

TOWN OF DERRY

**Town Council
Derry Municipal Center**

**August 16, 2016
Tuesday - 7:30 PM**

6:30 PM Consultation with legal counsel (not open to the public)
7:30 PM Call to order

Councilor Tripp moves to seal RSA 91A:3 II (c), seconded by Councilor Morgan
Vote: 6-0-0 (Absent: Councilor Katsakiores)

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

Roll Call: Councilors Bourdon, Foote, Tripp, Fischer, Morgan and Chairman Chirichiello
(Absent: Councilor Katsakiores)
Present: ATA Stephen Daly, Town Clerk Daniel Healey

Consent Agenda

16-102 Approve Minutes – July 19, 2016
16-103 Approve Non-Public Minutes – July 26, 2016 – **minutes sealed**
16-104 Approve Non-Public Minutes – August 4, 2016
16-105 Approve waiver of interest and fees
16-106 Approve waiver of all 2015 Tax Balances of \$5.00 or less
Councilor Fischer moves to table 16-102 for additions, seconded by Councilor Morgan – all agreed

Councilor Bourdon noted that the media table was not set up the last two meetings and requests that it be set up for the next meeting

Consent agenda approved (excluding 16-102)

Chairman's Report – Brian Chirichiello

Senator Regina Birdsell, a State Senator for Hampstead, Windham, & Derry discussed some of the accomplishments of the Senate over the past few years. A few examples included more prosecution on high-level drug crimes, allowing pharmacies to take back unused prescriptions, 1.5 million in funding for police overtime, increased penalties for fentanyl possession, a 10 year highway plan, and allowing Uber to operate in New Hampshire.

Mary Till the Derry Town Moderator discussed the upcoming elections. She informed the council and public that the town website lists the polling places and other voter information. The Supervisors of the Checklist and the Town Clerk can register residents to vote. She would like to request that the town council assist on Election Day if they can. There will be training at Pinkerton Academy on August 25th, from 6-8:30pm. One ballot machine will be audited to see how accurate the machine voting is. The audit will only be done for advisory purposes and it is being done because New Hampshire has had more recounts than any other state.

There was a moment of silence for Jim Cassidy. Jim was a Derry Fire fighter for 23 years and later worked for the Derry Highway Department.

A goal setting workshop for the councilors was scheduled for August 23, 2016 at the Adams Memorial Building

Town Administrator's Report – Stephen Daly

Fire Chief Mike Gagnon along with Assistant Fire Chief Scott Jackson, Firefighter Joshua Sturges, & EMS Director Chuck Hemeon discussed an accreditation program that the Derry fire department has completed. The Derry Fire department has been accredited since 2000 and the accreditation is good for 3 years. Protocol and standard operation procedures are reviewed and at the completion of this review, the Derry fire department had no discrepancies in their application process. Fire Chief Mike Gagnon presented the town council with their plaque from the Commission with accreditation on ambulance services.

ATA Stephen Daly recommends that the council refer consideration of endorsement of the Alan Shepard Project to the Conservation Commission, Heritage Commission, Economic Development Committee and the Planning Board.

Councilor Tripp MOVES THAT THE TOWN COUNCIL refer consideration of its endorsement of the proposed Alan Shepard Project statue location and program using town property to the Conservation Commission, Heritage Commission, Economic Development Committee, and the Planning Board, seconded by Councilor Foote Councilor Morgan moves to amend the motion to include Pinkerton Academy and the school district – all agreed

NH DOT will be meeting September 27th in the 3rd Floor meeting room of the Municipal Center for a public information meeting. The meeting will be about the Exit 4A plans, designs, and construction schedule.

ATA Daly read a "Best Wishes" letter from the Mayor of Chereovets, Russia and the response letter from Chairman Chirichiello

The Derry ISO rating, which is an insurance rating to all municipalities, remains unchanged.

Member of the Derry Fire Department will be at different intersections on September 3rd collecting money for the Muscular Dystrophy Association

Public Forum - *30 Minutes*

Open Public Forum – all agreed

Marc Flattes: Linlew Drive – Stated that he has been absent from the committee meetings that he is a member of because he recently had hip and back surgery. He did not like that his marketing strategy and advertising strategy discussed publically. Thanked the councilors for their willingness to look at his petitions.

Adam Burch: Maple Street – The 2nd training for opiate overdose was successful and now will be done every third Wednesday of every month at fire station #4.

Marie Manion: Alan Shepard Project – Requested that the town council attend the meetings on the Alan Shepard project and says it is a simple decision and that they can look to other towns if Derry does not make a decision soon. States she would only like to use McGregor Park or conservation land.

John Potucek: Sunset Ave – Concerned about vehicles with Massachusetts license plates using the Derry transfer station. Was told it would be looked into.

Denise Neale: Jenny Dickey Hill Road – Mary Till is correct that the town councilors are required to come to elections, but it has not been done in the past. They should volunteer if they have the time.

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

Public Hearings

16-98 Amend the Code of the Town of Derry, Chapter, 51, Fire Prevention

Fire Chief Mike Gagnon and Assistant Fire Chief Scott Jackson presented the amended code. The fire code update will be more user friendly and it is an update to 3 chapters that will then consolidate everything into 1 chapter. This update has been evaluated in multiple communities in the area. Something that is unique for Derry will be having automated external defibrillators. There are no grants available for the defibrillators and the costs will be on the establishments themselves. This new “Chapter 51 – Fire Prevention Code” includes all fire department related language that was originally listed in Chapter 32, Chapter 36, and Chapter 50; all fire department related language that was listed in Chapter 32, Chapter 36, and Chapter 50 is proposed for deletion.

The council asked if it was the intent to remove old chapters and are told yes. The fines listed from not following the new code range from \$100-\$275 and that is based on the severity of the violation. It is unknown how many businesses with 50+ people gathering have had calls where an AED is needed.

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

Marc Flattes: Linlew Drive – Asked how the training would work and if there were any grants for private organizations. Was told there will be a contact person and it is a train the trainer system. There are no grants available. Asked about the cost and was told \$1,200 retail but the Derry Fire Department can get them for \$670. Asked about the projected revenue from fees and was told \$5,000.

John Barner: Drew Woods Drive – Would like an exemption for the Central Congressional Church because of its location to a fire station. States the AED cost would be a hardship.

David Dyson: North Shore Road – In favor of AED, could save lives.

Joe Freeman: Durham NH – Says that he works at Brookstone Park. Would like communities to be encouraged to use AEDs but would not like them to be required. Would be interested in the amount of calls where an AED was needed. Says that risks seem present if someone does not use it right.

Marie Manion: Alan Shepard Project – Says that we never know what someone will contribute to society in the future and that if it is a problem with finances for a business, the town should help.

John Carrol: Humphrey Road – AED equipment is available but people are not trained. For under \$700, they should be everywhere and it is something we need to do.

Denise Neale: Jenny Dickey Hill Road – Asked if EMS was included then suggested that a title change would clarify it more.

Mark Beland: Everett Street – The Derry Opera house had a campaign to raise money for their AED. Says he would look forward to the training.

Ernest St. Pierre: Sunset Avenue – Wanted to know if there was a cost to train and was told no. Says that training is free, cost for the devices is \$650 and it could save a life. Says it is a no-brainer.

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

The council asked if the AED device can be used on children and are told that it will work and that it is very user friendly, safe, and effective. There are 72 places of assembly on this list for Derry and about 30 have AEDs already, meaning around 40 businesses would be affected. Councilor Fischer sees the value of the AEDs but would like to see it encouraged but not required. Councilor Morgan is worried about RSA-153-A:31 where it states “negligence”. The mandate bothers him and he says that businesses should not be forced into this. Chairman Chirichiello agrees with Councilor Morgan and says that the law needs some updating. Councilor Tripp asked if training indicates if cardiac arrest has occurred and is told yes. The council seeks some clarification on a place of assembly and a business. They ask the remaining cost for the 40 businesses and are told around \$27,000. Councilor Bourdon suggests placing this question on a ballot and says he would like to fundraise. Councilor Foote has concerns about the liability and cost, he would also like to fundraise.

Councilor Fischer MOVES THAT THE TOWN COUNCIL remove 51-10 from the Fire Code proposal, seconded by Councilor Tripp
Roll Call Vote: 6-0-0 (Absent: Councilor Katsakiores)

Councilor Fischer would like some clarification on 51-18.2 and the fine range of \$100 to \$275. Councilor Tripp asked if 51-18.1 applied to all of chapter 51 and was told yes. He would like 51-14.5 removed because of a conflict. There are some areas of the code that need further clarification and flat fees instead of ranges are suggested.

Councilor Fischer MOVES THAT THE TOWN COUNCIL table 16-98 to support changes to the Town Fire code until September 20th 2016, seconded by Councilor Morgan – all agreed

16-99 Increase Veterans' Credits from \$400 to \$450

CFO Susan Hickey presented the proposed increase to the Veteran's credit. The qualifying service periods and qualifying awards are on the town website. Currently, 952 residents are eligible making the cost a little over \$500,000. There will be no increase to resident taxes.

Councilor Morgan MOVES THAT THE TOWN COUNCIL adopt Resolution #2016-020, which reads as follows [Read the Resolution], seconded by Councilor Fischer
Roll Call Vote: 6-0-0 (Absent: Councilor Katsakiores)
Resolution attached

Chairman Chirichiello opened the public hearing for 16-99

Ernest St. Pierre: Sunset Avenue – Thanked the town council for approving the Veteran's credit.

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

16-100 Adopt new ambulance fee schedule

Fire Chief Mike Gagnon and EMS Director Chuck Hemeon presented the updated ambulance fee schedule. They stated that it has not been updated in a few years and is very low. 88% of the patients who utilized Derry Fire Ambulance transportation services have a form of health insurance. Records indicate the following dispersed payer mix: 50% Medicare, 13% Medicaid, 25% private health insurance, and 12% uninsured. Only two payer groups will be affected by the recommended transport rate adjustment: 1) patients with private health insurance, and 2) patients who are uninsured. Medicare and Medicaid reimbursement will remain unchanged and in line with each's allowable charges schedule. The recommended 12% adjustment for EMS transport fees could increase overall EMS revenues by as much as 5% or \$55,000 annually.

Councilor Fischer asked about the payment of \$894,992 received and where it goes. He is told the general fund.

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

Ernest St. Pierre: Sunset Avenue – Increasing fees is an added burden to the tax payers. Does not like being compared to other towns.

Adam Burch: Maple Street – Has experience with billing 3rd party insurance companies and says that not increasing fees would require a higher tax rate for the public.

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

Councilor Morgan states that we are increasing user fees, not tax payer fees. Most user fees are funded by insurance if not all of them. Employee salaries and expenses are increasing and ambulance fees have not been adjusted since 2012. It is vital to the tax rate for this increase and comparing to other communities is the only benchmark that the town has. Councilor Morgan reminds the public that this increase was voted on as part of the budget.

Councilor Bourdon moves to extend the meeting by 10 minutes, seconded by Councilor Foote - all agreed

Councilor Fischer believes that the additional \$55,000 collected from increasing the ambulance fees is a drop in the bucket. Chairman Chirichiello says that during the budget, the revenue side of this increase was already approved. Councilor Tripp asks what the charge is for non-Derry

residents and is told the same amount the town charges residents. The billing process needs to be consistent.

Councilor Bourdon moves to extend the meeting by 10 minutes, seconded by Councilor Morgan - all agreed

Councilor Bourdon asks how a person would go about applying for a hardship and is told the billing company would direct them to fill out an application and supply the documentation. The hardship committee would then look at the applications. More times than not, a reduction is given.

Councilor Fischer motions to table 16-100 until more information is gathered, seconded by Councilor Tripp

Roll Call Vote: 2-4-0 (Chairman Chirichiello, Councilor's Morgan, Bourdon, and Foote; Absent: Councilor Katsakiores)

Councilor Morgan MOVES THAT THE TOWN COUNCIL adopt Resolution #2016-021, which reads as follows [*Read the Resolution*], seconded by Councilor Foote

Roll Call Vote: 4-2-0 (Councilor's Fischer and Tripp; Absent: Councilor Katsakiores)
Resolution attached

Councilor Bourdon moves to suspend the rules, seconded by Councilor Foote
Vote: 5-1-0 (Councilor Fischer; Absent Councilor Katsakiores)

New Business

16-108 Authorization to enter into Master Lease Agreement

CFO Susan Hickey presented the Authorization to enter into a Master Lease Agreement. Bids were sent to local and national banks for quotes of interest rates and terms for a master lease agreement for capital purchases over the next five years totaling \$4,168,000. Bank of America was chosen for their guaranteed fixed interest rates of 1.35% for leases up to three years in length, and 1.50% for leases of four to seven years in length. Annual lease payments will be a legal obligation of the Town and will be made from the Capital Reserve Funds or other resources as budgeted. This is a lease and not a bond. The council would like to know how much would be saved and are told that an answer can be given at a later time.

Councilor Tripp MOVES THAT THE TOWN COUNCIL adopt Resolution #2016-025 To Authorize Entrance Into a Master Lease/Purchase Agreement to Finance the Acquisition of Certain Capital Equipment, seconded by Councilor Bourdon

Councilor Morgan amends the motion to waive the reading of the entire resolution, seconded by Councilor Bourdon

Roll Call Vote: 6-0-0 (Absent: Councilor Katsakiores)
Resolution attached

16-110 Transfer \$50,000 between departments to fund engineering regarding Hood Dam modifications

Director of Public Work Mike Fowler is seeking approval of a \$50,000 supplement to the Public Works FY2017 operating budget to initiate engineering analysis required to address NHDES concerns at Hood Pond dam. There is an opportunity to transfer funds from the police

department personnel budget that they have not been using. They have a consultant ready to go if it is approved. Repairs need to get done regardless of the bike path improving. Once NHDES approves the work to renovate the dam and the bike path, it would be incorporated into a single construction bid that should be out by spring or summer of 2017. There will be no restriction on the bike path until work needs to be done at the dam.

Councilor Bourdon MOVES THAT THE TOWN COUNCIL adopt Resolution #2016-023 To Approve the Transfer of FY2017 Operating Funds from the Police Department Budget to the Public Works Department Budget, seconded by Councilor Foote
Roll Call Vote: 6-0-0 (Absent: Councilor Katsakiores)
Resolution attached

16-109 NHDOT Work Zone Agreement

Director of Public Work Mike Fowler is seeking Town Council approval to enter into an intergovernmental agreement with NHDOT for work zone management associated with the I-93 widening. The I-93 bridge that spans Kendall Pond Road is an access point for this contract. NHDOT seeks to formalize an agreement which establishes their right to work within the Town's Class V road and allows NHDOT to manage the work zone on a Town right-of-way.

Councilor Tripp MOVES THAT THE TOWN COUNCIL approve Town Municipal Work Zone Agreement – NHDOT Contract 14633D and authorize the Town Administrator to execute it on the Town's behalf, seconded by Councilor Foote
Roll Call Vote: 6-0-0 (Absent: Councilor Katsakiores)

16-107 Approval of Town of Derry Investment Policy – tabled until September 6, 2016

16-111 Appoint Planning Director as Town's representative to the SNHPC Technical Advisory Committee - tabled until September 6, 2016

Council Requests / Open Discussion

Councilor Fischer – Would like the A/C on for the next meeting and asks for an update on 19 Elm Street.

Councilor Morgan – Said 19 Elm Street was discussed at the Property Maintenance Committee meeting and that the committee would like the lot cleaned up and an estimated value to be calculated but the project is moving along.

Adjournment: 10:35 p.m.



Town Clerk

9-8-16

Date

Recording & Transcription by: Daniel Healey, Town Clerk



RESOLUTION

Number 2016-020

To Amend the Amount of the Property Tax Credit Provided to Veterans

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

WHEREAS, RSA 72:27-a empowers the Town Council to determine if a credit will be applied against the property taxes of veterans eligible under RSA 72:28-a; and

WHEREAS, the Town, by action of the Town Council, has adopted the provisions of RSA 72:28-II providing for an "optional veterans' tax credit, the amount of which is currently \$400 against the tax on the residential property of veterans who are residents of Derry, or their eligible surviving spouses; and

WHEREAS, the Council deems it worthwhile and beneficial as a demonstration of support and gratitude to said veterans for their service to the United States of America and the State of New Hampshire;


NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the amount of the veterans' property tax credit is hereby amended to \$450 (Four Hundred Fifty and 00/100 Dollars); and

FURTHER, BE IT RESOLVED that the Town Administrator is hereby instructed to cause the newly adopted credit amount to be applied to the next issuance of property tax bills by the Town.

This Resolution shall take effect immediately upon its passage.


Adopted: August 16, 2016.

Attest:

x 

Brian Chirichiello, Council Chair

Date: 8/16/16

x 

Daniel Healey, Town Clerk

Date: 8/16/16



RESOLUTION

Number 2016-021

To Adopt a Revised Fee Schedule for Ambulance Transport and
Associated Emergency Medical Services

WHEREAS, Section 7.2 of the Town Charter empowers the Town Council regulate all fees for the use of the services of the Town; and

WHEREAS, the current fee schedule for ambulance transport and associated emergency medical services has not been adjusted to meet the cost of providing such services over a period of four years; and

WHEREAS, the result thereof places a greater burden on the taxpayers-at-large of the town; and

WHEREAS, it is the intent and policy of the Town Council to maintain as prudent a tax rate as possible by making appropriate and reasonable use of user fees for certain Town services;


NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the proposed Schedule of Fees for Ambulance Transport and Associated Services, dated July 19, 2017 and attached hereto, is hereby approved; and

BE IT FURTHER RESOLVED that the Town Administrator is instructed to cause the newly approved schedule of fees to take effect on the first day of the month immediately following adoption of this Resolution.

This Resolution shall take effect immediately upon its passage.

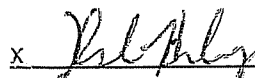
Adopted: August 16, 2016.

Attest:

x 

Brian Chirichiello, Council Chair

Date: 8-16-16

x 

Daniel Healey, Town Clerk

Date: 8/16/16



RESOLUTION

Number 2016-023

To Approve the Transfer of FY2017 Operating Funds from the Police
Department Budget to the Public Works Department Budget

WHEREAS, Section 9.7 of the Town Charter prohibits the expenditure of funds, or the commitment to expend funds, absent an appropriation or a transfer of funds for the subject purpose; and

WHEREAS, Section 9.7 authorizes the Town Administrator to transfer any unencumbered appropriation balance, or any portion thereof, from one department to another upon approval by a majority of the Council; and

WHEREAS, the Town has been ordered by the New Hampshire Department of Environmental Services to cause the Hood Dam to be brought into compliance with current regulations regarding flood protection for downstream properties; and

WHEREAS, no funds were provided in the Fiscal Year 2017 Town Budget for this purpose, and funds that will not be expended by another department during the current fiscal year are available for this purpose;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the transfer of Fifty Thousand Dollars (\$50,000) by Town Administrator from the Police Department budget to the Public Works budget is hereby approved.

This Resolution shall take effect immediately upon its passage.

Adopted: August 16, 2016.

Attest:

x 

Brian Chirichiello, Council Chair

Date: 8-16-16

x 

Daniel Healey, Town Clerk

Date: 8/16/16