

TOWN OF DERRY

**Town Council
Derry Municipal Center**

**September 18 2018
Tuesday - 7:00 PM**

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

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

**Councilor Tripp moves to seal RSA 91A:3 II (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, Bourdon, Tripp, Katsakiores, Foote, Wetherbee, and
Chairman Morgan
Present: TA David Caron, Town Clerk Daniel Healey

Public Forum - *30 Minutes*

Open Public Forum – all agreed

Rod Pierce: Bowers Rd – Had two concerns with the Rail Trail. States there is no where to park
on Pillsbury Street and crossing over Bowers Road is dangerous. Derry Public Works will look
into both issues.

Donald Burgess: High St – Reminded everyone to speak into the microphone so people at
home can hear better. Hates the proposed route for Exit 4A and would like NHDOT to consider
an alternative. Some lights in town have not been changed to LED and have been out for a few
years. Derry Public Works will look into the lights.

Steve Trefethen: Windham, NH – Read the Councilor goals, liked some of the ideas and
disliked others. Believes the School Board is an issue and would like more Town Council
control.

Marc Flattes: Linlew Dr – Was impressed with the Town Council goals. Questioned how the
downtown graffiti will be maintained.

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

Consent Agenda

18-108 Approve Minutes – August 24, 2018

18-109 Approve Non-Public Minutes – September 4, 2018 – **minutes sealed**

18-110 Approve Minutes – September 4, 2018

18-111 Resolution #2018-054 – Relative to a Supplemental Appropriation to fund
additional police resources including a School Resource Officer

Consent agenda approved (Morgan abstained from 18-109, 18-110)

Chairman's Report – James Morgan

Paul Lindemann discussed the Nutfield 300th Celebration. He would like to have a parade and asked the Council if that is something they would consider. Councilors Katsakiores and Tripp volunteered to form a Parade Committee.

Chairman of the Planning Board Dave Granese discussed the Planning Board actions since January of 2018. They have approved 6 new single-family lots, 1 new commercial lot, 32 new townhomes, 47,000 square feet of new commercial space (car dealership/ detox facility) 34,800 square feet of redevelopment with 10,000 feet of new development, approved the creation of two new commercial lots and approved 17,6999 square feet of medical office on Tsienneto Road. He would like to see a new Public Safety Complex built to include Police, Fire, and Dispatch, then those vacated properties would become prime locations that can be developed.

Director of Public Works Mike Fowler gave a brief overview of The Building and Property Maintenance Committee. The committee consists of 3 regular members appointed for 1-year term, working with staff to discuss property maintenance issues and blighted properties and strategies. They meet quarterly on the 3rd Tuesday of January, April, July, and October.

Town Administrator's Report – David Caron

Director of Public Works Mike Fowler gave a presentation on the effectiveness of the Solar panels at the transfer station. They are meeting and slightly exceeding production estimates over the first four months. Summer 2018 has been one of the warmest on record, so caution must be exercised in expecting the same results in future years. Production yields drop seasonally with lower sun angles and shorter days in fall and winter. The panels have required no maintenance costs to date. Panel production will be monitored over the next year and reported to Town Council on periodic basis. Individuals may also access the Town's public portal to review real time or historic data.

There was a motion to reconsider a Zoning Board decision, but the parties did not meet the deadline as described in the charter. There has been one application for temporary tax relief and the council would make a decision after a public hearing. In order for the Town to comply with the State DRA regulations, assessments have increased, and letters have been sent out to residents.

Public Hearings

- 18-96** Resolution #2018-044 – Relative to a Supplemental Appropriation to fund Amendment #8 to the Environmental Impact Statement Consulting Contract related to the Interstate 93 Exit 4A Project – *Director of Public Works – Mike Fowler*

On December 1, 2015, Derry Town Council voted unanimously to enter into an agreement with Londonderry and NHDOT committing to move forward on the Exit 4A project. Both Towns also approved expenditures for Amendment #6, which provided engineering services to assess the level of effort required to update the Environmental Impact Statement. In 2016, NHDOT and the two Towns worked to negotiate a scope and fee agreement with CLO (now Fuss & O'Neill) in

the amount of \$2,333,197, with Derry's 50% cost share of \$1,116,598. Amendment #7 represented the projected level of effort required to investigate a number of topics, including base mapping, traffic studies, air quality, noise mitigation, water quality technical reports, historic and cultural resource review. The extensive level of detail was deemed necessary to address the technical requirements of generating the Environmental Impact Statement, which is the document required by the Federal Highway Administration (FHWA) to achieve a Record of Decision. Separately, NHDOT had submitted a cost estimate for their technical services after the supplemental appropriation for Amendment #7 was completed. Each municipality paid \$100,000 to NHDOT for technical services incurred to review consultant work conducted in Amendment #7. This additional cost must be reconciled in the September 18, 2018 supplemental appropriation request. NHDOT, the Towns and the consultant team have met and reviewed on several dozen occasions to track progress on the engineering work performed under Amendment #7. Although significant progress has been made to consummate many of the original tasks, the consultant has identified several areas where they are unable to complete the original task within the Amendment #7 budget. The major areas of additional effort requested in Amendment #8 are concentrated in Task 1.1 Project Management (\$89,923), Task 2.2 Engineering Layouts (\$71,120), Task 2.3 Survey and Right of Way Research (\$90,263) and Task 3.3 Traffic and Transportation Technical Report (\$121,375). The total additional fee request for Amendment #8 is \$665,735 -with each community's share at \$332,868. NHDOT has also submitted rough estimates for two related project tasks. Additional engineering review related to Amendment #8 is estimated to cost \$120,000 or \$60,000 per community. The NHDOT direct engineering cost to commence the Request for Qualifications process to proceed with design-build to expedite the project construction is estimated at \$160,000 or \$80,000 per community. NHDOT's design-build consultant is estimated to cost \$200,000 or \$100,000 per community. Derry's share of the NHDOT cost estimate is \$240,000.

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

Steve Trefethen: Windham, NH – Questioned the amount left that Derry is required to pay. Was told that 3.7 million has been paid and there is 1.3 million remaining. Asked if anything would change and was told no.

Donald Burgess: High St – Does not like the traffic pattern of the proposed Exit 4A and would like NHDOT to consider an alternative route.

Steve Trefethen: Windham, NH – Asked about additional travel lanes and traffic lights. Lights are planned for North Road and the intersection of Route 102 and Tsienneto. There will also be sidewalks from By-Pass 28 down to Manchester Rd.

Motion by Councilor Katsakiores to close public hearing, seconded by Councilor Wetherbee – all agreed

Councilor Tripp MOVES THAT THE TOWN COUNCIL adopt Resolution #2018-044, which reads as follows [*Read the Resolution*], seconded by Councilor Katsakiores

Roll Call Vote: 7-0-0
Resolution attached

18-97 Resolution #2018-045 – Relative to a Supplemental Appropriation for NHDOT Professional Services related to the Interstate 93 Exit 4A Project – *Director of Public Works – Mike Fowler*

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

No one from the public spoke.

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

Councilor Tripp MOVES THAT THE TOWN COUNCIL adopt Resolution #2018-045, which reads as follows [Read the Resolution], seconded by Councilor Bourdon
Roll Call Vote: 7-0-0
Resolution attached

18-98 Ordinance #2018-003 – Amend Article VI, District Provisions, Section 165-32.1, General Commercial II, to add the following definitions as permitted uses in the zone: Medical Office and Health Services Facility – *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 General Commercial II zoning district is the area along Tsienneto Road and the intersection of Tsienneto Road and By-Pass 28. 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. The use in General Commercial II is predominantly Medical Office and therefore the majority of the uses in the zone are currently pre-existing, non-conforming. This change would bring those lots and uses which have been in existence or approved prior to 2013- into compliance. It is interpreted that Health Services Facility includes ambulatory surgical centers.

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 Bourdon – all agreed

Councilor Bourdon MOVES THAT THE TOWN COUNCIL adopt Ordinance #2018-003, which reads as follows [Read the Resolution], seconded by Councilor Wetherbee

Roll Call Vote: 7-0-0
Ordinance attached

New Business

18-112 Resolution #2018-055 – Relative to a Memorandum of Understanding regarding the Southern New Hampshire Regional Water Interconnection Project – *Town Administrator David Caron*

The Town was contacted by and has been working with the State of New Hampshire on a state funded initiative to provide additional water to the southern tier communities of Salem, Windham, Atkinson, Hampstead and Plaistow. In 2016 the Legislature voted to transfer administrative responsibilities of the \$300M MTBE fund from the Department of Environmental Services to a Legislative Committee; this fund will be used as the main financial catalyst to implement the proposal, as well as other projects statewide needed to address MTBE contamination. The State plans to supply water to these communities from the Manchester Water Works (MWW). In order to accomplish this goal, water would need to be routed through Derry's existing water system; the project would further require an extension of the Derry system along Rte. 28 to the Windham town line. The State has been very clear in its position that any infrastructure improvements required in Derry to accommodate this project will be constructed and paid by the State of New Hampshire, with no costs to Derry taxpayers or water ratepayers. The Memorandum of Understanding is intended to establish a framework under which stakeholders will participate in the project; an Intermunicipal Agreement will be developed later which sets forth the cost of water, purchase guarantees, liability issues, timelines, etc. The Council has discussed this proposal on several occasions to identify any costs and benefits to the Town. After these discussions, and subsequent discussions with State officials and other stakeholders, the following threshold requirements are to be included in either the Memorandum of Understanding which is now before the Council, or the subsequent Intermunicipal Agreement between the stakeholders to the project: Derry shall charge communities to the south at a rate of at least \$1.00 above what MWW charges Derry, but in no event a rate less than that charged to in-town Derry water customers; Communities receiving water from Derry shall be required to purchase a minimum amount of water which, after a reasonable period of time after infrastructure is completed to allow for connection, should approximate the maximum amount of 1.0M gallon per day under Phase 1a; Derry shall not be responsible for fire flows south of Derry's border, nor shall the Town be responsible for flow interruptions caused by system malfunctions; it shall be the responsibility of communities to guarantee their own flows using storage tanks or other devices; As the State embarks upon Phase 1b which will increase the available flow to approximately 3.0 MGD, the project shall evaluate the need for a water tank on Warner Hill or alternately a second water route easterly through Derry along Hampstead Road.

Councilor Bourdon MOVES THAT THE TOWN COUNCIL adopt Resolution #2018-055, which reads as follows [Read the Resolution], seconded by Councilor Wetherbee

Roll Call Vote: 7-0-0
Resolution attached

Councilor Comments / Liaison Reports –


Councilor Katsakiores – The Derry Senior Advisory Committee along with EMS Director Chuck Hemeon will be hosting a stroke awareness/fall prevention event. It will take place October 9th from 10am to 11:30am at Marion Gerrish Community Center. The last Police blood drive collected 222 pints of blood.

Councilor Tripp – The Supervisors of the Checklist will be registering voters at a session on October 30th from 6pm to 7:30pm at the Derry Municipal Center. Conservation Land on South Range Road was recently acquired by the town, but it is not posted anywhere. Councilor Tripp would like the maps to be updated.

Councilor Bourdon – Great job to the Derry Fire Department for the help in the Andover/Lawrence area and with today's flooding around town.

Chairman Morgan – Congratulated the Arts Council, Derryfest Committee and all that helped with Derryfest. Thank you to Andy Day and Alana Wentworth for Derry After Dark and the Police and Fire Department details. Andy Day would like to donate a tree to the Town of Derry if they could store it and light it up for the holidays each year.

Adjournment: 9:30 p.m.



Town Clerk

10-11-18
Date

Recording & Transcription by: Daniel Healey, Town Clerk



RESOLUTION

Number 2018-044

To Approve a Supplemental Appropriation to Fund Amendment #8 to the
Environmental Impact Statement Consulting Contract Related to the
Interstate 93 Exit 4A Project

WHEREAS, the Town Charter establishes the Town Council as the appropriating authority of the Town and as such it is empowered by Section 9.6 of the Charter to make supplemental appropriations after the annual budget is adopted; and

WHEREAS, advancement to construction of the Interstate 93 Exit 4A project is a priority of the Council toward which the Council is required by Agreement with NHDOT to invest a maximum amount of \$5,000,000 into the project; and

WHEREAS, the pursuit of State and Federal approvals of an environmental impact statement is essential to advance the project; and

WHEREAS, in order to respond to comments and questions conveyed by the approval authorities it is necessary to amend the Town's contract for engineering services with its project engineer;

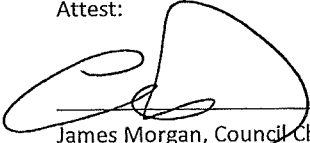
NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the sum of Four Hundred Thirty Two Thousand, Eight Hundred Sixty-Eight Dollars (\$432,868.00) is hereby transferred from the Unassigned Fund Balance and appropriated to fund Amendment #8 of the contract with Fuss & O'Neil Engineers, Inc. to perform additional environmental impact assessment work under supervision of the Town's Administration.

FURTHER RESOLVED that it is the intention of the Town Council to issue a long-term bond in FY19 to reimburse the Unassigned Fund Balance for this appropriation.

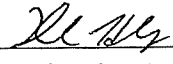
This Resolution has been adopted by a two-thirds majority of the entire Council as required by Charter and shall take effect immediately upon its passage.

Adopted: September 18, 2018.

Attest:



James Morgan, Council Chair
Date: 9-18-18



Daniel Healey, Town Clerk
Date: 9-18-18

Archival Ref: TC agenda item #18-96



RESOLUTION

Number 2018-045

To Approve a Supplemental Appropriation for NHDOT Professional
Services Related to the Interstate 93 Exit 4A Project

WHEREAS, the Town Charter establishes the Town Council as the appropriating authority of the Town and as such it is empowered by Section 9.6 of the Charter to make supplemental appropriations after the annual budget is adopted; and

WHEREAS, advancement to construction of the Interstate 93 Exit 4A project is a priority of the Council toward which the Council is required by Agreement with NHDOT to invest a maximum amount of \$5,000,000 into the project; and

WHEREAS, the Agreement with NHDOT requires the Town to fund its proportionate share of NHDOT Professional Services associated with this project, all within the Town's \$5.0M investment cap;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the sum of Two Hundred Forty Thousand Dollars (\$240,000) is hereby transferred from the Unassigned Fund Balance to fund NHDOT Professional Services.

FURTHER RESOLVED that it is the intention of the Town Council to issue a long-term bond in FY19 to reimburse the Unassigned Fund Balance for this appropriation.

This Resolution has been adopted by two-thirds majority of the entire Council as required by Charter and shall take effect immediately upon its passage.

Adopted: September 18, 2018.

Attest.

x

James Morgan, Council Chair

Date: 9-18-18

x

Daniel Healey, Town Clerk

Date: 9-18-18

Archival Ref: TC agenda item #18-97



ORDINANCE

Number 2018-003

Amend Article VI, District Provisions, Section 165-32.1, General
Commercial II, Add Definitions.

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 zoning definitions in the General Commercial II zoning district to bring clarity to those definitions; and

WHEREAS, a number of developments within this district are medical facilities previously approved under the general definition of "Professional Office", and adoption of the Ordinance would render the affected lots into conformity with the Ordinance;

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 165-32.1, General Commercial II, to ADD the following definitions as permitted uses in the zone: Medical Office and Health Services Facility

This Ordinance shall take effect thirty days after its adoption.

Adopted: September 18, 2018

Attest:

x

James Morgan, Council Chair

Date: 9-18-18

Archival Ref: Agenda Item #18-98

x

Daniel Healey, Town Clerk

Date: 9-18-18