

TOWN OF DERRY

Town Council
Derry Municipal Center
14 Manning Street



Tuesday July 11, 2023
3rd Floor Meeting Room

MINUTES

7:00 PM Call to order – Chair Foote

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

Roll Call: Councilors Katsakiores, MacEachern, Flood, Granese, Spencer, Chirichiello and Chairman Foote

Present: TA Dave Caron, Town Clerk Tina Guilford

Public Forum - *30 Minutes*

Motion by Councilor Katsakiores to open public forum, seconded by Councilor Spencer All Agreed

Steve Trefethen, Business Owner & Property Owner Broadway St – I have mostly residential property along Folsom Rd. We maintain our properties. The State has purchased land and taken down buildings and they are not maintaining the land. They have not mowed. It looks horrible and they should maintain it.

Motion by Councilor Chirichiello to close public forum, seconded by Councilor Spencer All Agreed

Consent Agenda

- | | |
|--------------|--|
| 23-79 | Approve Minutes – June 20, 2023 |
| 23-80 | Resolution #2023-051 – Approve a Supplemental Appropriation for a Police Department K9 |
| 23-81 | Resolution #2023-052 – Adjust Various Fees and Fines |

Councilor MacEachern moves to approve the Consent Agenda, seconded by Councilor Spencer

Roll Call Vote: 7-0-0

Chairman Report – Charles Foote

Councilor Flood reads a Proclamation for the Survivors of Suicide Day on July 22, 2023, to coincide with Pizzastock 7.

Committee Appointment

Heritage Commission

Chairman Foote moves to appoint Lynne Mari as an Alternate Member of the Heritage Commission for a term to expire on March 31, 2026, seconded by Councilor Katsakiores
Roll Call Vote: 7-0-0

Electric Aggregation Committee

Chairman Foote moves to appoint Joe Vogelsang as a Member of the Electric Aggregation Committee for a term to expire upon the completion of the final report, seconded by Councilor Granese
Roll Call Vote: 7-0-0

Chairman Foote moves to appoint James Marshall as a Member of the Electric Aggregation Committee for a term to expire upon the completion of the final report, seconded by Councilor Spencer
Roll Call Vote: 7-0-0

Councilor MacEachern MOVES THAT THE TOWN COUNCIL tables the appointments to the TIF districts to the next meeting, seconded by Councilor Katsakiores
Roll Call 7-0-0

Town Administrator's Report – Dave Caron

The Town of Derry has sent mutual aid for public works. We have sent some of our trucks up to Washington, NH. At this time, this is at our cost, unless there is a Federal Disaster declaration, which seems to be a possibility. This is the first meeting of the new fiscal year. At the end of the 2023 Fiscal Year, only one revenue source significantly underperformed – mattress disposal. This is a fee for service so no impact on the tax rate. Motor Vehicle Permit Fees exceeded expectations by about 6.5%, MV Titles, which is a good measurement of car sales, ended the year at 99% of budget. Ambulance Revenues exceeded estimates by 24.6%, and building permit revenue outperformed expectations by 31%, which demonstrates the continued enhanced level of development activity in Derry. As we close out interest earnings, we expect to exceed the budget by \$1M, as the FY23 estimate was developed during the period of low interest earnings, this has been adjusted in the FY24 budget. Interest earnings on the Central Fire Station Bond totaled \$690K, which will be maintained in the Fire Capital Reserve Fund. The Town contracts with Manchester Transit Authority to manage the CART public transportation program. CART has recently announced changes to its service to Derry effective July 3rd. Travel within Derry will be available during the week until 9PM and until 6PM on Saturday. This is a fee for ride service which cost \$2.00. Please visit the Town's website under the Discover Derry tab, there is a link to the Transportation Options. NHDOT recently bid out the second demolition phase for the Exit 4A project and have started to address the properties that require strip taking. At this stage, Dragon Mosquito continues to treat catch basins and other areas. At this early stage, no concerns over EEE, West Nile or the Jamestown Canyon Virus. They will notify us if spraying is required.

Public Hearing

- 23-71** Ordinance #2023-003 – Amend Article V of the Zoning Ordinance to revert certain lots back to the Central Business District – *Planning Director George Sioras presenting.*

The Planning Department and the Planning Board began reviewing potential redevelopment projects in the Traditional Business Overlay District (TBOD) for parcels that had previously been located in the Central Business District (CBD). These 23 properties were identified as needing to return to the CBD district to increase redevelopment opportunities.

Motion by Councilor MacEachern to open public hearing, seconded by Councilor Spencer

Roll Call Vote: 7-0-0

Jim Deizel, Hunter Dr – Will the map be available online?

Planning Director Sioras – Yes, it is.

Steve Trefethen, Broadway – Is this going back to the CBD?

Planning Director Sioras – Yes, this will return these properties to the previous CBD.

Trefethen – Apartment Density? How many apartments per acre?

Sioras – 12 in the CBD, not 40.

Motion by Councilor MacEachern to close public hearing, seconded by Councilor Katsakiores

Roll Call Vote: 7-0-0

Councilor MacEachern MOVES THAT THE TOWN COUNCIL adopt Ordinance #2023-003 which reads as follows [*Read the Ordinance*], seconded by Councilor Spencer

Roll Call Vote: 7-0-0

Ordinance Attached

- 23-72** Resolution #2023-045 – Accept and Expend Unanticipated Highway and Bridge Revenues from the State of New Hampshire – *Town Administrator Dave Caron presenting.*

The State Legislature in the FY24 State Budget has provided bridge and highway aid above what has been historically appropriated. These funds will be used to supplement the Town's road reconstruction program and further accelerate the rehabilitation of bridges and culverts in the community.

Motion by Councilor MacEachern to open public hearing, seconded by Councilor Katsakiores

Roll Call Vote: 7-0-0

No one from the public spoke.

Motion by Councilor MacEachern to close public hearing, seconded by Councilor Katsakiores

Roll Call Vote: 7-0-0

Councilor MacEachern MOVES THAT THE TOWN COUNCIL adopt Resolution #2023-045 which reads as follows [*Read the Resolution*], seconded by Councilor Katsakiores

Roll Call Vote: 7-0-0

Resolution Attached

23-73 Resolution #2023-046 – Approve a Supplemental Appropriation to Purchase Capital Equipment and to Authorize the Execution and Delivery of a Master Lease Purchase Agreement Therefore – *Chief Financial Officer Mark Fleischer presenting.*

During the FY24 budget review in May 2023, it was determined that entering a competitively bid master lease agreement for capital equipment and vehicle purchases over the next 3 to 7 years would be cost effective for the Town. After soliciting bids for municipal lease services, TD Bank was chosen. The total cost of these vehicles and equipment is \$1,602,289. Due to pricing changes, we are seeking a supplemental appropriation of \$372,432 for the General Fund, \$18,858 for the Water Fund and \$2094 for the Wastewater Fund. The amount to be financed by TD Bank will be \$1,602,289 under a master lease agreement for these purchases.

Motion by Councilor MacEachern to open public hearing, seconded by Councilor Katsakiores

Roll Call Vote: 7-0-0

No one from the public spoke.

Motion by Councilor MacEachern to close public hearing, seconded by Councilor Katsakiores

Roll Call Vote: 7-0-0

Councilor MacEachern MOVES THAT THE TOWN COUNCIL adopt Resolution #2023-046 which reads as follows [*Read the Resolution*], seconded by Councilor Katsakiores

Roll Call Vote: 7-0-0

Resolution Attached

New Business

23-82 Resolution #2023-053 – Authorize expenses from the Compensated Absences Fund – *Chief Financial Officer Mark Fleischer presenting*

The amount expended for employees separating from the Town (\$433,834) and requesting earned time pay per contract (\$661,423) for a total of \$1,095,257. Therefore \$605,315 is needed to cover these payments. The transferred funds would offset Other Municipal Obligations Account #190004 Earned Time Payout and associated rollups.

Councilor MacEachern MOVES THAT THE TOWN COUNCIL adopt Resolution #2023-053 which reads as follows [Read the Resolution], seconded by Councilor Katsakiores
Roll Call Vote: 7-0-0
Resolution attached

23-83 Resolution #2023-054 – Authorize expenses from the Fire Facilities Capital Reserve Fund – *Chief Financial Officer Mark Fleicher presenting.*

A transfer from the Fire Facilities and Equipment Capital Reserve Funds to OMO interest expense OBJ # 981000 in the amount \$519,187.77 will properly fund the interest payment related to long-term debt with no supplemental appropriation required and no effect on the tax rate.

Councilor MacEachern MOVES THAT THE TOWN COUNCIL adopt Resolution #2023-054 which reads as follows [Read the Resolution], seconded by Councilor Katsakiores
Roll Call Vote: 7-0-0
Resolution attached

23-84 Resolution #2023-055 – Transfer Unexpended Appropriations to the CBA Implementation Trust – *Chief Financial Officer Mark Fleischer presenting.*

Allegiant Health Care premiums for FY2024 were not available when preparing the FY2024 budget. Per contract, health care premiums for the Teamsters Bargaining Unit cannot increase more than 8% in any given year. Since the actual rates were unknown at the time, the maximum 8% increase was used to formulate the budget. The actual rate of 4% yielded a total of \$28,093 in unexpected appropriations allocated as follows: Police \$1,063, Department of Public Works \$20,774, Water Fund \$2,527, Wastewater Fund \$3,729. It is these funds that are being recommended be transferred to the CBA Implementation Trust.

Councilor MacEachern MOVES THAT THE TOWN COUNCIL adopt Resolution #2023-055 which reads as follows [Read the Resolution], seconded by Councilor Katsakiores
Roll Call Vote: 7-0-0
Resolution attached

23-85 Resolution #2023-056 – Amend a Conservation Easement on Lot 11097 – *Town Administrator Dave Caron presenting.*

This Resolution is to amend the existing Conservation Easement over a portion of Lot 11097 for the purpose of locating a utility easement within the current easement. The utility easement is for access to the Ball Lot (11087) where a water tower may be installed.

Councilor MacEachern MOVES THAT THE TOWN COUNCIL adopt Resolution #2023-056 which reads as follows [Read the Resolution], seconded by Councilor Katsakiores
Roll Call Vote: 7-0-0
Resolution attached

Councilor Comments / Liaison Reports –

Councilor Granese – July 18th Watts Salvage property is coming before the Planning Board

Councilor Flood – July 22nd there will be a Pizzastock event at the Boy's and Girl's Club of Derry from 12PM to 8:30PM. This is a musical event of some amazing local youth talent, and everyone should come and listen.

Councilor Foote – Thank you Councilor Flood for talking about suicide and for taking action. It's very important.

Motion by Councilor MacEachern to ADJOURN, seconded by Councilor Chirichiello
All Agreed

Adjourn: 7:57PM


Town Clerk


Date

Recording & Transcription by: Cristina Guilford, Town Clerk



RESOLUTION

Number 2023-046

To Approve a Supplemental Appropriation to Purchase Capital Equipment
and to Authorize the Execution and Delivery of a Master Lease Purchase
Agreement Therefore

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, the Town Council approved the purchase of Capital Equipment as part of the FY24 budget adoption; and

WHEREAS, current economic conditions require a Supplemental Appropriation to complete the purchases; and

WHEREAS, the Town customarily finances these acquisitions through a lease purchase program; and

WHEREAS, these excess costs will be absorbed through multi-year lease purchase payments from the Town's Capital Reserve Funds; and

WHEREAS the Town of Derry, a body politic and corporate duly organized and existing as a political subdivision of the State ("Lessee"), is authorized by the laws of the State of New Hampshire to purchase, acquire and lease personal property for the benefit of Lessee and to enter into contracts with respect thereto; and

WHEREAS Lessee desires to purchase, acquire, finance and lease certain equipment with a cost not to exceed \$1,602,289 constituting personal property necessary for Lessee to perform essential governmental functions (the "Equipment"); and

WHEREAS Lessee proposes to enter into that certain Master Lease Purchase Agreement (the "Agreement"), with TD Equipment Finance, Inc. ("Lessor"), the form of which has been available for review by the governing body of Lessee prior to this meeting; and

WHEREAS the funds made available by Lessor under the Agreement will be deposited into an account designated in writing by Lessee for the purpose of administering the Funding Amount pursuant to this Lease (the "Funding Account") or pay to Lessee an amount equal to the Funding Amount.

WHEREAS the Equipment is essential for Lessee to perform its governmental functions; and

WHEREAS, Lessee has taken the necessary steps, including those relating to any applicable legal bidding requirements, to arrange for the acquisition of the Equipment; and

WHEREAS the governing body of Lessee deems it for the benefit of Lessee and for the efficient and effective administration thereof to enter into the Financing Documents and any other documentation necessary, convenient or appropriate for the purpose of the financing the Equipment on the terms and conditions described therein;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the sum of Three Hundred Ninety-Three Thousand Three Hundred Eighty-Four Dollars (\$393,384) is hereby raised to complete the purchase of Capital Equipment, to be allocated to the following funds:

General Fund	\$ 373,432
Water Fund	\$ 18,858
Wastewater Fund	\$ 2,094

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF LESSEE, that Lessee is hereby authorized to execute and deliver the Agreement with principal components of rental payments in an aggregate amount not to exceed \$1,602,289.

BE IT FURTHER RESOLVED that the Financing Documents and the acquisition and financing of the Equipment under the terms and conditions as described in the Financing Documents are hereby approved. The Town Administrator of Lessee and any other officer of Lessee with the power to execute contracts on behalf of Lessee be, and each of them hereby is, authorized to execute, acknowledge and deliver the Financing Documents and any and all instruments, documents and certificates which may be required by or provided for in the Financing Documents or as may otherwise be required for or necessary, convenient or appropriate to the financing described in this resolution together with any changes, insertions and omissions therein as may be approved by the officer(s) who execute the Financing Documents, such approval to be conclusively evidenced by such execution and delivery of the Financing Documents. The Town Administrator of Lessee and any other officer of Lessee with the power to do so be, and each of them hereby is, authorized to affix the official seal of Lessee to the Financing Documents and attest the same.

BE IT FURTHER RESOLVED that the proper officers of Lessee be, and each of them hereby is, authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits and other documents and to do or cause to be done any and all other acts and things necessary or proper for carrying out this resolution and the Financing Documents.

BE IT FURTHER RESOLVED, that pursuant to Section 265(b) of the Internal Revenue Code of 1986, as amended (the "Code"), Lessee hereby specifically designates the Agreement as a "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Code.

BE IT FURTHER RESOLVED, that nothing contained in this Resolution, the Agreement nor any other instrument shall be construed with respect to Lessee as incurring a pecuniary liability or charge upon the general credit of Lessee or against its taxing power, nor shall the breach of any agreement contained in this Resolution, the Agreement or any other instrument or document executed in connection therewith impose any pecuniary liability upon Lessee or any charge upon its general credit or against its taxing power, except to the extent that the rental payments payable under the Agreement are special limited obligations of Lessee as provided in the Agreement.

BE IT FURTHER RESOLVED, that if any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

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: July 11, 2023

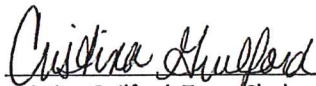
Attest:



Charles Foote, Council Chair

Date: July 11, 2023

Archival Ref: TC Agenda Item #23-73



Cristina Guilford, Town Clerk

Date: July 11, 2023



RESOLUTION Number 2023-056

To Amend a Conservation Easement over Lot 11097

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 Council under Resolution #2023-049 authorized the purchase of 42.7 acres at 82 English Range Road for conservation purposes; and

WHEREAS, the location of this parcel has been identified by the Water Division as preferable for the potential future location of a water tank; and

WHEREAS, the Town Council under Resolution #2023-012 has appropriated \$100,000 to secure the potential water tank site;

WHEREAS, access to the water tank location is preferable over Lot 11097; and

WHEREAS, the Town previously secured a Conservation Easement Deed over Lot 11097, duly recorded at Rockingham County Registry of Deeds Book 3817 Page 0822;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Town Council hereby authorize an amendment to the Town's easement over a portion of Lot 11097 for the purpose of locating a utility easement within the current easement. The utility easement is for access to the Ball lot (11087) where a water tower may be installed.

This Resolution shall take effect immediately upon its passage.

Adopted: July 11, 2023.

Attest:



Charles Foote, Council Chair

Date: July 11, 2023

x 

Cristina Guilford, Town Clerk

Date: July 11, 2023

Archival Ref: TC agenda item #23-85



ORDINANCE

Number 2023-003

Amend Article V, Zoning Map and District Boundaries, Section 165-30,
Zoning Map, to Redistrict 23 properties to the Central Business District

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, the Planning Board has been reviewing allowable uses, densities, and boundaries in the Downtown, and

WHEREAS, the orderly redevelopment of the area requires that certain properties be rezoned back into the Central Business District; and

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:

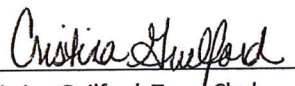
To AMEND Article V, Zoning Map and District Boundaries, Section 165-30, Zoning Map, to refine the boundaries of the Traditional Business Overlay District by reverting 23 properties back into the Central Business District.

This Ordinance shall take effect thirty days after its adoption:

Adopted: July 11, 2023

Attest:

x 
Charles Foote, Council Chair
Date: July 11, 2023

x 
Cristina Guilford, Town Clerk
Date: July 11, 2023

Archival Ref: Agenda Item #23-71



Resolution Number 2023-053

To Fund Expenses from the Compensated Absences Capital Reserve Fund

WHEREAS, the Town Council created a Compensated Absences Capital Reserve Fund in 1997; and,

WHEREAS, the purpose of the fund is to pay for the Town's obligation to its employees for vested accumulated leave upon separation and for any earned time payouts in excess of budget; and

WHEREAS, several long-tenured employees retired from town service in FY 23; and,

WHEREAS, transfer of funds from Compensated Absences will stabilize the impact of end-of-service payments on the Town's General Fund;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Town Council, as agents to expend, hereby authorizes the withdrawal of Six Hundred Five Thousand Three Hundred Fifteen Dollars (\$605,315) from the Compensated Absences Capital Reserve Fund to fund accumulated leave obligations.

This Resolution shall take effect immediately upon its passage.

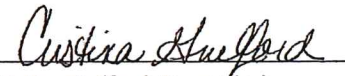
Adopted: July 11, 2023

Attest:

x 

Charles Foote, Council Chair

Date: July 11, 2023

x 

Cristina Guilford, Town Clerk

Date: July 11, 2023

Archival Ref: Agenda Item #23-82



RESOLUTION

Number# 2023-054

To Authorize Expenses from the Fire Facilities Capital Reserve Fund

WHEREAS, the Town Council previously established a Capital Reserve Fund for Fire Facilities; and,

WHEREAS, the Town Council under Resolution #2022-038 authorized the construction of a replacement Central Fire Station to a location in southwest Derry; and

WHEREAS, the Capital Reserve Fund is used as vehicle to receive and expend funds for the station's construction and payment of debt service; and

WHEREAS, the Town incurred interest expenses in FY23 associated with the issuance of long-term debt to fund the project;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Town Council, as agents to expend, hereby approve the transfer of \$519,187.77 from the Fire Facilities Capital Reserve Fund to pay FY23 debt service on the Central Fire Station bond.

This Resolution shall take effect immediately upon its passage.

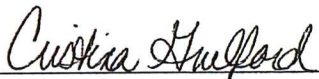
Adopted: July 11, 2023

Attest:

x 

Charles Foote, Council Chair

Date: July 11, 2023

x 

Cristina Guilford, Town Clerk

Date: July 11, 2023

Archival Ref: Agenda Item #23-83



RESOLUTION

Number 2023-055

To Transfer Unexpended Appropriations to the CBA Implementation
Trust.

WHEREAS, the Section 9.7 of the Town Charter authorizes the Town Administrator, with approval of the majority of the Town Council to transfer any unencumbered appropriation balance; and

WHEREAS, the Town partners with Allegiant Health Care to provide health insurance coverage to its employees; and

WHEREAS, FY24 budgeted health care premiums for Allegiant exceeded the amount necessary to provide coverage; and

WHEREAS, the Town Council pursuant to Resolution #2017-038 created the CBA Implementation Expendable Trust Fund to assist with funding current or future collective bargaining agreements;

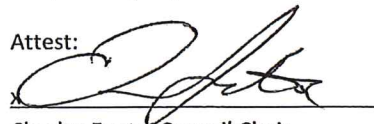
NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the Town Administrator is hereby authorized to transfer \$28,093 from the following Departments to the CBA Implementation Expendable Trust Fund:

Department of Public Works -	\$ 20,774
Police Department	\$ 1,063
Water Fund	\$ 2,527
Wastewater Fund	\$ 3,729

This Resolution shall take effect immediately upon its passage.

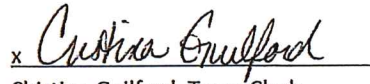
Adopted July 11, 2023

Attest:



Charles Foote, Council Chair

Date: July 11, 2023

x 

Christina Guilford, Town Clerk

Date: July 11, 2023

Archival Ref: TC agenda item #23-84



RESOLUTION

Number 2023-045

To Accept and Expend Unanticipated Highway and Bridge Revenues from the State of
New Hampshire

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

WHEREAS, The State Legislature included additional one-time funding in the FY24-25 Biennium Budget for highway and bridge aid; and

WHEREAS, the Town plans to use these funds to accelerate its road reconstruction and bridge rehabilitation schedules; and

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL, pursuant to RSA 31:95-b, that the Town Administrator is hereby authorized to accept \$190,424 in Highway Aid to be added to the Highway Division Budget;

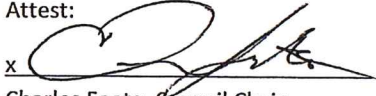
FURTHER, to authorize acceptance of \$152,720 in Bridge Aid to be placed in the Bridge Fund to supplement the culvert replacement program approved in the FY23 budget and, should funds be available, to begin the process to address the Cemetery Road culvert.

This Resolution shall take effect immediately upon its passage.

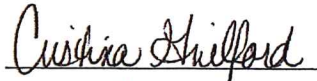
Adopted: July 11, 2023

Attest:

x


Charles Foote, Council Chair

Date: July 11, 2023



Cristina Guilford, Town Clerk

Date: July 11, 2023

Archival Ref: Agenda #23-72