports its two TIF Districts (Ash Street and Rte. 28 North) by investing in their development for the benefit of the Districts and the entire community and the Council and the community have recognized that Town's retail and commercial sector comprises a contiguous development pattern from

Broadway through Crystal Avenue to Manchester Road and the expansion of the Rte. 28 North TIF District to include the Crystal Avenue and portions of East and West Broadway neighborhoods would provide resources and synergies to further grow the Town's economy.

Councilor Morgan MOVES THAT THE TOWN COUNCIL adopt Resolution #2019-012, which reads as follows [*Read the Resolution*], seconded by Councilor Tripp

Roll Call Vote: 7-0-0

Resolution attached

19-38 Resolution #2019-014 - Create an Expendable Trust for Derry Commerce

Corridor Redevelopment and Infrastructure Activities - *Town Administrator Dave Caron*

The Town requires a funding mechanism to support the revitalization of the Derry Commerce Corridor and investments for this purpose will enhance and promote the general welfare, health and safety of the community, as well support growth of the Town's retail and commercial sectors. It is recommended that an Expendable Trust Fund for Derry Commerce Corridor Redevelopment and Infrastructure Activities is hereby created pursuant to RSA 31:19-a, with the Town Council designated as Agents to Expend

Councilor Tripp MOVES THAT THE TOWN COUNCIL adopt Resolution #2019-014, which reads as follows [*Read the Resolution*], seconded by Councilor Chirichiello

Roll Call Vote: 7-0-0

Resolution attached

Councilor Comments

Councilor Morgan – The Legislative Committee met last night and discussed bills currently being watched at the State house. The net metering bill passed the house and the senate and is on the Governor's desk. There are some education funding bills which would bring money back to Derry and be very helpful. The Property Maintenance Committee is going to look into ordinances on blighted properties.

Councilor Foote – The Rotary Clubs of Derry will host an Annual Veteran's Cookout to Honor all America's Veterans. It will take place Thursday May 30th at 5:00pm at The Derry Boys & Girls Club. Veterans and their families may RSVP by calling 603-432-3357.

Councilor Tripp – Reminded the council about a Councilor Goals meeting and the summer schedule. Attended the Southern New Hampshire Planning Commission meeting as a member. Two informative presentations were given on NHDES water and soil contamination.

Councilor Katsakiores – There was a celebration of senior volunteers who make the area a better place for all of us that brought together nearly fifty honorees and their families. The event took place at the First Parish Church in East Derry. A luncheon was catered by the Pinkerton Academy Culinary Arts team.

Councilor Bourdon – Would like the other councilors to review their packets for upcoming solar project ideas and to have any questions prepared. Will not be able to attend the Memorial Day parade but is grateful for the service. The Net Zero Task Force Committee is co-hosting a New Hampshire Business Solar Summit with Tupelo Music Hall on Wednesday June 5th from 5:30-7pm.

Chairman Wetherbee – The Farmer's Market opens 2 weeks from tomorrow on June 5th and runs through September 25th. Thanked the veteran's but will be out of town for the Memorial Day parade.

Adjournment: 8:15 p.m.



Town Clerk

Recording & Transcription by: Daniel Healey, Town Clerk

6-10-19

Date



RESOLUTION

Number 2019-032

To Confirm the Appointment of the
Assessor

WHEREAS, Section 8.8(A) of the Town Charter requires that the Town Council confirm the appointment of certain officers appointed by the Town Administrator; and

WHEREAS, the Town sought proposals to provide assessing services for FY 20-24; and

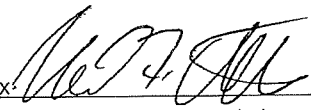
WHEREAS, after a comprehensive review of the proposals received and consideration of qualifications, experiences and cost, the Town Administrator has appointed a candidate who possesses the necessary skills and experience to successfully manage the Town's assessing functions and responsibilities;

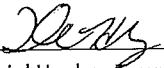
NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the appointment of Stephan Hamilton and Whitney Consulting, LLC as Assessor for the Town of Derry with a term to expire December 31, 2023 is hereby confirmed.

This Resolution shall take effect immediately upon its passage.

Adopted: May 21, 2019

Attest:

x 
Neil Wetherbee, Council Chair
Date: 5-21-19

x 
Daniel Healey, Town Clerk
Date: 5-21-19

Archival Ref: TC agenda – Town Administrator's Report



ORDINANCE
Number 2019-003

Amend Article VI, District Provisions Section 165-32, General
Commercial, to Add Medical Office as a Permitted Use

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, a goal of the Planning Board is to review and update portions of the Zoning Ordinance, and

WHEREAS, the Planning Board has reviewed permitted uses and recommends clarification that Medical Office, formerly under the definition of Professional Office, is an allowed use in the General Commercial Zone; and

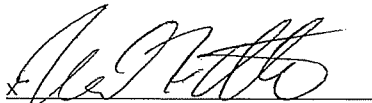
WHEREAS, the Planning Board has held the requisite public hearing and voted to recommend this amendment to the Town Council;

NOW, THEREFORE, THE TOWN OF DERRY ORDAINS that the Derry Zoning Ordinance is hereby amended as follows: Article VI, District Provisions, Section 165-32, General Commercial, to add Medical Office as a permitted use.

This Ordinance shall take effect thirty days after its adoption.

Adopted: May 21, 2019

Attest:



Neil F. Wetherbee, Council Chair

Date: 5-21-19



Daniel Healey, Town Clerk

Date: 5-21-19

Archival Ref: Agenda Item #19-45



RESOLUTION

Number 2019-029

To Accept a Bureau of Justice Assistance Grant for Personal Body Armor

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

WHEREAS, funding is available through the Department of Justice, Bureau of Justice Assistance for Personal Body Armor; and

WHEREAS, the Town foresees the need to purchase forty-one vests during this budget period, and the DOJ would reimburse the Town for 50% of the cost of this purchase (\$16,523.00); and

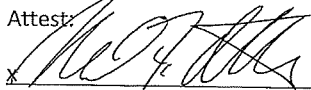
WHEREAS, the availability and use of Personal Body Armor is vital to an officer's safety;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Town Administrator is hereby authorized to apply for, accept and expend such funds derived from the Department of Justice, Bureau of Justice Assistance grant and to enter into agreements with the DOJ as may be necessary to finalize receipt of this grant funding.

This Resolution shall take effect immediately upon its passage.


Adopted: May 21, 2019

Attest:

x 

Neil Wetherbee, Council Chair

Date: 8/28/19

x 

Daniel Healey, Town Clerk

Date: 5/29/19

Archival Ref: Agenda #19-46



RESOLUTION

Number 2019-030

To Direct the Tax Collector not to Execute a Tax Deed on Certain
Properties

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

WHEREAS, RSA 80:76 sets forth the procedure for conveying tax deeded properties to the Town; and

WHEREAS, pursuant to RSA 80:76 II and II-a, the Governing Body may refuse to accept a deed on certain properties, whenever in its judgment acceptance and ownership of those properties would subject the municipality to undesirable obligations or liability risks; and

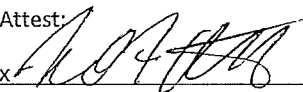
WHEREAS, the Town has identified properties eligible for tax deed however acceptance of ownership would not be in the Town's best interest;

NOW, THEREFORE, BE IT RESOLVED that the Tax Collector is hereby directed not to execute a tax deed on properties listed on the attached inventory sheet; pursuant to RSA 80:76 III, the Council may revisit this decision at any time and may later direct the Tax Collector to issue a deed for one or more of the properties subject to this directive.

This Resolution shall take effect immediately upon its passage.

Adopted: May 21, 2019

Attest:

x 

Neil Wetherbee, Council Chair

Date: 5-21-19

x 

Daniel Healey, Town Clerk

Date: 5-21-19

Archival Ref: Agenda Item #19-57



RESOLUTION

Number 2019-031

To Authorize Long Blue Cat Brewing to serve alcohol samples at the Derry
Homegrown Farm and Artisans Market.

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 act in accordance with RSA 179:44; and

WHEREAS, RSA 179:44 II-a authorizes wine manufacturers, beverage manufacturers, nano breweries and brew pubs to provide samples for tasting at a farmers' market, contingent upon written authorization by the Governing Body;

WHEREAS, the Town has received a request from Long Blue Cat Brewing to participate in the Derry Homegrown Farm and Artisans Market;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that Long Blue Cat Brewing is hereby authorized to provide alcohol tasting samples during Derry Homegrown Farm and Artisan Market events, contingent upon compliance with all applicable state statutes and Town of Derry Ordinances.

This Resolution shall take effect immediately upon its passage and shall remain in effect until rescinded by the Town Council.

Adopted: May 21, 2019

Attest:

x

Neil Wetherbee, Council Chair

Date: 5-21-19

x

Daniel Healey, Town Clerk

Date: 5-21-19

Archival Ref: Agenda Item #19-58



RESOLUTION

Number 2019-033

To Authorize the Tax Collector to Waive Minor Balances
On Property Tax Accounts

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

WHEREAS, due to timing issues, software and calculation errors, property tax accounts may result in a minor balance due; and


WHEREAS, it is costly for the Town to pursue such insignificant balances and creates consternation with the taxpayers;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Tax Collector is hereby authorized, should proper circumstances warrant, to waive minor balances up to \$5.00 on property tax accounts by presenting abatement forms to the Town Council for signature.

This Resolution shall take effect immediately upon its passage.

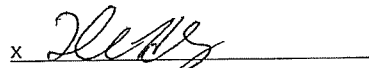
Adopted: May 21, 2019

Attest:

x 

Neil Wetherbee, Council Chair

Date: 5-21-19

x 

Daniel Healey, Town Clerk

Date: 5-21-19

Archival Ref: Agenda Item #19-59



Resolution #2019-012

To Amend the Development Plan and Tax Increment Financing Plan and Rename the Rte. 28 North Tax Increment Financing (TIF) District

WHEREAS, The Town previously enacted the provisions of Chapter 162-K, Municipal Economic Development and Revitalization Districts; and

WHEREAS, the Town established and actively supports its two TIF Districts (Ash Street and Rte. 28 North) by investing in their development for the benefit of the Districts and the entire community; and,

WHEREAS, the Council and the community have recognized that Town's retail and commercial sector comprises a contiguous development pattern from Broadway through Crystal Avenue to Manchester Road; and

WHEREAS, the expansion of the Rte. 28 North TIF District to include the Crystal Avenue and portions of East and West Broadway neighborhoods would provide resources and synergies to further grow the Town's economy;

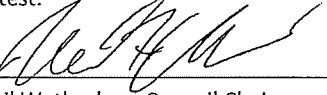
NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Derry Town Council, pursuant to RSA 162-K:9, hereby amends and expands the Development Plan and Tax Increment Financing Plan for the Rte. 28N TIF District (to be renamed the Derry Commerce Corridor), to provide resources for the orderly development and growth of the Town's commercial and retail sectors, to include the properties highlighted on the attached map.

Archival Ref: Agenda Item #19-37

This Resolution shall take effect upon its passage.

Adopted May 21, 2019.

Attest:

x 

Neil Wetherbee, Council Chair

Date: 5-21-19

x 

Daniel Healey, Town Clerk

Date: 5-21-19

Archival Ref: Agenda Item #19-37



RESOLUTION

Number 2019-014

To Create an Expendable Trust for Derry Commerce Corridor
Redevelopment and Infrastructure Activities

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

WHEREAS, the Town requires a funding mechanism to support the revitalization of the Derry Commerce Corridor; and

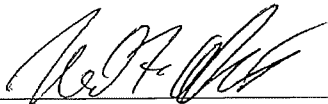
WHEREAS, investments for this purpose will enhance and promote the general welfare, health and safety of the community, as well support growth of the Town's retail and commercial sectors;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that an Expendable Trust Fund for Derry Commerce Corridor Redevelopment and Infrastructure Activities is hereby created pursuant to RSA 31:19-a, with the Town Council designated as Agents to Expend.

This Resolution shall take effect immediately upon its passage.


Adopted: May 21, 2019.

Attest:

x 

Neil Wetherbee, Council Chair

Date: 5-21-19

x 

Daniel Healey, Town Clerk

Date: 5-21-19

Archival Ref: Agenda Item #19-38