



## STAFF REPORT

AGENDA ITEM #: 18-11  
COUNCIL MTG OF: January 16, 2018  
FROM: David Caron, Town Administrator  
OFFERED BY: Administration  
PREPARED BY: Administration  
SUBJECT: To determine whether to proceed to a non-binding referendum on Derry's government structure

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### PURPOSE

The purpose of this report is to provide information to the Town Council regarding the discussion whether to proceed to a non-binding referendum on Derry's government structure.

### TOWN ADMINISTRATOR COMMENTS

The Council is encouraged to consider this matter and if so inclined, vote whether to proceed to referendum at the Council's JANUARY 16, 2018 Council meeting in order to comply with the timeframe as stipulated in the Charter to avoid a special election on this matter.

### BACKGROUND

The Council has had discussions recently regarding Derry's form of government and whether the School District should be absorbed into the municipal structure, which would then subject the school department to the voter-approved tax cap. The Council has also discussed placing the matter before the voters as a non-binding referendum.

### DISCUSSION

Presuming the Council subsequently proceeds to seek formal approval to absorb the School District into the municipal structure, the following two-step process is required. First, the State Legislature would have to grant authorization to Derry to transform the School District into a department of the municipality. To date, the Legislature has not granted authorization to a town, but has so authorized for a number of cities throughout the State. The New Hampshire Municipal Association has advised that the Legislature can grant the authority to a town; it is unknown whether the Legislature would be reluctant to grant authority to a town when it has historically reserved that authority to a city form of government.

Under either a town or city, if approved by the Legislature, a local approval process would need to occur. For a town, it would require voters to approve a simple charter amendment at a special or regular municipal election. In order to convert to a city form of government, voters would be asked to establish a charter commission and subsequently elect charter commission members. The Charter Commission would take a year or so to review and make recommendations to the voters. It should be noted that it is believed that a Commission would be unrestrained in its work, and may recommend others changes or even abolition of the charter. Any Commission recommendations would also require voter approval.

### FISCAL IMPACT

The only immediate fiscal impact is to pay for separate ballots for the non-binding referendum question. Presuming the Council progresses with this concept, some expenses will be incurred supporting the Charter Commission if a determination is made to favor a city form of government.

Further presuming that the Legislature grants the requested authority to Derry to absorb the school district into the municipality and voters subsequently agree, the school department would then be subject to the voter-approved tax cap, which may result in budget savings over what the School District has traditionally requested from the voters.

RECOMMENDED ACTION AND MOTION BY COUNCIL

Listed below are two separate draft referendum questions for the Council's consideration:

Town:

Non-binding question: Are you in favor of petitioning the State Legislature to obtain authorization to include the School District as a department of the Town, and if so authorized, seek Derry voter approval through an amendment to the Town Charter? Passage would result in the requirement that the school department comply with the voter-approved tax cap.

City:

Non-binding question: Are you in favor of petitioning the State Legislature to obtain authorization to include the School District as a department of the municipality, and if so authorized, seek Derry voter approval through an elected charter commission to change Derry's form of government to a city? Passage would result in the requirement that the school department comply with the voter-approved tax cap.

Based upon subsequent Council discussions, it is my understanding that the Council favors the option to maintain its town form of government, Resolution #2018-004 has been developed in the affirmative to schedule a non-binding referendum to be conducted during the March 13, 2018 election (timeline below).

The Council will vote on a measure. Charter reference §3.4.

**Jan. 16, 2018**

The Council will file the measure with the Town Clerk within 30 days after it adopts the measure. §3.3(A). All Councilors should sign the measure. §3.2(A). **No earlier than Jan. 22, 2018**

Timing is critical as it is assumed the Council will not want to trigger the need for a special election. Under ¶13.2(B) the timing should be so that the March election is not less than 30 days nor more than 60 days after the submission of the final form of the question. **March 13, 2018 50 days prior to Jan. 22, 2018**

The question must be clear with an explanation of the measure in terms sufficient to communicate the substance of the question to the voters. ¶13.2(B) The question should be in the positive. In the case of a non-binding question, need to make sure it clearly states that the measure is proposed by the Council as a non-binding question.