

**TOWN OF DERRY**

**Town Council  
Derry Municipal Center**

**November 5, 2019  
Tuesday - 7:00 PM**

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

**Councilor Tripp moves to leave non-public session, seconded by Councilor Bourdon – 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, Katsakiores, Morgan, Foote, Bourdon, Tripp and Chairman Wetherbee

Present: TA David Caron, Town Clerk Daniel Healey

**Public Forum - \*30 Minutes\***

**Open Public Forum – all agreed**

Tom Cardon: Cunningham Dr – Discussed his role as a Councilor during 4A negotiations. Questioned the impact the proposed plan has on the Police Station and was told that the enter/exit may be problematic.

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

**Consent Agenda**

**19-124** Approve Non-Public Minutes – October 15, 2019 – **minutes sealed**

**19-125** Approve Minutes – October 15, 2019

**19-126** Committee Resignations – Economic Development Advisory Committee

**Consent agenda approved (Councilor Tripp abstained from 19-124 & 19-125)**

**Chairman's Report – Neil Wetherbee**

**Chairman Wetherbee moves to appoint Melanie Davis as a member of the TIF Advisory Board for a 2 year term to expire March 31, 2021, seconded by Councilor Bourdon  
Roll Call Vote: 7-0-0**

**Chairman Wetherbee moves to appoint Tyler Adcox as a member of the Derry Housing & Redevelopment Authority for a 3 year term to expire March 31, 2022, seconded by Councilor Morgan  
Roll Call Vote: 7-0-0**

On Friday November 8th from 8am to 9:30am there will be a Veteran's Breakfast at West Running Brook Middle School. On Monday November 11th from 7am to 9:30am there will be a Veterans Day Breakfast at Pinkerton Academy in the Freshman Cafeteria of the Academy building sponsored by the Class of 2023. At 10am to 10:30am there will be Blessing of Veterans at St. Luke's Church. From 10:30am to 11:15am there will be Veteran's Day Services at MacGregor Park, with a special recognition to Veterans with and in need of Service Dogs. From 11:30am to 1pm there will be Open House at the VFW 1617 Post. Staff made the right call on keeping Halloween festivities on October 31<sup>st</sup>.

#### **Town Administrator's Report – David Caron**

Councilor Morgan, Town Administrator Caron, and Net Zero Task Force Chair Jeffrey Moulton met on October 25<sup>th</sup> to discuss Solar at the Landfill. The plans will be submitted to the Town Council for review at their November 19<sup>th</sup> meeting. The Town will be leasing out the land and not investing in the solar array until at least the end of year 6. At that point the Town can purchase the array if they choose. We will know tomorrow which cities in New Hampshire have approved sports betting as voting is taking place currently. Sports betting in Derry will be discussed at the November 6<sup>th</sup> Planning Board meeting and presented to the council sometime during January. The Attorney General's office has responded to the Town's proposed charter amendment and has no significant objections. The NH Secretary of State's office and Department of Revenue have yet to respond but acknowledged receipt. There was a Master Plan Forum last Wednesday and it was attended by about 40 residents. A public hearing will take place in January. The Town of Derry Parks & Recreation and the team from UNH will hold a forum on Wednesday, November 13th at 7pm at the Derry Municipal Center, 3rd Floor to discuss the current status and future of parks and recreation for the Town. A CGI Community Public Service video has been posted to the website to highlight Derry. It was narrated by Cable Coordinator Owen Provencher and paid for entirely by advertising. The U.S. Census is still searching for census takers and interested people may apply online. The Town of Derry seeks to remind residents of the Winter Parking Ban in effect from November 15th to April 1st. The Town Ordinance prohibits parking on all street and all municipal parking lots between 12:00 am (midnight) to 6:00 am. Violators are subject to ticketing and/or towing of their vehicle. A vendor will be in town to setup the season lights which will be illuminated on November 21<sup>st</sup>.

#### **Public Hearing –**

##### **19-120 Ordinance #2019-013 – Recodify Chapter 12 of the Municipal Code – Alcoholic Beverages – *Police Chief Ed Garone presenting***

The Town adopted regulations on the possession and consumption of alcoholic beverages on Town property and private parking lots since 1977. The existing language provides for separate articles on parks and other town property and private parking lots. As the Town is reviewing all its ordinances, efficiencies and clarity will be achieved by adopting the recommended revisions. Chapter 12 presently includes two Articles, one for parks and library grounds and the second for public lands and private parking lots. The first Article currently does not list all town property classified as parks or libraries, and both articles share the same fine structure. Further, the Chief of Police may grant permits for exceptions to the second article without similar provisions

for the first. Staff recommends consolidating this language by incorporating all town facilities under the definition of public lands and private parking lots into one Article. Additionally, current trends recommend that violations of this Chapter be increased from \$100 to \$200.

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

No one from the public spoke.

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

**Councilor Morgan MOVES THAT THE TOWN COUNCIL adopt Ordinance #2019-013, which reads as follows [Read the Ordinance], seconded by Councilor Katsakiores**

**Roll Call Vote: 7-0-0**

**Ordinance attached**

### **New Business**

**19-127** Resolution #2019-065 – Authorize Acceptance of E-911 Data from the State of New Hampshire – *Fire Chief Michael Gagnon presenting*

On August 14, 2012 - The Derry Town Council requested and authorized DESC to collect and verify all addresses and mapping data in the Town of Derry. The Town was aware that several other communities were already in the queue for this DESC mapping service, and it would be several years before completion. On May 23, 2012, the Derry Planning Board approved changes in the Land Use Regulations for naming and numbering of new streets in a method recommended by DESC. The DESC initiated the mapping data information gathering process in 2016 and forwarded updated mapping data to the Town in May of 2019. Town Staff performed due diligence verification audits of mapping data provided by DESC. All information not subject to Right-to-Know Law. In addition to mapping data, DESC has identified areas of concern with some existing addresses (Acknowledgment of Nonstandard Addressing) that may have the potential to cause delays in response for public safety personnel during an emergency. Town Staff will continue to evaluate this document and take appropriate action as deemed necessary.

**Councilor Tripp MOVES THAT THE TOWN COUNCIL adopt Resolution #2019-065, which reads as follows [Read the Resolution], seconded by Councilor Katsakiores**

**Roll Call Vote: 7-0-0**

**Resolution attached**

**19-128** Resolution #2019-066 – Authorize participation in the 401(a) Program – *Town Administrator Dave Caron presenting*

The Town Council and Town Administrator recently entered into an Employment Agreement for the period 7/1/20 – 6/30/25. Currently, the Town contributes an amount equal to what the Town contributes for NHRS Group I employees, that amount, added to the employee's contribution, equals the maximum contribution into a 457 Deferred Contribution Plan allowed by the IRS. With the new Employment Agreement, the Town has agreed to contribute at the Group II rate (less the Social Security contribution) and, along with the employee's planned increased contribution would exceed the IRS limit to a 457. Another retirement vehicle available through ICMA-RC is a 401(a) Retirement Plan which allows for a higher pre-tax contribution. The

conversion from a 457 to a 401 (a) would occur on July 1, 2020, when the new Employment Agreement becomes effective. The Town Council had adopted the 401 (a) plan on behalf of a previous administrator however, the plan was never implemented. Due to the passage of time, ICMA-RC suggests that the Council readopt the provisions of the plan. Both the 457 and 401(a) plans are defined contribution plans, similar to a 401 (k). There are no legacy costs beyond what the Town has agreed to contribute. All other employees participate in the New Hampshire Retirement System, which is a defined benefit plan, which means that an employee is guaranteed a certain pension based upon an employee's earnings and length of service. Thus, with a NHRS type plan, the Town may incur responsibility for any unfunded liability should earnings not meet actuary's expectations. The Town Administrator's plan is different, as the amount available at retirement is dependent only upon the contributions received and earnings thereon.

**Councilor Morgan MOVES THAT THE TOWN COUNCIL adopt Resolution #2019-066, which reads as follows [Read the Resolution], seconded by Councilor Tripp**

**Roll Call Vote: 7-0-0**

**Resolution attached**

#### **Councilor Comments**

Councilor Katsakiores – Questioned where the bible went on the Veteran's table in the lobby and was told that a bible was never part of the display.

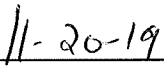
Councilor Tripp – The 1<sup>st</sup> Impressions follow up meeting will take place on November 18<sup>th</sup> at the Derry Municipal Center to discuss the next steps. The Southern New Hampshire Planning Commission will be having an age friendly housing forum at Saint Anslem's College on November 21<sup>st</sup> at 5pm. The forum is free, but you need to register to attend.

Councilor Bourdon – Organizing a Veteran's Drive. Donations may be accepted on the event Facebook page, or in person at 11 Village Brook Dr in Derry on Sunday from 10am to 1pm. Instead of clothing, this year they are asking for gift cards to Hannaford, Market Basket, or Walmart along with gas cards.

**Adjournment: 7:50 p.m.**

  
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Town Clerk

**Recording & Transcription by: Daniel Healey, Town Clerk**

  
\_\_\_\_\_  
Date



## ORDINANCE

Number 2019-013

Amend Chapter 12 of the Municipal Code – Alcoholic Beverages

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

WHEREAS, the Town Council is responsible for adopting and amending town ordinances and regulations; and

WHEREAS, the Town has enforced regulations on the possession and consumption of alcohol on Town property and private parking lots since 1977; and,

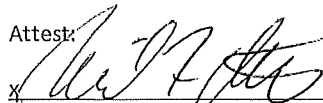
WHEREAS, during the review of the Municipal Code efficiencies can be achieved by consolidating sections; and

WHEREAS, the fine structure is outdated and should be adjusted to reflect current trends;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Chapter 12 of the Municipal Code is consolidated as attached, and the fine for violating said code shall not exceed \$200.00.

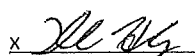
This Resolution shall take effect 30 days after its passage.

Adopted: November 5, 2019

Attest: 

Neil Wetherbee, Council Chair

Date: 11-5-19

x 

Daniel Healey, Town Clerk

Date: 11-5-19

Archival Ref: Agenda #19-120



## RESOLUTION

Number 2019-065

To Authorize Acceptance of E-911 Mapping Data  
from the State of New Hampshire

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

WHEREAS, the State of New Hampshire pursuant to RSA 106-H developed a coordinated statewide enhanced 911 system to reduce response time for emergency responders; and

WHEREAS, the Division of Emergency Service and Communications (DESC), provides mapping and other data services as part of the E-911 system to assist local agencies when responding to emergencies; and

WHEREAS, the Council in August 2012 requested and authorized DESC to collect and verify mapping data to begin in 2016, with said project reaching completion in 2019;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Town Administrator is hereby authorized to execute documents which 1) Accepts the data from DESC; 2) Acknowledges Nonstandard Addressing and 3) Accepts responsibility for the Confidentiality of the data.

This Resolution shall take effect immediately upon its passage.

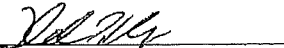
Adopted: November 5, 2019

Attest:

x 

Neil Wetherbee, Council Chair

Date: 11-5-19

x 

Daniel Healey, Town Clerk

Date: 11-5-19

Archival Ref: TC agenda Item #19-127



## RESOLUTION

Number 2019-066

To Adopt the ICMA 401(a) Plan & Trust

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

WHEREAS, the establishment of a retirement plan benefits employees by providing funds for retirement and funds for their beneficiaries in the event of death; and

WHEREAS, the Town desires that its plan be administered by ICMA-RC and that the funds held in such plan be invested in VantageTrust, a trust established by public employers for the collective investment of funds held under their retirement and deferred compensation plans:

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Town Council hereby establishes a 401(a) retirement plan in the form of the ICMA Retirement Corporation Governmental Profit-Sharing Plan & Trust, pursuant to the specific provisions of the Adoption Agreement. The Plan shall be maintained for the exclusive benefit of eligible employees and their beneficiaries; and

BE IT FURTHER RESOLVED that the Town Council hereby adopts the Declaration of Trust of VantageTrust, intending this adoption to be operative with respect to any retirement or deferred compensation plan subsequently established by the Employer, if the assets of the plan are to be invested in VantageTrust;

BE IT FURTHER RESOLVED that the Town Council hereby agrees to serve as Trustee under the Plan and to invest funds held under the Plan in VantageTrust; and

BE IT FURTHER RESOLVED that the Chief Financial Officer shall be the coordinator for the Plan; shall receive reports, notices, etc., from ICMA Retirement Corporation or VantageTrust; shall cast, on behalf of the Town, any required votes under VantageTrust; may delegate any administrative duties relating to the Plan to appropriate departments; and

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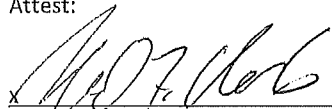
Archival Ref:     Agenda Item #19-128

BE IT FURTHER RESOLVED that the Town Council hereby authorizes the Chief Financial Officer to execute all necessary agreements with ICMA Retirement Corporation incidental to the administration of the Plan.

This Resolution shall take effect immediately upon its passage.

Adopted: November 5, 2019

Attest:

x 

Neil Wetherbee, Council Chair

Date: 11-5-19

x 

Daniel Healey, Town Clerk

Date: 11-5-19

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Archival Ref: Agenda Item #19-128