

TOWN OF DERRY

Town Council
Derry Municipal Center
14 Manning Street



Tuesday June 1, 2021
3rd Floor Meeting Room

MINUTES

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

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

Motion by Councilor Spencer to seal RSA 91A:3 II (d) because it was determined divulgence of this information would render a proposed action ineffective, seconded by Councilor Katsakiores
Roll Call Vote: 6-0-1 (Councilor Bourdon)

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

Roll Call: Councilors Chirichiello, Katsakiores, Foote, Wetherbee, Bourdon, Spencer, and Chairman Morgan
Present: TA David Caron, Town Clerk Daniel Healey

Public Forum - *30 Minutes*

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

Richard Tripp: Windham Rd – Has a few favors to ask the Council. Would like the memorial patio at MacGregor Park weeded as it looks overgrown. The lights at the bases of all the monuments also need to be reprogrammed to turn on during the night.

Motion by Chairman Morgan to extend Mr. Tripp's time, seconded by Councilor Katsakiores
Roll Call Vote: 7-0-0

Motion by Councilor Katsakiores to close public forum, seconded by Councilor Foote
Roll Call Vote: 7-0-0

Consent Agenda

21-61 Approve Minutes – May 18, 2021

21-62 Ordinance #2021-008 – Amend the Zoning Ordinance regarding signs in the TBOD and West Running Brook District and Off Premise Signs

Motion by Councilor Wetherbee to approve the consent agenda, seconded by Councilor Katsakiores – all agreed

Chairman's Report – James Morgan

Chairman Morgan read a proclamation for Pride month that will be displayed in the lobby of the Municipal Center along with the pride flag for the month of June.

Town Administrator's Report – David Caron

The Town undertook a reassessment in 2020 according to a schedule as set forth in state statutes and agreed between the Town and the State of New Hampshire. One of the final tasks associated with a reassessment is the completion of a USPAP report, which details extensively the means and methods utilized, along with the overall results of the revaluation. The Town was notified recently by the Department of Revenue Administration that the Town's contracted assessor has successfully complied with all requirements of state statutes and state administrative regulations, which will soon result in a formal closeout of the reassessment. Revenues are tracking as expected, except for motor vehicle permit fees and earnings on investments. Although MV fees are below that of May 2020, the town suspects this is a casualty of the registration changes with leased vehicles and the town will exceed budget for the year within the next week. Although the FY 21 budget did reduce the anticipated interest earnings, the town still expects to be about \$200K below budget in that area which can be rectified with ARPA fund replenishment. The Town is scheduling a grand opening celebration of the Rail Trail for 5:15 PM on June 15th prior to the Council meeting. All will meet at the Hood Park parking lot. The Council goal setting meeting is scheduled for June 22 at the Derry Opera House. In addition to the annual goal process, the town anticipates providing information to the Council on the following: Progress at Hood Park, ARPA options and opportunities, and Public Safety Facilities. Again, this year, concerns are being expressed regarding another drought in the region. As the town has in past years, they are monitoring the situation and will follow any directives issued by Manchester Water Works, the provider of water for Derry's core water system. Derry also operates three community water systems and have implemented some restrictions giving water availability concerns. Last week, water was trucked from the town core system to the Rand Shepard Hill system to reinforce water levels in that area. The first half tax bills were issued this week and the proper Veterans Credit on the bills has been verified. They are due July 1st. The US Census Bureau released population figures resulting from the Decennial Census which leaves Derry as the 4th most populous community. All are aware of the audit of the voting machines in Windham. Although it appears that no malicious intent was responsible for the discrepancies in the original vote and the recount, the Chair requested that staff seek guidance on the use and procedures allowable with voting machines.

Public Hearings

21-57 Resolution #2021-029 – Accept a Bureau of Justice Assistance Grant for personal body armor – *Police Chief Ed Garone presenting*

Recently the police department was notified by the Bureau of Justice Assistance (BJA) that the Derry Police Department is eligible to receive an award under the Federal Fiscal Year 2021 Bulletproof Vest Partnership (BVP) program. The police department has participated in the program for a number of years. The FFY21 award may be used for National Institute of Justice (NIJ) compliant armored vests. The awarded funds can be used until August 31, 2023. Based on history and current needs, the department has projected that they will need to purchase nineteen (19) bulletproof vests during this timeframe. We anticipate that the BJA will award us \$11,961.35 which is half of the cost of the estimated thirty bulletproof vests. The BJA would reimburse the police department for up to 50% of each vest after the purchase has been made. Authorization is requested for the Town Administrator to accept the grant funds which will not exceed \$11,961.35 for the purchase of personal body armor.

Motion by Councilor Wetherbee to open public hearing, seconded by Councilor Foote
Roll Call Vote: 7-0-0

No one from the public spoke.

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

Councilor Katsakiores MOVES THAT THE TOWN COUNCIL adopt Resolution #2021-029 which reads as follows [Read the Resolution], seconded by Councilor Wetherbee
Roll Call Vote: 7-0-0
Resolution attached

21-58 Ordinance #2021-007 – Amend the Zoning Ordinance regarding Uses and Requirements in the Traditional Business Overlay District – *Planning Director George Sioras presenting*

The Town Administrator and Town Council has asked both Planning & Economic Development staff to review the Downtown Central Business District and Traditional Business Overlay District zoning districts and review the permitted uses, parking, housing density, and district boundaries 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 in the Downtown/Central Business District. The purpose of the amendments is to encourage new development as well as redevelopment opportunities in the Downtown/Central Business District. This amendment is the second step in pursuing these goals. Phase I was approved for the expansion of the Traditional Business Overlay District (TBOD) boundary to include 105 properties in the underlying Central Business District. The TBOD expansion became effective on April 15, 2021. Phase II is reviewing the housing, parking, and permitted uses in the district. At the request of the Town Council, both the Planning and Economic Development staff, in conjunction with the Planning Board, began holding workshop meetings in September 2020 to discuss potential changes to the TBOD and more specifically relating to housing and to allow for opportunities for mixed-use developments and make recommendations accordingly.

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

Richard Tripp: Windham Rd – Happy the town is doing something to keep the state out of its business.

Motion by Councilor Wetherbee to close public hearing, seconded by Councilor Foote
Roll Call Vote: 7-0-0

Councilor Wetherbee MOVES THAT THE TOWN COUNCIL adopt Ordinance #2021-007 which reads as follows [Read the Ordinance], seconded by Councilor Foote
Roll Call Vote: 7-0-0
Ordinance attached

New Business

21-63 Resolution #2021-031 – Accept a portion of Stoneleigh Drive as a Class VI Town Road – *Public Works Director Mike Fowler presenting*

In 2002, Derry Planning Board approved the subdivision road, Stoneleigh Drive. A temporary cul-de-sac was platted and installed with an intent for future access to a parcel immediately to the east (Lot 6-86) owned by the Edward C. Cooper Revocable Trust of 1993. The recorded plan (D-31181) included a dedicated 50-foot-wide right-of-way to serve Lot 6-86 in the future. The paved road ended at the temporary cul-de-sac and the Town accepted Stoneleigh Drive up to this point in 2005. The applicant's attorney has now submitted a request to Town Council to have the Town accept the remaining dedication, which will provide access to the subject parcel owned by the Edward C. Cooper Revocable Trust of 1993. Per state statutes, the dedicated right-of-way remains in effect despite there is no road there currently. The applicant is aware that they will bear the expense of any improvements required to meet the applicable road standards. Given the Planning Board's approval of the plan in 2002, the Town Council is compelled to act on the acceptance of the public way. Typically, DPW approaches Town Council to accept new subdivisions as Class V roads, which introduces local maintenance responsibilities in perpetuity. In this case, the recommended action would be to accept the public way as Class VI road, with no local maintenance responsibilities. The applicant would be required to build a road according to Fire Department standards, for emergency access.

Councilor Katsakiores MOVES THAT THE TOWN COUNCIL adopt Resolution #2021-031 which reads as follows [Read the Resolution], seconded by Councilor Wetherbee
Roll Call Vote: 7-0-0
Resolution attached

21-64 Resolution #2021-032 – Approve amendments to the Non-Represented Personnel Policy – *Town Administrator Dave Caron presenting*

Most of the Town's full-time workforce is represented by one of seven collective bargaining units. Due to position responsibilities, there are a handful of employees which are not formally represented and thus fall under the policies within the Non-Represented Employees Personnel Plan. All of the Town's represented employees customarily receive a cost-of-living adjustment and can advance through a pay scale with a series of steps until the maximum compensation level is reached. For Non-Represented employees, all compensation adjustments are based upon a personnel evaluation and attainment of goals and objectives. The current (and proposed) rules allow for a maximum 3% merit increase, although it is anticipated that the actual implementation will max out at 2%, similar to the wage increases currently afforded to the town represented employees. Increasing the wage scales in the Non-Represented Plan would allow the Town to remain competitive by anticipating that our competitors will increase compensation by 2% annually over the next three years.

Councilor Foote MOVES THAT THE TOWN COUNCIL adopt Resolution #2021-032 which reads as follows [Read the Resolution], seconded by Councilor Wetherbee
Roll Call Vote: 7-0-0
Resolution attached

21-65 Resolution #2021-033 – Approve and fund a Collective Bargaining Agreement with the Derry Administrative Support Staff – *Town Administrator Dave Caron presenting*

All seven collective bargaining agreements between the Town and its employees expire on June 30, 2021. As shared with the Council previously, staff completed a five-year projection of revenues and expenses taking into consideration the Town's ongoing legacy costs associated with the current CBAs, the \$650K impact caused by the retirement system (NHRS) increases, as well as anticipated revenues disruptions resulting from the Pandemic's impact upon the economy. That analysis led to the conclusion that insufficient funds were available in FY22 for wage increases in base, and funding was not available throughout the five-year horizon for adjustments at the levels agreed to during the current contract. The Council on Feb. 2 did agree to the use of 70% of a certain portion of retained value within the Derry Commerce Corridor which the Council released back to the general tax base during the FY 22 Budget process. Thus, 70% of \$45M in value is available for collective bargaining. The Council previously authorized the Town to offer a term of up to five years, with 1.5% bonus payments in Year 1, followed by increases into base of 2.0% for succeeding years. The Council made clear that a one-year agreement would not be acceptable. President Biden signed the American Rescue Plan on March 11, which earmarks approximately 3.3M to the Town. Treasury released rules on the use of the funds on May 11 and, upon cursory review of the information, appears to be very flexible and aligns with the necessity to use a portion of these funds to pay for ongoing collective bargaining agreement costs. AFSCME represents 42 support staff employees throughout the organization. As agreement indicates, there were few substantive changes to the Agreement beyond wages. Previously, employees who opted not to join the Association were required to pay an Agency Fee, a process which has been invalidated by the Courts, thus was stricken from the Agreement. The Agreement also implements a less beneficial pharmacy prescription program, as the previous offering was phased out by our insurance carrier. AFSCME ratified a five-year agreement, with a 1.5% bonus (not in base) for FY22, and 2.0% increases in base for the period FY23-FY26.

Councilor Foote MOVES THAT THE TOWN COUNCIL adopt Resolution #2021-033 which reads as follows [Read the Resolution], seconded by Councilor Katsakiores
Roll Call Vote: 7-0-0
Resolution attached

21-66 Resolution #2021-034 – Transfer funds from the DCC TIF Redevelopment and Infrastructure Activities Expendable Trust – *Town Administrator Dave Caron presenting*

In 2019, the Town Council approved two significant actions to continue supporting the economic revival of the Downtown area. First, the Council expanded and renamed the Rte. 28N TIF District to include Crystal Avenue, portions of Birch Street and the Downtown area to plan for improvements and investments in this area of Derry. Second, the Council created the Derry Commerce Corridor TIF Redevelopment and Infrastructure Activities Expendable Trust, which was designed to receive a portion of the proceeds from the DCC TIF Captured Assessed Valuation annually for future investments into the TIF District. The enabling Resolution gave the Council, as Agents to Expend, broad authority to reinvest in infrastructure and activities which contribute to the economic vitality of the Downtown. During staff research when the Council approved the electronic sign at the Opera House in 2017, the town learned that Derry's facility was the most successful in the State, as it was used over 200 days per year for practices, meetings and performances (pre-COVID). The Greater Derry Arts Council, which has managed

the town-owned facility for years, has previously expressed concern regarding the deteriorating condition of the stage, which impacts performances at the facility. As the Opera House has been closed for about a year due to the Pandemic, GDAC focused upon identifying a solution and funding repairs to the stage. The Town and GDAC collaborated on the estimated \$90,000 project, with % of the funds to be raised by GDAC and the balance from the Town's Expendable Maintenance Trust Fund for Buildings and Grounds. Subsequent conversations by the Council led to the direction to staff to identify Town resources to underwrite the cost of the entire project. At this juncture, the final cost of the project has not yet been finalized. We do know that the significant increase in material costs and shortage of labor has escalated the project cost to approximately \$115,000. GDAC's engineers are also reviewing the project and may recommend additional structural enhancements which will impact the final cost as well.

Councilor Wetherbee MOVES THAT THE TOWN COUNCIL adopt Resolution #2021-034 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 – Requested a moment of silence for the passing of Edward Ciancio. He served the town on the cable committee and as a Taylor Library Trustee.

Councilor Spencer – Wish everyone in the LGBT community a Happy Pride Month.


Councilor Bourdon – Councilor Foote did a great job reading the Memorial Day proclamation from the Town Council.

Councilor Foote – Attended the Memorial Day service at MacGregor Park and recognized all the men, women, and k9s who have passed away during service.

Councilor Wetherbee – The Farmer's Market is tomorrow, and excellent weather is forecasted. There will be approximately 30 vendors.

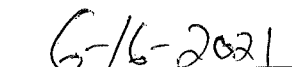
Chairman Morgan – Requests that everyone watch Ronald Reagan's speech from June 11, 1989.

Adjourn: 8:00pm



Town Clerk

Recording & Transcription by: Daniel Healey, Town Clerk



Date



RESOLUTION

Number 2021-029

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 nineteen vests during this budget period, and the DOJ would reimburse the Town for 50% of the cost of this purchase (\$11,961.35); 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: June 1, 2021

Attest:

x _____
James Morgan, Council Chair
Date: _____

x  _____
Daniel Healey, Town Clerk
Date: 6-1-2021

Archival Ref: Agenda #21-57



RESOLUTION

Number 2021-034

To Transfer Funds from the DCC TIF Redevelopment and Infrastructure Activities Expendable Trust

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 Council under Resolution #2019-014 created the Derry Commerce Corridor Redevelopment and Infrastructure Expendable Trust which provides a funding mechanism to support the revitalization of the Derry Commerce Corridor; and

WHEREAS, the Town has a long-standing relationship with the Greater Derry Arts Council to manage the Derry Opera House;

WHEREAS, the Opera House is the most successful of its kind in the State and generates significant economic activity within the Commerce Corridor; and

WHEREAS, the stage at the Opera House requires significant investment in order to continue its current activity level;


NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Derry Town Council, as Agents to Expend, hereby authorizes the Town Administrator to withdraw \$70,000 from the Expendable Trust Fund for Derry Commerce Corridor Redevelopment and Infrastructure Activities in support of rehabilitation activities at the Derry Opera House.

This Resolution shall take effect immediately upon its passage.

Adopted: June 1, 2021.

Attest:

X _____
James Morgan, Council Chair
Date: _____

X  _____
Daniel Healey, Town Clerk
Date: 6-1-2021

Archival Ref: Agenda Item #21-66



RESOLUTION

Number 2021-033

To Approve and Fund a Collective Bargaining Agreement with
the Derry Administrative Support Staff

WHEREAS, Section 5.1 of the Town Charter establishes the Town Council as the governing and legislative body of the Town, thereby empowering the Council to enter into contracts; and

WHEREAS, the Town Administrator, pursuant to Section 8.6 of the Charter, has proposed that the Town enter into a collective bargaining agreement with the union representing the Administrative Support Staff of Derry for fiscal years 2022 through 2026; and

WHEREAS, pursuant to RSA 273-A, the legislative body must make an appropriation to fund the cost items of a collective bargaining agreement; and

WHEREAS, the cost items of the collective bargaining agreement applicable to Fiscal Year 2022 do not require an additional appropriation, and the Council is aware of and acknowledges the future costs of the agreement, which the Town shall be obligated to fund;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the terms, conditions and costs of the "Collective Bargaining Agreement between the Town of Derry and Local #1801 American Federation of State, County And Municipal Employees, AFL-CIO, Administrative Support Staff", for the period July 1, 2021 through June 30, 2026 are hereby approved;

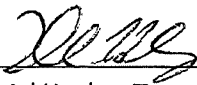
FURTHER, the Town Administrator pursuant to Section 9.7 of the Town Charter, is hereby authorized to transfer Forty-Two Thousand Two Hundred Ninety Seven Dollars (\$42,297), from the CBA Implementation Trust to fund the FY 22 cost of this Agreement.

This Resolution shall take effect July 1, 2021.

Adopted: June 1, 2021.

Attest:

X _____
James Morgan, Council Chair
Date: _____

X 
Daniel Healey, Town Clerk
Date: 6-1-2021

Archival Ref: TC agenda item #21-65



RESOLUTION

Number 2021-032

To Approve Periodic Amendments to the
Non-Represented Personnel Policy

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 enact policies; and

WHEREAS, the Town Administrator, pursuant to Section 8.6 of the Charter, has proposed that the Town amend its Non-Represented Employees Personnel Policy;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the amendments to the Non-Represented Employees Personnel Policy are hereby approved.

This Resolution shall take effect immediately upon its passage.

Adopted: June 1, 2021.

Attest:

X _____
James Morgan, Council Chair
Date: _____

X *[Signature]*
Daniel Healey, Town Clerk
Date: 6-1-2021

Archival Ref: TC agenda item #21-64



RESOLUTION

Number 2021-031

To Accept a Portion of Stoneleigh Drive as a Class VI Town Road

WHEREAS, RSA 674:40 and 674:40-a authorizes the Town Council to accept streets as shown on a subdivision plan approved by the planning board; and

WHEREAS, the Derry Planning Board in 2002 approved a subdivision road, Stoneleigh Drive; and

WHEREAS, the Town accepted Stoneleigh Drive in 2005 up to the cul-de-sac; and

WHEREAS, the recorded plan included a dedicated 50 foot wide right of way to serve Lot 6-86 in the future; and

WHEREAS, the Town has now been requested to accept the remaining dedication;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that Stoneleigh Drive from the end of the cul-de-sac to the property boundary with Lot 6-86 is accepted as a Class VI town road, with the petitioner responsible for all expenses to meet town roadway standards and to retain maintenance responsibilities.

This Resolution shall take effect immediately upon its passage.

Adopted: June 1, 2021.

Attest:

x _____

James Morgan, Council Chair

Date: _____

x  _____

Daniel Healey, Town Clerk

Date: 6-1-2021

Archival Ref: TC Agenda Item #21-63