

TOWN OF DERRY

Town Council
Derry Municipal Center

June 2, 2020
Tuesday - 7:00 PM

7:00 PM Call to order

"It is possible, in light of COVID-19 pandemic situation and the state of emergency declaration in NH, that most or all board members will be unable to attend our Derry public meetings in person because they are concerned about getting sick or perhaps are already sick. Governor Sununu has issued Emergency Order #16, which waives the requirement that quorum be physically present in the meeting room; a meeting of a public body may be conducted with most or all members participating electronically. To maintain the Governor's Directive that no more than 10 people shall gather, the public is not allowed into the meeting room. There is a contact number at the bottom of the Derry TV Cam screen with a phone number where members of the public can listen in and participate in the Public Forum and Public Hearing portions of the meeting. This access number was also posted along with the agenda and posted on the exterior doors of the Municipal Center. Please note that due to the physical absence of some Councilors, all votes taken shall be done by Roll Call."

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

Roll Call: Councilor's Tripp, Morgan and Chairman Foote in-person and Councilor's Katsakiores(7:15), Bourdon, Chirichiello, and Wetherbee by Video.
Present: TA David Caron, Town Clerk Daniel Healey

Public Forum - *30 Minutes*

Motion by Councilor Morgan to open public forum, seconded by Councilor Tripp
Roll Call Vote: 6-0-0

No one from the public spoke.

Motion by Councilor Tripp to close public forum, seconded by Councilor Morgan
Roll Call Vote: 6-0-0

Consent Agenda

20-58 Approve Non-Public Minutes – May 19, 2020

20-59 Approve Minutes – May 19, 2020

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

Roll Call Vote: 7-0-0

Consent agenda approved

Chairman's Report – Charlie Foote

Town Moderator Cristina Guilford gave a presentation on the upcoming elections taking place in September and November. It was suggested that an election committee be formed with the Town Moderator leading and choosing additional members as she deems necessary. Councilor's Bourdon, Wetherbee, and Morgan would like to be on this committee.

Councilor Bourdon, State Representative John O'Connor, and Net Zero Task Force Chair Jeff Moulton gave a presentation on Net Metering.

Councilor Wetherbee MOVES THAT THE TOWN COUNCIL sign a letter brought forward by the Net Zero Task Force Committee to send to Concord, seconded by Councilor Morgan

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

Town Administrator's Report – David Caron

Emergency Management Director and Fire Chief Mike Gagnon gave a report on the Town's response to COVID-19.

Director of Public Works Mike Fowler gave a presentation on the status of parks and facilities and summer community events as a result of COVID-19. Currently open: Tennis Courts at Hood Park and Birch Street, Basketball Court at Hood Park, Hockey Court at Hood Park, Pickle Ball Courts at Alexander Carr Park, Derry Rail Trail, and Conservation Trails. Fields may be used by individuals and groups of less than 10 for non-contact activities. Also, sports leagues may request use of the fields for non-contact practices in groups less than 10, provided they furnish a health and safety plan. Opening mid-June: Gallien's Beach - The Governor has permitted inland beaches to open. Limit total number of guests. Enforce social distancing. Implement enhanced sanitation procedures. Concession stand will remain closed. Dog Park - After some major renovations were completed, the Dog Park can be reopened to the public. Limit parking and enforcement of social distancing protocol. Events cancelled for Summer 2020: Summer Concerts - MacGregor Park – Concerns over the inability to enforce social distancing and the difficulty in securing acts have led to this decision. Splash Pad - Due to the uncontrolled nature of visitors and the adjacent playground being closed due to health guidance, the splash pad at Don Ball Park will remain closed for summer 2020. The facility is not configured nor staffed adequately to maintain proper social distancing. Derry residents will have the opportunity to use Gallien's Beach. Closing the splash pad will also prevent the unintended spread due to out of state residents visiting the facility, often seen on peak days. Postponed Activities: Fireworks - normally July 4th - After review with local officials, the uncontrolled nature of the event causes some concern over community health and the ability to enforce social distancing. There is also a concern that Derby's event might draw a larger crowd based on cancellations elsewhere in New Hampshire and Massachusetts. The decision is to postpone to a later date in September. Interior Recreation programs/bus trips - All Recreation programs have been suspended indefinitely until the Town receives confirmation that these activities have been cleared to proceed. Large scale gathering such as bus trips, group classes and birthday parties are on hold until the numbers for large groups are increased. Recreation personnel will be reviewing program offerings and modifying them accordingly to meet CDC advisories. The Recreation office at Vets Hall is closed until further notice. Modified/new Activities: Fitness classes at Don Ball Park - The Recreation Department will offer outdoor group fitness under the pavilion at Don Ball Park. Contact 432 6136 or register online for further details.

As of May 28, staff has processed 17 permits submitted by local restaurants, with a maximum turnaround time of 24 hours for outdoor dining. The Derry Commerce Corridor Façade Improvement Program application deadline has been extended to September 30, with work completion by April 2021 due to delays and work disruptions resulting from COVID-19. The Town has now had three strong weeks of motor vehicle registrations, which they attribute to the requirement that new vehicles which may have had 20-day plates since the end of March must be registered by May 29. The FY 20 budget will be meet expectations and the town continues to review trends to identify the appropriate budget amount for FY 21. Ambulance revenues were down 7.6% in April and anticipated to be down about 15% in May. The Transfer Station revenues are holding steady with increased usage of the facility during the Stay at Home Order. Building Permits have exceeded budget for FY 20, although the town suspects a development pause may occur into FY 21 which would negatively impact revenues. There will be a Recreation Workshop on June 9th with anticipated discussion on the following: Hood Park - review of charette process, timeline and identification of stakeholders; Rail Trail - Funding options for completion of last two sections of the trail; Recreation Bond/Study with an overview and presentation by Bob Barcelona of UNH, identification of funding sources and direction from the Council. The East Broadway repaving has been completed and is expected to be striped soon. The downtown tree pits are prepped for tree installation, installation was delayed to the week of June 1 due to extreme heat conditions.

Public Hearing

20-50 Resolution #2020-024 – Approve a Renewal of the Cable Franchise Agreement with Comcast – *Town Administrator Dave Caron presenting, Attorney Kate Miller present*

The Town and Comcast agreed to a Franchise Agreement in 2009, the Town insisted upon a ten-year term to ensure that the Town could take advantage of any technological enhancements which were developed prior to the franchise renewal process in 2019. The Council subsequently approved a six-month extension to the Agreement, which expired on April 5, 2020. The parties have reached agreement to a ten-year renewal of the existing franchise, until April 5, 2030. Contemporaneously, the Federal Communications Commission ruled that cable television providers need to be compensated for the longstanding practice to provide free basic service to public buildings. This ruling is under appeal, and both parties have agreed to memorialize this process in a separate Agreement to provide flexibility in the event of a court reversal.

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

No one from the public spoke.

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

Councilor Morgan MOVES THAT THE TOWN COUNCIL adopt Resolution #2020-024, which reads as follows [*Read the Resolution*], seconded by Councilor Katsakiores

Roll Call Vote: 7-0-0
Resolution attached

20-20 Ordinance #2020-003 – Amendment to General Code, Chapter 55, Food Service Establishments – *Director of Public Works Michael Fowler presenting*

The Town adopted Chapter 55. Food Service Establishments, in 1982, which, for the most part, adopted by reference the State of NH Chapter He-P 2300 Sanitary Production and Distribution of Food. The last adoption by Town Council occurred May 2012. The Health Department seeks to propose the following amendments to Chapter 55. Food Service Establishments (see attached addendum):

1. Update the classification system to be more business, user-friendly within the current food service application.
2. Add a Dog Friendly Outdoor Dining Variance to the Town. This business-friendly initiative will help promote the Town of Derry, sending a message to residents and visitors alike that all are welcome and encouraged to visit and enjoy everything that the Town has to offer.
3. He-P 2312 shall be deleted in Section 55-1 (B). Part He-P 2312 of the NH State Food codes [Chapter He-P 2300 Sanitary Production and Distribution of Food] was repealed in June 2015, and readopted and renumbered as "Poultry Producers and Rabbit Producers selling Poultry and Rabbits to Restaurants Licensed under RSA 143-A. The former code is now obsolete.

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

No one from the public spoke.

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

Councilor Morgan MOVES THAT THE TOWN COUNCIL adopt Ordinance #2020-003, which reads as follows [*Read the Ordinance*], seconded by Councilor Wetherbee
Roll Call Vote: 7-0-0
Ordinance attached

20-55 Ordinance #2020-005 –Ordinance Regulating Outside Dining – *Planning Director George Sioras presenting*

The Economic Development Department has developed a permit process and guidelines for restaurants in the Town of Derry to allow them to offer seasonal outdoor dining. Permits would be required annually and would run from April 1 through October 15 of each year. The permits are issued by the Town Council, with review of the permit application and oversight from Planning, Code Enforcement, Health and Fire Prevention. The purpose of establishing the Ordinance is to promote economic vitality in the Town of Derry. This Ordinance is specifically for restaurants that wish to establish outdoor dining in the public rights of way (sidewalks). Restaurants wishing to establish outdoor dining on private lots will be required to follow the

guidelines set out in this Ordinance, but the permits would be issued through the office of the Town Administrator. The Outdoor Dining Ordinance allows restaurants to establish outdoor dining areas between April 1 and October 15. The application would initially be reviewed by the Planning Department to determine the application is complete. It would then be forwarded to Code Enforcement, Health, Fire Prevention, and the Police Department to obtain the necessary permits and reviews from those departments. A separate Outdoor Dining Design Guideline has been developed that lays out the required barrier design and type, seating area elements, access and circulation requirements and Signage. The draft ordinance and design guidelines were reviewed by Fire Prevention, Health, Code Enforcement, and Planning and input from those departments has been incorporated.

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

No one from the public spoke.

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

Councilor Morgan MOVES THAT THE TOWN COUNCIL adopt Ordinance #2020-005, which reads as follows [*Read the Ordinance*], seconded by Councilor Katsakiores
Roll Call Vote: 7-0-0
Ordinance attached

New Business

20-60 Resolution #2020-030 – Amend the terms of an Intermunicipal Agreement with the Town of Auburn to supply dispatch services – *Fire Chief Michael Gagnon presenting*

The Derry Fire Department and Auburn Fire Department have worked together in a cooperative manner for several years. The current Fire and FMS dispatch contract is set to expire on June 30 of this year. The negotiated annual subsidy for providing fire and EMS dispatch service is as follows:

| TERM | ANNUAL PAYMENT |
|---------------------------------------|----------------|
| YEAR 1 (JULY 1, 2020 – JUNE 30, 2021) | \$51,888 |
| YEAR 2 (JULY 1, 2021 – JUNE 30, 2022) | \$52,926 |
| YEAR 3 (JULY 1, 2022 – JUNE 30, 2023) | \$54,514 |
| YEAR 4 (JULY 1, 2023 – JUNE 30, 2024) | \$56,149 |
| YEAR 5 (JULY 1, 2024 – JUNE 30, 2025) | \$57,833 |

Councilor Morgan MOVES THAT THE TOWN COUNCIL adopt Resolution #2020-030, which reads as follows [*Read the Resolution*], seconded by Councilor Katsakiores
Roll Call Vote: 7-0-0
Resolution attached

Councilor Morgan moves to extend the meeting by 10 minutes, seconded by Councilor Tripp
Roll Call Vote: 7-0-0

Councilor Comments / Liaison Reports –

Councilor Morgan – Please donate to the Boys and Girls Club of Derry, they need the Town's support.

Councilor Morgan MOVES THAT THE COUNCIL go into Non-Public Session pursuant to 91-A:3 II A/C Motion to adjourn by Councilor Tripp, seconded by Councilor Morgan
Roll Call Vote: 7-0-0

Adjournment: 9:30 p.m.



Town Clerk

Recording & Transcription by: Daniel Healey, Town Clerk

6-18-2020
Date



RESOLUTION

Number 2020-024

To Approve a Renewal of the Cable Franchise Agreement with Comcast

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

WHEREAS, both federal and state law designate the Governing Body as the Franchising Authority for the Cable Television Franchise; and

WHEREAS, the Town's current agreement with Comcast of Maine/New Hampshire, Inc. expired on April 5, 2020; and

WHEREAS, both the Town and Comcast had agreed to a Renewal Franchise Agreement which, if approved by the Council as Franchising Authority, shall expire on April 5, 2030; and

WHEREAS, the parties agree to resolve the issue of eliminating free service to public buildings as currently determined by the Federal Communications Commission by adopting the terms and conditions of the Agreement regulation courtesy service;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Town Council hereby approves the attached Renewal of the Cable Television Franchise Agreement between the Town of Derry and Comcast of Maine/New Hampshire, Inc. until midnight on April 5, 2030 and further, approves the attached Agreement regulating courtesy service.

This Resolution shall take effect retroactively to April 6, 2020.


Adopted: June 2, 2020

Attest:

x 

Charles Foote, Council Chair

Date: _____

x 

Daniel Healey, Town Clerk

Date: 6/2/2020

Archival Ref: TC agenda item #20-50



ORDINANCE Number 2020-003

Amend Chapter 55 of the General Code, Food Establishments

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 revise Chapter 55 to introduce a new variance, revise the classification system and eliminate outdated sections; and

WHEREAS, the adoption of these amendments will enhance efficiencies and provide flexibility for licensees; and

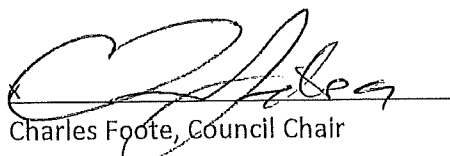
WHEREAS, these amendments have been reviewed and approved by legal counsel;

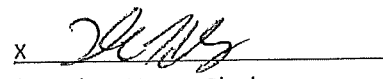
NOW, THEREFORE, THE TOWN OF DERRY ORDAINS that the Chapter 55 of the General Code, Food Establishments is hereby amended as attached.

This Ordinance shall take effect 30 days after its adoption.

Adopted: June 2, 2020

Attest:


Charles Foote, Council Chair
Date: _____

x 
Daniel Healey, Town Clerk
Date: 6/2/2020

Archival Ref: Agenda Item #20-20



ORDINANCE Number 2020-005

Amend Chapter 134 of the General Code to allow Outdoor Dining in
Public Rights of Way

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 134, Streets and Sidewalks, to allow for outdoor dining in public rights of way, predominantly sidewalks;

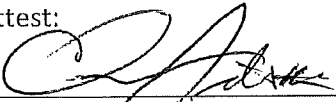
WHEREAS, this amendment would further promote economic development while maintaining public health and safety;

NOW, THEREFORE, THE TOWN OF DERRY ORDAINS that Chapter 134 of the General Code, Streets and Sidewalks is hereby amended as attached.

This Ordinance shall take effect 30 days after its adoption.


Adopted: June 2, 2020

Attest:

x 

Charles Foote, Council Chair

Date: _____

x 

Daniel Healey, Town Clerk

Date: 6/2/2020

Archival Ref: Agenda Item #20-55



RESOLUTION

Number 2020-030

To Amend the Terms of Intermunicipal Agreement with the Town of
Auburn to Supply Dispatch Services

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

WHEREAS, the Fire Department has maintained a lengthy relationship with the Town of Auburn by providing EMS and Fire Dispatch services; and

WHEREAS, the current agreement to provide Dispatch services agreement was to expire June 30, 2020; and

WHEREAS, both communities benefit from the continuation of this relationship;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Town Administrator is hereby authorized to execute an amended Intermunicipal Agreement, in accordance with RSA 53-A, between the Towns of Derry and Auburn to continue providing Fire/EMS Dispatch Services through June 30, 2025.

This Resolution shall take effect immediately upon its passage.

Adopted: June 2, 2020

Attest:

x 

Charles Foote, Council Chair

Date: _____

x 

Daniel Healey, Town Clerk

Date: 6/2/2020

Archival Ref: Agenda Item #20-60