

TOWN OF DERRY

Town Council
Derry Municipal Center
14 Manning Street



Tuesday September 21, 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 Katsakiores leave non-public session, seconded by Councilor Wetherbee
Roll Call Vote: 7-0-0

Motion by Councilor Wetherbee to seal RSA 91A:3 II (d, I) because it was determined divulgence of this information would render a proposed action ineffective, seconded by Councilor Katsakiores
Roll Call Vote: 7-0-0

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

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

Public Forum - *30 Minutes*

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

Butch Timpe: Bowers Rd – Would like the council to follow it's own rules and ethics. Believes the Chair is not fit to sit in the seat and attacks the community with messages online.

Motion by Councilor Wetherbee to close public forum, seconded by Councilor Foote – all agreed

Consent Agenda

21-113 Approve Non-Public Minutes – September 7, 2021 – **Minutes Sealed**
21-114 Approve Minutes – September 7, 2021
21-115 Resolution #2021-064 – Approve a Supplemental Appropriation to fund Hood Park Improvements

Councilor Wetherbee moves to approve the consent agenda, seconded by Councilor Foote
Roll Call Vote: 7-0-0

Chairman's Report – James Morgan
Happy 87th Birthday to Councilor Katsakiores

Was informed that the Council was in violation of the Town Charter by appointing Andrew Meyers as a member of the Planning Board without being an alternate member first.

Councilor Bourdon motions to reconsider Andrew Meyers as a member of the Planning Board, seconded by Councilor Wetherbee
Roll Call Vote: 6-0-1 (Councilor Chirichiello)

Chairman Morgan moves to appoint Andrew Meyers as an alternate member of the Planning Board, seconded by Councilor Spencer
Roll Call Vote: 6-0-1 (Councilor Chirichiello)

Town Administrator's Report – David Caron

NH Dot is scheduling a public information meeting during the last two weeks of October to present design information on Phase I of the Exit 4A project and also to review the status of Phases II and III. FY22 lease rates from Bank of America for capital equipment will be in the range of 1.12% for 5 years, 1.37% for seven years, and approximately 1.55% for ten years. Non-property tax revenues continue to produce at FY21 levels, and the town is closely monitoring the chip shortage impact on the new vehicle purchases/leases, which impacts motor vehicle registration. DRA has accepted the Town's 2020 reevaluation, which has resulted in values closer to fair market value with a better coefficient of dispersion. The assessment ratio was at 96% in 2020, which most probably will require additional value adjustments in 2022. COVID cases continue to rise in Derry and throughout the State. An RFP for design-build services for the skateboard park at Alexander-Carr Park was issued on September 13 and due back in October. Playground improvements are nearing completion at Don Ball. The Town has been awarded an Assistance to Firefighters Grant in the amount of \$497k to replace the Self Contained Breathing Apparatus for all of our firefighters. The Town had budgeted and will apply approximately \$70k in local funds from the Fire Capital Reserve Fund to complete the project. An unveiling of the Derry Aviation/Alan Shepard Mural will take place on Wednesday, September 22 at 4PM on the rail trail at 10 South Avenue.

Public Hearings

21-104 Ordinance #2021-010 – Amend General Code Traffic Ordinance Prohibited Parking on East Broadway – *Highway Safety Committee Chair Scott Savard and Police Chief Ed Garone presenting*

The Highway Safety Committee discussed the issue of parking on East Broadway at their May 20, 2021, meeting and determined there are safety issues for pedestrians and oncoming traffic due to recent parking alongside East Broadway near 94 East Broadway. The Highway Safety Committee recommends that parking be prohibited along the south side of East Broadway from Park Ave to the traffic circle and from the traffic circle along the north side to Marlboro Road. Per Town's Traffic Ordinance Section 150-3 section C. The Derry Police Department may waive parking restrictions for concerts and special events held at MacGregor Park. The Highway Safety Committee by unanimous decision recommends that the Town Council amend the Traffic Ordinance Article 1 Section 150-4 Prohibited Parking.

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

No one from the public spoke.

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

Motion by Councilor Wetherbee to table 21-104 to the next Town Council meeting scheduled for October 5, 2021, seconded by Councilor Foote – all agreed

21-112 Resolution #2021-058 – Accept a NH Highway Safety Grant for various traffic enforcement activities – *Police Chief Ed Garone presenting.*

Periodically, the NH Highway Safety Agency distributes funds to support selective traffic enforcement patrols and or equipment. The Police Department has received a contract for seven such programs as follows;

- Speed Enforcement Patrols - \$12,052.00 = (40) 4 Hour Patrols
- DUI Enforcement Patrols - \$3,188.00 = (10) 4 Hour Patrols
- Distracted Driving Patrols - \$3,888.00 = (13) 4 Hour Patrols
- Pedestrian/Bicycle Patrols - \$2,900.00 = (9) 4 Hour Patrols
- Join the NH Clique Patrols - \$850.00 = (2) 4 Hour Patrols
- Drive Sober or Get Pulled Over Patrols - \$1700.00 = (5) 4 Hour Patrols
- U Drive, U Text, U Pay Patrols - \$850.00 = (2) 4 Hour Patrols

The seven grants total \$25,428.00 The NH Highway Safety Agency will reimburse the Town for 100% of the salary-related expenses plus associated roll up costs for all hours worked under the grants. The Town is responsible for in kind cost matches for the 7 patrol grants totaling \$6,357.00. Those costs are soft match costs and are funds already budgeted for administering the grants, prosecuting any cases resulting from the enforcement efforts and equipment costs associated with conducting the patrols i.e. vehicle and fuel costs. Enforcement patrols will be scheduled throughout the grant period as one-man patrols. Officers assigned will be reimbursed at their respective overtime rate.

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

No one from the public spoke.

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

Councilor Wetherbee MOVES THAT THE TOWN COUNCIL adopt Resolution #2021-058 which reads as follows [*Read the Resolution*], seconded by Councilor Bourdon

Roll Call Vote: 7-0-0

Resolution

New Business

21-116 Resolution #2021-059 – Set the compensation for poll workers and election officials – *Town Administrator Dave Caron presenting*

The Town Council in recognition of the risks posed by the Pandemic, awarded a \$15/hr. hazard pay stipend to all election officials and poll workers for the most recent elections. As the Pandemic has yet to subside, the Council is requested to extend this practice to the October 19 Special Legislative Primary. The Pandemic maintains a foothold in the area as the Delta variant

along with the relatively low percentage of unvaccinated residents result in an increasing number of COVID cases in Derry. Last year the Town received grants from the Secretary of State's Office and from CTCL in the amount totaling \$74,660 for extraordinary election expenses. Of that amount, \$49,057 has been obligated leaving a balance of \$25,603. It is anticipated that the additional cost to administer this policy for the October 19 primary will be about \$5,000.00.

Councilor Wetherbee MOVES THAT THE TOWN COUNCIL adopt Resolution #2021-059 which reads as follows [Read the Resolution], seconded by Councilor Katsakiores
Roll Call Vote: 7-0-0
Resolution attached

21-117 Resolution #2021-060 –Set the compensation of the Town Moderator – *Town Administrator Dave Caron presenting*

By New Hampshire State Law, the Legislative Body of the Town is required to set the elected Town Moderator's salary. Per Section 5.1 of the Town Charter, the Town Council is both the legislative and governing bodies of the Town. Currently, the Moderator is compensated at the rate of \$150 per election. The Town Moderator's responsibilities have increased substantially over the last year, due to the introduction of new election laws and procedures, the rising use of absentee ballots, and the overall political atmosphere which closely scrutinizes all election activities. Many other communities have experienced the same impacts and have adjusted the compensation for their Moderators, with some communities transitioning to a monthly stipend. An increase from \$150 to \$500 per election would certainly not compensate the Moderator for all time invested but would reflect an amount which is more appropriate.

Councilor Bourdon MOVES THAT THE TOWN COUNCIL adopt Resolution #2021-060 which reads as follows [Read the Resolution], seconded by Councilor Katsakiores
Roll Call Vote: 4-1-2 (Councilor Chirichiello – No) (Chairman Morgan and Councilor Wetherbee – Abstain)
Resolution attached

21-118 Resolution #2021-061 – Revise the Town's Fund Balance Policy – *Town Administrator Dave Caron presenting*

In 2018 the Council revised its fund balance policy to establish new retention limits and set the amount of Unallocated Fund Balance (UFB) to be used to stabilize the tax rate. Further, the Council revised the amount of authorized transfers to various Capital Reserve and Trust Funds. This revision does not alter the appropriation mechanisms for the funds and focuses upon the use of Unallocated Fund Balance (UFB) to stabilize the annual tax rate. UFB is primarily a situational revenue (dependent upon the prior FY results); prior to the Pandemic the Town could rely upon a set amount being available for tax stabilization. The Town is scheduled to receive additional Meals and Rooms revenue beginning in 2021 which will approximate the amount of UFB applied to the operating budget; the Legislature has crafted the legislation whereby it is expected to remain sustainable year after year. With fluctuating revenues anticipated as the economy recovers from the Pandemic, the potential for a shortfall in UFB for budget stabilization is possible, particularly as a certain amount of UFB is required to satisfy the Town's lease obligations within the Capital Improvements Plan. The Legislature has crafted a plan whereby Meals and Rooms revenues are placed in a trust fund to be disbursed to cities and towns under

a formula which allocates 30% of receipts to localities. For FY22 (2021 tax rate), the Town is anticipated to receive \$579K in additional Meals and Rooms revenues, which will increase to and stabilize at \$655K for FY23 and beyond. The Council is requested to adjust the amount of UFB to be used to stabilize the tax rate to an amount necessary to reach the \$650K threshold after including available additional Meals and Rooms revenues.

Councilor Bourdon MOVES THAT THE TOWN COUNCIL adopt Resolution #2021-061 which reads as follows [Read the Resolution], seconded by Councilor Katsakiores
Roll Call Vote: 7-0-0
Resolution attached

21-119 Resolution #2021-062 – Renew ERZ Certification in Zones D & E – *Town Administrator Dave Caron presenting*

The NH Department of Business and Economic Affairs is currently reviewing the status of previously designated ERZ zones. Economic Revitalization Zones (ERZ) are established to offer short term business tax credits for projects that improve infrastructure and create jobs in designated areas of the municipality. New and expanding businesses in these areas are eligible to apply for tax credits against the NH Business Profits Tax and/or the Business Enterprise Tax. The State of NH, Business and Economic Affairs administers the program and approves applications. The credit is available for a five-year tax period. The credits allow businesses to use a maximum credit per year of up to \$40,000.00 and the unused credit may be carried forward for up to five years. Municipalities must apply for the designation of the areas. In 2015, the State RSAs governing ERZ zones were amended, and the districts now need to be reviewed by the municipalities every five years and a request made to the State to continue the designation of the zones. Planning staff reviewed the boundaries of the existing zones to see if there were any expansion options. In the future, the Council should consider establishing an ERZ zone along Route 28 South (Ryan's Hill) in the General Commercial VI zoning district. The Town has expanded the water and sewer infrastructure to this area and zoning has been changed to allow for increased commercial opportunities. The availability of tax credits is a benefit when developers are considering properties for development. Zones D and Zone E have vacant land or structures previously used for industrial, commercial, or retail purposes but are currently not so used due to demolition, age, obsolescence, deterioration, brownfields, relocation of the former occupants operation, or cessation of operation resulting from unfavorable economic conditions either generally or in a specific economic sector.

Councilor Spencer MOVES THAT THE TOWN COUNCIL adopt Resolution #2021-062 which reads as follows [Read the Resolution], seconded by Councilor Bourdon
Roll Call Vote: 7-0-0
Resolution attached

21-120 Resolution #2021-063 – Authorize the use of bond proceeds for certain Recreation Facility Improvements – *Recreation Director Kim Walsh presenting*

Town Council authorized the issuance of a \$1.8 million bond in 2018 for use to improve Parks & Recreation facilities. In March 2020, Town Council was presented with the results of the Town-wide recreation needs assessment study prepared by the University of New Hampshire. During the assessment study process, several stake holders provided feedback to better guide the

Town Council in directing these bond proceeds to specific projects. Town Council has since met on several occasions, most recently at their September 14, 2021, workshop, to confirm the promotion of several Parks & Recreation facility improvement projects which sum to \$475,000. Based on feedback received from the September 14, 2021, Town Council workshop, the following projects have been recommended from the bond proceeds:

1. Lighting Don Ball Park (\$75,000) - Upgrade the existing lights on two fields to LED
2. Lighting Vet's/O'Hara Field (\$75,000) - Upgrade the existing lights on two fields to LED
3. Installation of Pickle Ball at Vet's Field (combined with #2)
4. Lighting Rider Field (\$200,000) - Upgrade existing lights on Rider #1 and new poles and lighting on Rider #2
5. Rider Field parking lot (\$125,000) - Install new paving on access road and parking lot

The Department of Public Works would develop a plan to implement these projects in calendar year 2022 after initial design is prepared and the projects are bid via a competitive procurement process.

Councilor Wetherbee MOVES THAT THE TOWN COUNCIL adopt Resolution #2021-063 which reads as follows [Read the Resolution], seconded by Councilor Bourdon

Roll Call Vote: 7-0-0

Resolution attached

Councilor Comments / Liaison Reports –

Councilor Katsakiores – The Commerce and Consumer Affairs Committee heard HB343 which deals with ambulance billing. Emergency Management would lose \$200,000. EMS Director Chuck Hemeon spoke in opposition.

Councilor Spencer – Congratulated the Derry Public Library which was named library of the year. They will be presented a plaque on October 5th at 3pm.

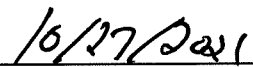
Councilor Wetherbee – Attended a local Chamber of Commerce meeting. Lots of good things are going on in the region. Town Administrator Dave Caron, Economic Development Director Bev Donovan, and Londonderry Manager Kevin Smith were also in attendance.

Councilor Foote – Thanked everyone that helped with Derryfest/Derry After Dark

Adjourn: 8:55pm



Town Clerk



Date

Recording & Transcription by: Daniel Healey, Town Clerk



RESOLUTION

Number 2021-058

To Accept a NH Highway Safety Agency Grant for
Various Traffic Enforcement Activities

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

WHEREAS, funding is available through the NH Highway Safety Agency; and

WHEREAS, the Town may receive funds for various traffic enforcement activities; and

WHEREAS, these activities enhance the safety of the travelling public in Derry;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL, pursuant to RSA 31:95-b, that the Town Administrator is hereby authorized to apply for, accept and expend \$25,428 derived from NH Highway Safety Agency grants and to enter into agreements with the State of New Hampshire as may be necessary to finalize receipt of this grant funding for the following programs:

- a) Speed Enforcement Patrols;
- b) DUI Enforcement Patrols;
- c) Distracted Driving Patrols;
- d) Pedestrian/Bicycle Patrols;
- e) Join the NH Clique Patrols;
- f) Drive Sober or Get Pulled Over Patrols;
- g) U Drive, U Text, U Pay Patrols

This Resolution shall take effect immediately upon its passage.

Adopted: September 21, 2021

Attest:

A handwritten signature in black ink, appearing to be "James Morgan", written over a horizontal line.

James Morgan, Council Chair

Date: 9-21-21

Archival Ref: Agenda #21-112

A handwritten signature in black ink, appearing to be "Daniel Healey", written over a horizontal line.

Daniel Healey, Town Clerk

Date: 9/21/2021



RESOLUTION Number 2021-059

To Set the Compensation for Poll Workers and Election Officials

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

WHEREAS, Section 8.6(C) of the Charter empowers the Town Administrator to fix the compensation of all town officers and employees appointed by the Town Administrator; and

WHEREAS, the Town Moderator is an elected official whose compensation is not fixed by the Town Administrator, doing so is therefore a legislative action and a duty of the Town Council; and

WHEREAS, in recognition of the challenges posed by COVID-19, the Town Council on July 21, 2020 voted to provide hazard pay to election workers for the September and November, 2020 elections; and

WHEREAS, the Pandemic continues to poses a health risk in Derry;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that all poll workers, the Town Moderator and other election officials shall receive hazard pay for October 19 special primary election at the rate of \$15/hour.

This Resolution shall take effect immediately upon its passage.

Adopted: September 21, 2021.

Attest:

A handwritten signature of James Morgan in black ink.

James Morgan, Council Chair

Date: 9-21-21

A handwritten signature of Daniel Healey in black ink.

Daniel Healey, Town Clerk

Date: 9/21/2021

Archival Ref: TC agenda item #21-116



RESOLUTION

Number 2021-060

To Set the Compensation of the Town Moderator

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

WHEREAS, Section 8.6(C) of the Charter empowers the Town Administrator to fix the compensation of all town officers and employees appointed by the Town Administrator; and

WHEREAS, the Town Moderator is an elected official whose compensation is not fixed by the Town Administrator, doing so is therefore a legislative action and a duty of the Town Council; and

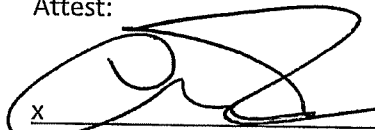
WHEREAS, recent changes and modifications to election laws and procedures require the Moderator to invest a significant amount of time preparing for and conducting elections;

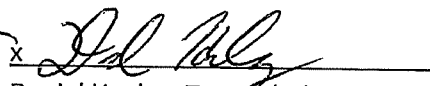
NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Town Moderator shall be compensated at the rate of \$500 per election.

This Resolution shall take effect immediately upon its passage.

Adopted: September 21, 2021.

Attest:

X 
James Morgan, Council Chair
Date: 9-21-21

X 
Daniel Healey, Town Clerk
Date: 9/21/2021

Archival Ref: TC agenda item #21-117



RESOLUTION #2021-061

To Revise the Town's Fund Balance Policy

WHEREAS, The Town Council on May 15, 2018 revised the Fund Balance Policy which established a certain retention level of Unallocated Fund Balance and further directed that excess fund balance be transferred to capital reserve funds; and

WHEREAS, the State Legislature recently amended the statute to fully fund Meals & Rooms revenues to towns and cities, allowing the Town to rely upon sustainable revenues to offset the property tax burden; and

WHEREAS, a transition period is anticipated before the Town's full share of increased Meals & Rooms revenues becomes available during the State's upcoming biennium;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the following procedure is hereby adopted regarding the Town of Derry Fund Balance Policy:

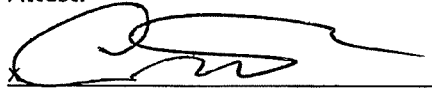
- 1) Unassigned Fund Balance shall remain targeted at 9.5% of the sum of the Town's general fund operating appropriations, the state education tax amount, the local school net tax commitment and the county appropriation;
- 2) ***During the FY22-23 State Biennium Budget, fund balance may be used annually to supplement additional Meals and Rooms revenues to the combined amount of \$650,000, should funds be available beyond the 9.5% threshold;***
- 3) Annually, Unallocated Fund Balance in excess of the 9.5% threshold and the ***amount used in para 2) above*** shall be transferred without further action of the Town Council, to capital reserve funds for Police, Information Technology, Fire, and Public Works, proportional to the proposed expenditures from capital reserve as set forth in the adopted Capital Improvement Plan.
- 4) The amount of the fund balance transfer shall be limited to \$1.5M annually, including the appropriation to the Buildings and Grounds Expendable Maintenance Trust. The \$1.5M target shall be further reduced in any year by funds the Town Council may appropriate from the annual budget to the Capital Reserve Funds;

- 5) The amount of Unallocated Fund Balance to be transferred to the Buildings and Grounds Expendable Maintenance Trust shall equal 15% of the total amount available **or appropriated** under this policy, limited to \$225,000 annually;
- 6) Any Unallocated Fund Balance available beyond that necessary to comply with this Resolution shall be retained and managed pursuant to future Council resolutions;
- 7) For purposes of this Policy, Unallocated Fund Balance shall be defined according to Governmental Accounting Standards Board Statement No. 54, and shall further include any inter-fund transfers in the form of loans (e.g. Brady Avenue Sewer);
- 8) Nothing within this policy shall prevent the Town Council, by appropriate action pursuant to the Town Charter and state statutes, from transferring funds between capital reserve funds to meet the needs of the organization.

This Resolution shall take effect immediately upon its passage.

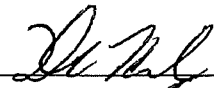
Adopted September 21, 2021

Attest:



James Morgan, Council Chair

Date: 9-21-21

x 

Daniel Healey, Town Clerk

Date: 9/21/2021

Archival Ref: Agenda Item #21-118



Resolution #2021-062

To Renew ERZ Certification in Zones D and E

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

WHEREAS, The Town currently participates in the Economic Revitalization Zone Tax Credits program authorized by the State Legislature; and

WHEREAS, RSA 162-N:2-a requires a revaluation of zones every five years to ensure compliance with RSA 162-N:2; and,

WHEREAS, conditions persist in each aforementioned zone of vacant land or structures previously used for industrial, commercial, or retail purposes but currently not so used due to demolition, age, obsolescence, deterioration, brownfields, relocation of the former occupant's operations, or cessation of operation resulting from unfavorable economic conditions; and

WHEREAS, the program provides another critical economic development tool to attract and expand businesses;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Derry Town Council, pursuant to RSA 162-N, hereby requests reauthorization of the ERZ designation for the following zones:

Zone D: Portions of Crystal Avenue, Birch Street, East and West Broadway, in the approximate location of the southern portion of the Derry Commerce Corridor.

Zone E: Portions of Manchester Road, Folsom and Franklin Street Extension, including portions of the Derry Commerce Corridor and the Gateway Tax Increment Financing District.

This Resolution shall take effect upon its passage.

Archival Ref: Agenda Item #21-119

Adopted September 21, 2021.

Attest:

X 

James Morgan, Council Chair

Date: 9-21-21

X 

Daniel Healey, Town Clerk

Date: 9/21/2021

Archival Ref: Agenda Item #21-119



RESOLUTION

Number 2021-063

To Authorize the Use of Bond Proceeds for Certain Recreation Facility
Improvements

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

WHEREAS, the Council previously authorized a Supplemental Appropriation for Recreation Facilities pursuant to Resolution #2018-067; and

WHEREAS, the Town Council previously authorized the Town Administrator to implement Phase I of the Recreation Facilities Plan pursuant to Resolution #2020-031; and

WHEREAS, the Council at its September 14, 2021 workshop concurred to prioritize improvements to certain recreational facilities;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Town Administrator is hereby authorized to obligate the sum of Four Hundred Seventy-Five Thousand Dollars (\$475,000) from the Recreation Facilities Bond for lighting and paving improvements at Rider Field, Don Ball Park and Vet's/O'Hara Field.

This Resolution shall take effect immediately upon its passage.

Adopted: September 21, 2021

Attest:

A handwritten signature in black ink, appearing to be "James Morgan", written over a horizontal line.

James Morgan, Council Chair

Date: 9-21-21

A handwritten signature in black ink, appearing to be "Daniel Healey", written over a horizontal line.

Daniel Healey, Town Clerk

Date: 9/21/2021

Archival Ref: TC agenda item #21-120