Town Council Meeting Minutes

Thursday June 25, 2015, at 7:00 PM, in the Matthew Thornton Room

Vice Chairman Mahon called the meeting of the Town Council to order at 7:00 p.m. Present at the meeting were Councilor Boyd, Councilor Dwyer, Councilor Koenig, Councilor Rothhaus, Councilor Vaillancourt, Town Manager Eileen Cabanel, and Assistant Town Manager/Finance Director Paul Micali. Chairman Harrington was excused.

Pledge of Allegiance

Vice Chairman Mahon led in the Pledge of Allegiance.

Announcements

Town Offices will be closed on Friday, July 3, 2015 in observance of Independence Day. The Merrimack July 4th festivities will include the following:

Friday, July 3rd:

- Merrimack Concert Association Holiday Concert @ Abbie Griffin Park - 6:30 - 8:30 p.m.

Saturday, July 4th:

- Sparkler 5K Road Race (8:00 a.m.); will begin and end at the Merrimack YMCA.

Manchester Street will be closed from 7:30 - 10:00 a.m. There will be a lane closure on D.W. Highway that morning between BAE and Henry Clay Drive.

- Merrimack Rotary Club Pancake Breakfast @ Merrimack High School - 8:00 - 11:00 a.m.
- Merrimack Rotary Family Fun Day @ Mastricola School Fields - 12:00 - 9:00 p.m.
- 4th of July Parade begins at 515 D.W. Highway (1:00 p.m.) and ends at Merrimack High School
- Merrimack Concert Association Holiday Concert @ Abbie Griffin Park - 6:30 - 8:30 p.m.
- Annual Fireworks Display - approx. 9:00 p.m.

Regular meetings of the Town Council will be conducted on Thursday, July 16, 2015 and August 20, 2015 at 7:00 p.m. in the Matthew Thornton Room. The Town Council Retreat /Work Session will be held on Thursday, July 23, 2015 from 9:00 a.m. - 4:00 p.m. at the SERESC Conference Center, 29 Commerce Drive, Bedford.

An Active Shooter scenario will take place at one of our schools tomorrow, Friday, June 26, 2015. This is a training exercise for emergency personnel.

The memorial plaque in honor of Taylor O'Neill has been mounted at the Merrimack Skate Park.

Kinder Morgan – Proposed Northeast Energy Direct (NED) Pipeline Project

- **Informational Reports and Updates**

- A meeting is scheduled between the Amherst Pipeline Taskforce and Representatives of Kinder Morgan regarding the request of the Taskforce for an alternate route through Amherst. The meeting

will be held at 3:00 p.m. in the Landry Meeting Room, 2nd Floor, Town Hall. The public is welcome to attend and observe, but no public input or testimony will be taken.

- Town Manager Cabanel noted representatives of the New Hampshire Municipal Pipeline Coalition met with Senator Shaheen on June 22nd. The Senator provided the group about an hour to speak with her. The Coalition addressed topics such as environmental concerns, the compressor station, property values, status of the New Hampshire Public Utilities Commission (NH PUC) process and expert testimony. Milford's Town Manager presented a summary of two other viable projects that would also deliver natural gas to New Hampshire. Town Manager Cabanel stated she focused on ensuring the Senator is aware Merrimack's community is unique to some of the others; issues are not centered on "not in my backyard". There are a great many businesses in Town, and ongoing efforts to attract additional businesses. There are other routes Merrimack believes would be more viable.

  Senator Shaheen stated her belief New Hampshire needs more gas and that diversity in our energy sources is important. She also stated there are alternatives that make more sense; there are better ways that have less negative impact. Senator Shaheen has not yet met with Kinder Morgan, but a meeting has been scheduled. Senator Shaheen stated she needs to determine where she can best weigh in on the process.
- The New Hampshire Municipal Pipeline Coalition will meet on June 30, 2015 at 9:00 a.m. to discuss next steps and how to contact the Governor and the Congressional Delegation.

- On June 30, 2015 (all day), the NH PUC will continue the Public Hearing on their Petition for the authority to make the Agreement with Kinder Morgan for gas.

- Councilor Vaillancourt noted the date the letter in opposition was sent to the Federal Energy Regulatory Commission (FERC) is not identified on the Council's list of Action Items/Timeline.

- Councilor Vaillancourt commented on the discussion the Council had at its last meeting with regard to the letter sent to the FERC by the Amherst Board of Selectmen. She had noted, at that time, that she and Town Manager Cabanel had discussed the possibility of the Council writing to the FERC in support of that letter. She provided the Council with a draft of such a letter, and stated her hope feedback would be provided, and a draft could be placed on the Council's July meeting agenda for a vote.

- Vice Chairman Mahon spoke of meeting with some of the departments to bring everyone up to speed and determine current status. The Conservation Commission project is underway. They are gathering information, and expect the Environmental Impact Study to be completed in mid-July with a report to the Commission by mid-August. A report was provided from the consultant for the sewer system, which identified impacts.

  Town Manager Cabanel noted Ron Miner, Superintendent, Merrimack Village District, was also in attendance. He stated additional analysis will be conducted on the proposed construction and placement of the pipeline under the aquifer.

- When asked, Town Manager Cabanel stated the Survey Access Agreement is in the hands of legal counsel. The differing opinions are not great. Legal counsel was tasked with working out the details with Kinder Morgan's counsel. The other side has not returned calls. Department heads have been informed, as of this time, there is no agreement in place.

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- Vice Chairman Mahon stated a letter will be sent to Kinder Morgan and the FERC regarding the latest issue on Peaslee Road, and pointing out the fact there is no agreement in place and there are Ordinances in Town which must be complied with for any kind of work performed in the Town's Right-of-Way.

- **Action Items**

- Continue to press Kinder Morgan for a Public Meeting in Merrimack - **Meeting held 3/26/15**
- Place an action item on Feb 12th agenda requesting the council to take no action regarding request from Kinder Morgan to survey town-owned parcels until Merrimack Public Meeting - **Completed**
- Place NED Pipeline Update on future council agendas - **Completed 2/12/15**
- Update list of properties that directly about proposed pipeline route with a list of properties that fall into pipeline hazard zone - **Completed**
- Consider consultant to:
  - Research communities' property value effects of recent pipeline installations - **Engaged Avitar**
  - Evaluate impacts on the sewer line - **Engaged Wright Pierce**
    Reviewed first draft. Final Report should be provided by 6-5-15.
- Support Conservation Commission's efforts to update data for environmental impacts on HHNP and Gilmore Woods - **Ongoing**
- Support Merrimack Village District's efforts to protect Wellhead Protection Zone and Aquifer Protection Zone - **Ongoing**
- Request Kinder Morgan list of abutters notified of project and requests for permission to survey – **At the 4/28/15 meeting, Town Manager Cabanel asked Jim Hartman, Kinder Morgan Principal Land Specialist, for map and lot numbers of affected land owners and was denied the request.**
- Work with property owners to develop a list of who has been notified of the project and requests for surveys - **Completed**
- Maintain contacts at FERC and NH Congressional delegation - **Ongoing** (NH delegation attends Managers meetings)
- Consult with PSNH (Eversource) regarding where they are in the process with Kinder Morgan and Public Utilities Commission - **No response - No contract between parties (4/23/15)**
- Consult and share information with large companies (A-B/lnBev, Elbit, Premium Outlets, Fidelity, PanAm, PSNH, Pennichuck, etc.) - **Meeting held 2/26/15; will be ongoing**
- Section 106 of the National Historic Preservation Act of 1966 (NHPA) - **Pending formal application**
- Council voted to stand in strong opposition to the NED pipeline - Send letter to Governor/Federal Delegation
  - Letter to Governor - **Letter sent 4/14/15**
  - Letter to Congressional Delegation - **Letter sent 4/14/15**
  - Letter to Local Reps - **Letter sent 4/14/15**
- Council to continue attempts to settle on the Survey Access Agreement with Kinder Morgan – **Ongoing (between the Town's legal counsel and Kinder Morgan's legal counsel)**

Comments From the Press and Public

Don Miner, 82 Peaslee Road

Stated it was his property representatives of Kinder Morgan were at. He spoke of the March 26, 2015 meeting with Kinder Morgan during which Mr. Hartman promised, in front of all present, this type of thing would not occur again. Yet again, they were present without permission. He requested the

Council not permit any surveying on Town property given they cannot comply when explicitly told by him not to conduct such activity on his property. He commended and thanked Town Manager Cabanel for her handling of the situation. Mr. Miner suggested the Council note, in its letter to Kinder Morgan, no response to a request to survey does not imply permission.

Mr. Miner stated the public is not aware of the meat of the proposed agreement. Councilor Vaillancourt stated the proposed agreement is a public document, which has been shared. Mr. Miner commented on having spoken with Patty Quinn, Kinder Morgan, who indicated she had tried talking with Rick Seymour, Director, Public Works Department. Mr. Miner suggested that was a behind your back move trying to manipulate the system. Mr. Miner noted he has a call in to Mr. Hartman.

Carol Dipirro, 10 Cambridge Drive

Spoke of the agenda item related to attorney fees, and questioned why that would be separate from the NED pipeline discussion, and what the attorney has accomplished to date.

Vice Chairman Mahon stated the item was placed on the agenda to discuss those issues. Ms. Dipirro questioned again why the item is separate from the NED Pipeline discussion. Vice Chairman Mahon stated Councilor Dwyer wished for the Council to be provided with information on monies expended to date on legal fees.

Town Manager Cabanel stated she initiated the topic. The sum of $25,000 was allocated, and $35,000 has been expended to date. The desire was to ensure the Council is aware of that. Councilor Dwyer requested the discussion be placed on the agenda.

Ms. Dipirro suggested if the Council were to determine taking on the total cost of legal counsel is too great, the Town should join forces with the Coalition. She stated there to be several communities that are sharing the cost of legal counsel, which could be a less expensive option. Councilor Dwyer noted the Council chose its counsel for specific reasons. It may be that the Council does not wish to join the Coalition. He commented that is why the item is listed separately; to allow for an active and lively debate.

Debra Huffman, 60 Amherst Road

Requested a synopsis of the sewer report. Vice Chairman Mahon remarked what was stated were what the distances were supposed to be if going under or over the sewer line, and what had to be included for sand, etc. to provide a buffer between the sewer line and the pipeline. They quoted an engineering book that was utilized in preparing the report. It also stated the depth of the sewer line would determine the depth of the pipeline and whether it goes under or over the sewer.

Ms. Huffman stated agreement with comments made by Councilor Dwyer at the last meeting. It is important that both sides of the issue are represented. If Kinder Morgan isn't doing a good enough job of getting their side out, she believes it is incumbent on the Council to get the word out.

Ms. Huffman stated another comment made by Councilor Dwyer, which she agrees with, was he believes it would be fun to have a debate with her on the issue of the pipeline. She remarked that would be fun given their nature and the way they are, but she believes it would be useful. If that was an offer; she accepts. Councilor Dwyer agreed, and commented it would be great TV.

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Ms. Huffman thanked Town Manager Cabanel for her good work representing Merrimack with the Coalition and Senator Shaheen's Office.

Recognitions, Resignations and Retirements

1. **Recognition of the Retirement of Town Employee**
   Submitted by Human Resources Coordinator Sharon Marunicz
   The Town Council will present a recognition award to Roger L. Descoteaux in recognition of his retirement from the Wastewater Division of the Town of Merrimack Public Works Department, effective June 30, 2015, with more than 32 years of full-time service.

Vice Chairman Mahon informed the Council and the viewing audience Mr. Descoteaux was unable to be in attendance. The item will be moved to the Council's July 16, 2015 meeting.

2. **Recognition of Town Committee Members**
   Submitted by Town Council Chairman Nancy Harrington and Vice Chair Tom Mahon
   The Town Council will present certificates to the following individuals for their service to the Town of Merrimack:

   Robert Croatti - Conservation Commission
   Brian McCarthy - Technology Committee

Vice Chairman Mahon stated Messrs. Croatti and McCarthy will be presented with a Certificate recognizing their dedication and commitment to public service.

Appointments - None

Public Hearing

1. **Public Hearing – January 2015 Snow Storm FEMA Grant**
   Submitted by Finance Director Paul T. Micali
   The Town Council will conduct a public hearing to consider the acceptance and expenditure of a grant in the amount of $33,385 from the Federal Emergency Management Agency (FEMA) to defray the costs associated with the January 2015 snow storm, pursuant to RSA 31:95-b and Charter Article 8-15.

Assistant Town Manager/Finance Director Paul Micali informed the Council in April the Town received word from Emergency Management that the Governor had requested a Federal Declaration for the January 26th snowstorm. After numerous iterations of filings identifying monies expended by the Town, the Federal Government and President Obama approved the application. The amount expended by the Town was $44,512 in snow removal alone, which is all that was eligible for Federal monies. FEMA reimburses the Town at 75%. The State of New Hampshire would have, in years past, approved 12.5% of the remaining 25%; however, given the current state of the budget in Concord, he does not believe that will occur. He noted the State has not approved it for the past three storms, and stated his belief the Governor took it out of the budget. He requested the Council approve the acceptance and expenditure of a grant in the amount of $33,385.

Councilor Rothhaus questioned the criteria for deeming an emergency, and was told it is an abnormal amount of snow in one period. If the norm in January is 8" of snow and you get 2' the Federal

Government says you can apply for disaster relief. Vice Chairman Mahon questioned if there is a threshold of expense required, and was told the Town's expense has to be $3,000 or more, and is based on population, etc. Hillsborough, Rockingham, and one other country were approved for this storm.

Chairman Harrington declared the Public Hearing open at 7:38 p.m.

No one from the public addressed the Council.

Chairman Harrington declared the Public Hearing closed at 7:39 p.m.

Councilor Boyd requested the public be provided clarification of the use of the word "expenditure" when discussing acceptance of a grant related to monies already expended. Assistant Town Manager/Finance Director Micali stated the way grant funding works, the Town could simply accept the revenue or could accept it and approve the appropriation for that storm, which gives the Town a little more leeway in the overall appropriation for the Town. By using the language accept and expend, it means the Council is accepting the funds coming in, and approving an additional appropriation to the ballot voted appropriation.

Vice Chairman Mahon questioned if that comes under the emergency expenditure provision of the State Statue. Assistant Town Manager/Finance Director Micali stated if the Town had to overspend the bottom line of the budget it would fall under that. There would be the need to ask for approval to overspend with the Department of Revenue Administration.

MOTION made by Councilor Boyd and seconded by Councilor Koenig that the Town Council accept and expend the grant in the amount of Thirty Three Thousand Three Hundred and Eighty Five Dollars ($33,385) from the Federal Emergency Management Agency (FEMA) to defray the costs associated with the January 2015 snow storm, pursuant to RSA 31:95-b and Charter Article 8-15, and furthermore that the Town Manager and/or her proxy be authorized to sign any and all documents necessary to accept the grant. MOTION CARRIED 6-0-0

2. **Public Hearing – NH Homeland Security and Emergency Management Active Shooter Grant**
   Submitted by Captain Michael J. Dudash
   The Town Council will conduct a public hearing to consider the acceptance and expenditure of a grant from New Hampshire Homeland Security and Emergency Management in the amount of up to $50,000 to cover the total expenses for planning, coordinating, staffing and training of emergency personnel on how to be more effective and efficient when responding to an active shooter scenario at one of our schools, pursuant to RSA 31:95-b and Charter Article 8-15.

Captain Michael J. Dudash, Merrimack Fire Rescue, spoke of coming before the Council last May having researched a grant from Homeland Security of up to $50,000 for the training of police personnel, fire personnel, EMS, and other mutual aid partners for an active shooter event. That grant would cover training of members of the departments away from the work scenario, e.g., would participate while off duty. For the past 9 months, the Merrimack Police, Fire, and EMS have developed policies, SOPs, checklists, and worked with the School District to narrow down what everybody's role would be. Everyone would have a role including Secretaries, the PWD, Waste Management, etc. The $50,000 would cover the expenses of backfilling as well as overtime for the individuals being trained. There were three workshops conducted over a period of 4-5 weeks starting back last December. Employees attended seminars to learn what the policies and checklists are and to ensure they know exactly what

their roles are. Food and beverages were provided during the training. Of the $50,000, approx. 85% would cover the cost of backfilling and overtime and 15% would cover the cost of food/beverages.

In addition to the workshop and seminars, there was a table exercise held several weeks ago at the Crowne Plaza, which over 100 individuals attended. Captain Dudash stated the live exercise would take place the following day. This is a function with the School District. The particular school has not been identified at this time. That information would be provided the following morning through Nixle.

At this point in time, the Town is beginning to be reimbursed by the State for its expenses. It is expected the reimbursement could reach up to $50,000. He commented most of the reimbursement would go towards expenses for backfilling and overtime for positions for the event the following day as well as some equipment reimbursement for the Fire Department.

Councilor Koenig questioned if the grant has been received, but the total amount is unknown. Captain Dudash stated his belief items such as the workshop and seminars were put together in a single grant (slightly over $7,000), the next was acceptance on the grant for the table exercise.

Councilor Koenig clarified in the past, the Council was asked for permission to apply for the grant. At present, the request is for the authority to accept and expend the grant monies however much it adds up to by the time the program has completed. Captain Dudash stated that to be correct and noted the events scheduled for the following day would be the last part of the program.

Captain Dudash stated there would be a review in the afternoon the following day as well as another n the August timeframe. The reviews could result in recommendations for equipment, etc., which might come out of grant funds.

Chairman Harrington declared the Public Hearing open at 7:45 p.m.

No one from the public addressed the Council.

Chairman Harrington declared the Public Hearing closed at 7:46 p.m.

MOTION made by Councilor Boyd and seconded by Councilor Dwyer that the Town Council accept and expend a grant from New Hampshire Homeland Security and Emergency Management in the amount of up to Fifty Thousand Dollars ($50,000) to cover the total expenses for planning, coordinating, staffing and training of emergency personnel on how to be more effective and efficient when responding to an active shooter scenario at one of our schools, pursuant to RSA 31:95-b and Charter Article 8-15, and furthermore, that the Town Manager and/or her proxy be authorized to sign any and all documents necessary to perfect the grant.

ON THE QUESTION

Councilor Vaillancourt expressed her gratitude, and noted she is a staunch supporter of joint effort between the Town, the Police Department, and the School District for school safety initiatives.

MOTION CARRIED 6-0-0

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3. Public Hearing - Highway Safety Grant for DWI Patrols

Submitted by Lieutenant Paul Trepaney

The Town Council will conduct a public hearing to consider the acceptance and expenditure of a grant from the State of New Hampshire Highway Safety Agency in the amount of up to $7,516.08 to cover the total expenses for overtime selective traffic enforcement for Merrimack DWI/DUI patrols from June 1, 2015 until September 15, 2015, pursuant to RSA 31:95-b and Charter Article 8-15.

Lieutenant Paul Trepaney, Merrimack Police Department, informed the Council the grant would provide funding for overtime for additional DWI enforcement patrols. The patrols would supplement boots on the ground so that the officers would be free for calls and enforcement efforts could concentrate on DWI enforcement. Councilor Rothhaus asked for clarification, and was told it would not include roadblocks.

Councilor Vaillancourt commented having read the project information, she noted, under Schedule A – General Project Information, the 2nd paragraph states: "Additionally the Merrimack Police Department is short 8 officers, which would bring the department up to proper operating capacity for a town of its demographics. The calls for service have risen steadily as well as becoming more serious in nature."

Councilor Vaillancourt requested the Council be provided with specific data regarding the number and types of calls received, a comparison to prior years, and staffing needs. She also requested a discussion of that information be placed on a future agenda. She commented if putting such a statement out, she would like to see the supporting data. Town Manager Cabanel stated her hope the language is simply copied from that used in prior years, and stated she has not heard from the Chief that there is a need for 8 additional officers.

Lt. Trepaney stated the number to be accurate based on population size and current staffing. He stated it has been addressed; during the last budget season the Council allowed the size of the force to be increased. He reiterated the number cited is statistical in nature given the ratio of officers to the population. Town Manager Cabanel questioned the origin of the statistics. Councilor Rothhaus spoke of the accreditation process the department has gone off of in the past. Councilor Vaillancourt stated the desire to have a better understanding. She suggested staffing guidelines, etc. could be addressed before entering the budget process.

Town Manager Cabanel commented the statement comes as a surprise to her as she has not heard that statement be made previously. She stated she would speak with the Chief about what his perceived actual need is versus what the statistical information states. Councilor Vaillancourt stated her appreciation.

Councilor Dwyer stated the author of those numbers is the Federal Government. Every city and town throughout America, they punch in their numbers and say Merrimack should have 60 officers or whatever number. But the proof is the current and prior Police Chief have not gone along with those statistics, but instead come to the Council on a need basis, such as was done during the recent budget cycle, which resulted in an increase in force. The request was made based on crime, existing workforce, and the Chief's knowledge of the Town.

Councilor Vaillancourt reiterated the desire for a future agenda item to discuss the matter. Town Manager Cabanel stated she would request the Chief provide the information in writing, and would look to Councilor Vaillancourt to provide feedback as to whether the information sufficiently addresses her request or if she would like to the item to be placed on a future agenda to discuss in more depth. She noted, during the budget process, every department comes before the Council with requests based on

department needs. They make their pitch for the items requested regardless of whether or not they were included in the budget presented to the Council by her. Councilor Vaillancourt stated a letter would be a good starting point.

Councilor Koenig questioned if there is available information on how the program has performed in the past. He noted the information provided included the statement "We anticipate issuing one DWI arrest at each of the 20 six-hour sessions. Lt. Trepaney stated that to be the goal. When the officer is free from answering calls he is able to concentrate on traffic. That is a goal they try to reach. They are not successful in every enforcement effort, but the officers are out there and the visual presence is a traffic deterrent as well. Councilor Koenig questioned if there are records related to past efforts. Lt. Trepaney stated that information is retained, and has to be reported back as a requirement of the grant. Lt. Trepaney stated the officers have to complete an activity sheet for the patrols, which are submitted with the reimbursement request.

Councilor Koenig questioned if the officers assigned to this are only allowed to focus on DWI or serve as active patrol officers while on duty. Lt. Trepaney stated they are not answering calls unless there is a serious emergency that requires them to be pulled from patrol.

Chairman Harrington declared the Public Hearing open at 7:52 p.m.

No one from the public addressed the Council.

Chairman Harrington declared the Public Hearing closed at 7:53 p.m.

MOTION made by Councilor Boyd and seconded by Councilor Rothhaus that the Town Council accept and expend a grant from the State of New Hampshire Highway Safety Agency in the amount of up to Seven Thousand Five Hundred Sixteen Dollars and Eight Cents (7,516.08) to cover the total expenses for overtime selective traffic enforcement for Merrimack DWI/DUI patrols from June 1, 2015 until September 15, 2015, pursuant to RSA 31:95-b and Charter Article 8-15, and furthermore, that the Town Manager and/or her proxy be authorized to sign any and all documents necessary to perfect the grant. MOTION CARRIED 6-0-0

Legislative Updates from State Representatives - None

Town Manager's Report

Our Community Heroin Forum kicks off on June 29th at the Merrimack High School Little Theater at 7:00 p.m. Join community leaders from the Police Department, Courts, Public Health and more to discuss the epidemic affecting our community and strategies to address the heroin problem.

New Hampshire's "Hands-Free" Law takes effect July 1st. The law prohibits the use of mobile electronic devices while driving a vehicle. Merrimack's officers and officers throughout the State will be out in-force to address the problem of distracted driving.

Continental Paving will begin paving operations on Daniel Webster Highway and Baboosic Lake Road the week of July 6th. Work will include grinding and paving both roads. Hours of work on D.W. Highway will be 5:30 a.m. - 4:30 p.m. Please avoid the area, if possible, as delays should be expected. Additional information on the 2015 paving program can be found on the Town webpage under Public

Works. The section of D.W. Highway is from Chamberlain Bridge up to Reeds Ferry Lumber. The section of Baboosic Lake Road will be to the area just north of Independence Road.

Consent Agenda - None

Old Business

1. **MYA Financial Audit**
   Submitted by Finance Director Paul T. Micali
   To discuss the findings of the Merrimack Youth Association's June 30, 2014 financial audit.

Assistant Town Manager/Finance Director Paul Micali noted the attendance of Mr. Tom Thornton, President and Mr. Brian Harris, Vice President, Merrimack Youth Association (MYA). The audit came in after the Council's last meeting. A review confirmed what had been stated by the MYA; a Disclaimer of Opinion was received. Reviewing the Disclaimer of Opinion, it seemed, over the year, the MYA experienced difficulties with internal control procedures they were trying to implement. The Auditor made a few recommendations, which were included in the Council's packet.

Assistant Town Manager/Finance Director Paul Micali stated, following the Council's last meeting, he met with the MYA and its Executive Board regarding audit findings. They are committed to increasing the internal control procedures. They are conducting workshops, and have hired an individual until the August timeframe to help with this fiscal year's audit, which is ending June 15th. They are working towards getting their internal control structure in place. They are also working on other changes that were recommended by the Auditors such as the location and filing of documentation within the MYA Office. Incoming information from the individual programs will be required to be provided on a monthly basis.

Assistant Town Manager/Finance Director Paul Micali remarked having witnessed the commitment being made by the Executive Committee he made a few recommendations himself. Knowing the individual programs would be reporting monthly, he suggested the Town be provided quarterly reports of the MYA's financial statements. The reason being a great deal of analysis could be done. One of the issues identified in the report was the instance of a Program placing revenue into a particular revenue item, and due to the Treasurer having left, when the question was raised as to why the funds were placed where they were, no one was able to provide an answer. If the Town had received the information revenue ratios, etc. could have been done, which would have identified the problem much sooner. Another recommendation was to keep the lines of communication open between the Town and the MYA.

The Town is currently holding two quarters of payments (were waiting on the audit). If a change were to be made so that payments were made monthly, it would provide the Council a little more latitude when addressing issues that may come about.

Mr. Thornton stated Ms. Michelle Walters Byrne, past President, has agreed to stay on board through August until all of the financial issues have been resolved. The Committee would like to have on board a Treasure who is a CPA. Understanding it is a large job the position would include a stipend.

Mr. Thornton acknowledged the need for internal controls, and stated they are being put in place. The office will be equipped with filing cabinets, etc. for proper storing of financial records. The Town will be provided with quarterly financial reports. Vice Chairman Mahon commented on the past difficulties,

stated his hope things will continue to improve, and stressed the importance of the responsibility for financial controls.

Councilor Vaillancourt questioned if changing the payment structure from quarterly to monthly would increase the workload on the Finance Department. Assistant Town Manager/Finance Director Paul Micali responded the same amount of work would be required. When asked if the Town Council would have to vote on releasing the funds each month, he stated the need for the Council to consider withholding a payment would come into play if the MYA did not meet its reporting requirements to the Town, e.g., if the audit were not provided the Town by October 31st.

Councilor Dwyer requested Mr. Thornton identify the number of years he has been associated with the MYA. Mr. Thornton stated it to be a little over 10 years. Councilor Dwyer expressed his gratitude for Mr. Thornton stepping up to take on the responsibilities associated with his role. He also noted appreciation for the Committee taking the Treasurer position seriously and acknowledging the need for a stipend.

Councilor Koenig spoke of the importance of continuing to see forward progress. He stated frustration with the audit report coming out as poorly as it did. However, is appreciative of the MYA taking on that responsibility and making a serious effort. He commented on the need for progress to be seen to avoid the Town having to engage in serious discussion about where we go from here when the contract comes back up. It is in a balance at this point, the MYA is aware of that, and is in control of moving this ship forward.

Assistant Town Manager/Finance Director Paul Micali stated consideration of modification of the contract would be on the agenda for the Council's next meeting. He questioned the will of the Council with regard to the monies currently being held. Vice Chairman Mahon remarked, since the obligation has been met (audit provided), at this point, the MYA is no longer out of compliance with the contract.

Councilor Dwyer commented although the Council may not have liked the results of the audit the point was for it to be completed. He stated his support of releasing the funds. Councilor Boyd questioned if release of funds should be a specific agenda item noting, in the past, when the issue has been discussed, there have been specific agenda items as it relates to the audit compliance tied to the disbursement of the check.

Vice Chairman Mahon stated both items could be placed on the agenda for the Council's next meeting.

Councilor Vaillancourt remarked it was just stated they are in compliance, and it was noted if the MYA is in compliance there is no need for action by the Council. Councilor Koenig stated technically they are not in compliance; the audit was due back on August 31, 2014. The Council has not chosen to cancel the contract. He stated his opinion there is the need for the Council to determine whether it will continue to go forward and carry the contract as is or not. He reiterated they are far out of compliance, and he wished to make it very clear that going forward we need to work better and stronger to stay in compliance instead of falling out of compliance for 9 months and then coming back and finally getting something in.

Councilor Vaillancourt asked for clarification, if that is the case and they are out of compliance, there is the need for an agenda item and a formal vote to release the funds. Councilor Boyd stated the Council did vote to withhold payment because they weren't in compliance. It only seems fitting to close the loop as it relates to process.

Councilor Dwyer stated his belief the motion was to withhold the funds until the audit was provided. The reason for withholding the funds was understood. He stated his opinion it is not necessary for it to be an agenda item. Assistant Town Manager/Finance Director Paul Micali stated the motion to have been to withhold payment until the audit was received. Councilor Vaillancourt remarked there is an agenda item tonight, and it would be appropriate if a member of the Council wished to make a motion to release the funds at this time.

MOTION made by Councilor Rothhaus and seconded by Councilor Dwyer to allow the disbursement of funds to the MYA in the sum of Thirty Six Thousand Dollars ($36,000).
MOTION CARRIED 5-1-0
Councilor Boyd voted in opposition

Councilor Boyd stated his opposition to be strictly related to a procedural matter not for non-compliance.

New Business

1. **Committee Appointments**
   Submitted by Town Council Chairman Nancy Harrington and Vice Chair Tom Mahon
   The Town Council to consider appointing the following individuals to Town committees, pursuant to Charter Article 4-8:

   Robert McCabe - Agricultural Commission (Full member)
   Bess-Arden Parks - Agricultural Commission (Full member)
   Pete Gagnon - Agricultural Commission (Alternate member)
   Susan Lee - EDCAC (Full member)
   Kristen Newhall - Heritage Commission (Full member)
   Michelle Cushman - Parks & Recreation Committee (Full member)
   Julie Poole - Parks & Recreation Committee (Full member)
   Jackie Flood - Town Center Committee (Full member)

MOTION made by Councilor Boyd and seconded by Councilor Koenig to reappoint Robert McCabe as a Full member to the Agricultural Commission, pursuant to Charter Article 4-8.
MOTION CARRIED 5-1-0
Councilor Rothhaus voted in opposition

MOTION made by Councilor Boyd and seconded by Councilor Dwyer to reappoint Bess-Arden Parks as a Full member to the Agricultural Commission, pursuant to Charter Article 4-8.
MOTION CARRIED 6-0-0

MOTION made by Councilor Boyd and seconded by Councilor Koenig to reappoint Pete Gagnon as an Alternate member to the Agricultural Commission, pursuant to Charter Article 4-8.
MOTION CARRIED 6-0-0

Oath of Office administered to Pete Gagnon by Vice Chairman Mahon.

DRAFT

MOTION made by Councilor Boyd and seconded by Councilor Koenig to reappoint Susan Lee as a Full member to the Economic Development Citizen Advisory Committee, pursuant to Charter Article 4-8. MOTION CARRIED 6-0-0

MOTION made by Councilor Boyd and seconded by Councilor Dwyer to reappoint Kristen Newhall as a Full member to the Heritage Commission, pursuant to Charter Article 4-8. MOTION CARRIED 6-0-0

MOTION made by Councilor Boyd and seconded by Councilor Dwyer to reappoint Michelle Cushman as a Full member to the Parks & Recreation Committee, pursuant to Charter Article 4-8. MOTION CARRIED 6-0-0

Oath of Office administered to Michelle Cushman by Vice Chairman Mahon.

MOTION made by Councilor Boyd and seconded by Councilor Rothhaus to reappoint Julie Poole as a Full member to the Parks & Recreation Committee, pursuant to Charter Article 4-8. MOTION CARRIED 6-0-0

MOTION made by Councilor Koenig and seconded by Councilor Boyd to reappoint Jackie Flood as a Full member to the Town Center Committee, pursuant to Charter Article 4-8. MOTION CARRIED 6-0-0

Councilor Boyd thanked the individuals for volunteering to serve, and their commitment to the community.

2. Proposal for Disc Golf Course at Wasserman Park
Submitted by Parks and Recreation Director Matt Casparius
Town Council to consider the proposal of a group of residents interested in establishing a disc golf course at Wasserman Park. This course would be privately fundraised for and then donated to the Town of Merrimack to become a new amenity for the Town.

Mr. Chris Mergemekes stated he is a resident of Bedford, NH, and has been working closely with the Director of Parks and Recreation on this project.

Town Manager Cabanel stated the proposal was presented to the Parks & Recreation Committee on May 20, 2015. The Committee voted to recommend approval of a disc golf course at Wasserman Park.

Mr. Mergemekes stated the proposal to be for an 18-hole disc golf course. The intent is for the entirety of the project to be privately funded through donations and possible grant opportunities through the New England Flying Disc Association, which is a time-sensitive application, and would require 8 of the baskets to have already been purchased. He stated he has soft funding commitments from various clubs and area private individuals. Minimal maintenance is expected to be required, and anticipated to be mostly cleaning of trash disposed of improperly. He commented there are a greater number of those who clean up after others than there are those who liter. As identified in the proposal, a donation pole is recommended.

The disc golf course would be another amenity for the day camp at Wasserman Park, which Matt Casparius, Director, Parks and Recreation, has been looking for. It would be an activity for all ages.

Vice Chairman Mahon commented the course would be designed around the athletic fields located next to the function hall. Mr. Mergemekes stated the layout in the proposal is temporary until feedback has been provided by Director Casparius, users of the course, etc.

Councilor Dwyer noted Director Casparius was unable to be in attendance. However, as a member of the Parks and Recreation Committee, he could state Director Casparius was very enthusiastic about this. The group proposing the course would use a lot of existing trails within Wasserman Park. Their efforts towards private funding and putting the project together have garnered a lot of support from the Parks and Recreation Committee, particularly Director Casparius, who would be supervising it. The proposed project would not involve any tree cutting, etc. Part of the fun is being in the woods and on some of the trails. These types of courses do not seek out open fields of grass. The challenge and the fun of the sport is that it takes place in the woods. Mr. Mergemekes noted the plan would be to include some forward tee pads for kids.

Mr. Mergemekes spoke of the anticipated budget, noting the figures came from a course that was put in a few years ago in Devons, MA. The two main features of a disc golf course are baskets and tee pads. The additional infrastructure includes signage, benches, and a kiosk for posting of course rules, park rules, hole sponsorship signage, etc. Vice Chairman Mahon noted hole sponsorship is a source of revenue for the development and maintenance of the course. The total estimated budget is $13,670.

Councilor Koenig spoke of the photo that was in local newsprint and in the packet provided the Council, which shows a completely wooded area. He questioned if the existing trails would require expansion, additional maintenance, etc. He also questioned if there were concerns with users wondering off the trails chasing discs. Mr. Mergemekes remarked the current state of the property indicates it has been pretty well logged. A lot of the holes won't need any clearing at all. There may be some that may need some minor limbing or underbrush, but nothing major. If a disc goes off the fairway, users will want to retrieve it. He commented he did not see any areas that would be of concern with regard to cutting. Councilor Koenig questioned if there is anything special that is required to maintain paths, etc. Mr. Mergemekes stated there is not.

Mr. Nathaniel Fairbanks, 5 Sandhill Drive, stated the amount of foot traffic that a well-designed course will get will naturally keep the foliage in the fairways down. Occasionally people will put mulch near the basket or tee pad if they had taken trees or limbs down. That is done on an as needed basis.

When asked, Mr. Mergemekes stated he expects the course would be very popular. Mr. Fairbanks commented on the proposed location, e.g., near the outlet mall, and the fact this area of New Hampshire is not very well represented in terms of disc golf courses should make it a fairly popular course. In terms of an upwards cap, the course at Devons, which is two 18-hole courses, has a league that averages 60-70 players every Wednesday evening. That is a little above and beyond the size of a group that might be expected regularly in Merrimack. He added he would not be surprised if, on a weekday evening or weekend, there would be 20 people seen at a time on the course.

When asked, Mr. Mergemekes stated it to be a self-policing community. Mr. Fairbanks spoke of a 9-hole course in Burlington, MA that was funded by the Parks & Recreation Department in order to push out some undesirable activities in the park. They have been very successful in doing that, and have expanded and expended more resources in developing that disc golf course over the years. Mr. Mergemekes spoke of having been involved in the course constructed in San Francisco in Golden Gate Park, which had the same affect.

Councilor Koenig questioned the types of discs that would be used. Samples were provided. Mr. Mergemekes stated there to be different molds; drivers (flatter/harder), mid-rangers (rounded/wider), and putters (smaller/softer). Councilor Koenig questioned if there is concern with the safety of others in the area. Mr. Fairbanks stated it is a concern, and pedestrians always have the right-of-way. Most disc golfers know that, and if they don't and another disc golfer sees somebody throwing, they will be told. Mr. Fairbanks remarked the design of the course takes into account the heavy pedestrian traffic areas and things such as the placement of the dog park, etc. Discs won't be thrown towards areas where a group of people could be expected to be congregating.

Mr. Mergemekes stated his highest priorities to be safety and courtesy to the neighbors. Councilor Koenig questioned who creates the rules and regulations. Mr. Mergemekes stated he and Mr. Fairbanks have been working on a list, which will identify course rules, park rules, etc. Councilor Koenig quested if the established rules would be presented to the Parks and Recreation Committee for approval. Mr. Fairbanks commented that would make sense. He spoke of the need to appear before the Parks and Recreation Committee with regard to signage, etc.

Councilor Boyd questioned, and was informed it is only the areas of the beach and the new parking lot that leads to the beach that are designated for Merrimack residents only.

Mr. Mergemekes remarked at the Hollows Disc Golf Course in Manchester, they have a dedicated parking area for the course. Councilor Dwyer suggested that to be a good idea. Councilor Boyd noted the area proposed for the 1st hole and its proximity to the dog park, which would lead him to believe there would be shared vehicular traffic of people accessing the dog park and the disc golf course. Councilor Koenig noted the dog park is not restricted to Merrimack residents only. Vice Chairman Mahon remarked at some point the Parks and Recreation Committee will have to come before the Council identifying the need for changes.

Councilor Rothhaus commented he is a firm believer if something doesn't work the Council can change it. He stated his support of the proposed project. Councilor Dwyer reiterated Director Casparius is behind the project, and will address any issues that arise. Councilor Boyd commented, when Director Casparius provided the Council with his laundry list of ideas for Wasserman Park, disc golf was on that vision statement.

MOTION made by Councilor Boyd and seconded by Councilor Dwyer that the Town Council authorize and establish a disc golf course at Wasserman Park knowing that the entity will be privately funded with the goal of the disc golf course becoming a new amenity for the Town, and that Messrs. Fairbanks and Mergemekes be invited back to present the final product to the Council

ON THE QUESTION

Vice Chairman Mahon asked for clarification all member of the Council are all of the understanding this is under the purview and management of the Parks and Recreation Director and the Parks and Recreation Committee. Councilors stated agreement.

Councilor Koenig noted the motion states the project should come before the Council once the final product is designed, and questioned, if it is the purview of the Parks and Recreation Department and the Park and Recreation Committee, is there a need for another review by the Council.

Councilor Boyd questioned if the Council was simply approving the concept and delegating it. Vice Chairman Mahon stated if donating the equipment and all other items to the Town, then at some point they would have to come back before the Council for acceptance under Charter Article 8-15 and RSA 31:95-b.

MOTION CARRIED 6-0-0

3. Updated Investment Policy

Submitted by Finance Director Paul T. Micali

The Town Council to review and consider the approval of the Town's investment policy in accordance with RSA 41:29 IV and RSA 41:9 VII.

Assistant Town Manager/Finance Director Paul Micali stated last year, during the audit, it came to light he had not been bringing the investment policy forward to the Council for approval. State RSA requires that be done yearly. The investment policy the Town has been using dates back to 1984. It was put in place by the former Trustee of Trust Funds and former Finance Director, and has served the Town well. He remarked when he goes to invest the Town's money with the Treasurer it is 100% collateralized. A change was necessary because Federal insurance has changed from $125,000 to $250,000. That is the only change to the policy that has been seen over numerous years. The policy provides the Finance Director and the Treasurer criteria to be followed when looking to invest additional funds for investment periods such as CDs and savings accounts. If going to a bank it is necessary for the financial institution to provide their 10c. They are rated on numerous categories to determine if they are credit worthy enough to place Town funds with.

Councilor Koenig spoke of being aware of the policy, and stated his belief it has come before the Council or Selectmen since 1984. Assistant Town Manager/Finance Director Paul Micali clarified it has been brought before the Council for approval. It has not been updated since 1984. The Trustee of Trust Funds and the Town of Merrimack previously had a dual policy. The Trustee of Trust Funds broke off and did their own investment policy about two years ago, and since the investment policy was not changing, he did not bring it forward to the Council. He reiterated the requirement for approval on a yearly basis.

MOTION made by Councilor Boyd and seconded by Councilor Koenig to approve the Town's Investment Policy in accordance with RSA 41:29 IV and RSA 41:9 VII. MOTION CARRIED 6-0-0

4. Withdrawal of Capital Reserve Funds for Merrimack Communications

Submitted by Finance Director Paul T. Micali

Town Council to consider the authorization of the requested and recommended withdrawal of Capital Reserve Funds in the amount of $13,268.90 for a new voting system and antenna for Merrimack Communication's Fire Rescue radio system.

Assistant Town Manager/Finance Director Paul Micali stated the Fire Department has been experiencing difficulties communicating with their radios. Lt. Trepaney has been working with Ossipee Mountain, the communication provider, to identify the problem. A Purchase Order was just put out for $64,000 for a microwave to help with part of the system. In the FY17 budget, the remaining upgrade of the communication system will be brought forward. However, with the problem the Fire Department is experiencing with their radios it is believed important to get this problem addressed.

Lt. Trepaney informed the Council of having met with the vendor and the Fire Department to discuss the issue. The problem was identified as the voting system for the Fire Department repeater system. The voting system is a central unit that accepts signals from receivers positioned around Town. We have 5 receivers that receive signals from the portable and mobile radios of the units in the field. When they key their mic, whichever receiver picks up the stronger signal is the one that the voter relays through the microwave link out to the other units to be heard.

That is central to the system as far as picking up the strongest signal and transmitting it. That is failing. The cost to repair the existing voting system has been quoted at $3,500 - $4,000. This is something that has been looked at as part of the upgrade. The overall radio system is coming up on 20 years old. Failures are expected. Minor problems have been addressed. Replacement of the voting system was slated as part of the major project for which monies are being allocated to capital reserve funds.

Replacement of the voting unit, with the new system, would be $6,700, which includes labor and installation. The recommendation by the vendor was to move forward on this portion of the project and the replacement of the antenna that synchronizes all of this.

Councilor Koenig remarked expending $6,700 at this time rather than the $4,000 for the voting system makes a lot of sense if you are going to replace it in the next couple of years anyway. Rather than repair it, go ahead and expend the money now, and get the new equipment, which will be compatible with anything that is done in two years. He questioned the cost of the antenna.

Lt. Trepaney stated the antenna is also a source of failure. Antennas corrode over the years. The existing antenna is also coming up on 20 years old. They replaced the Police Department antenna two years ago. Councilor Koenig commented most of the argument in the backup material suggested the voting system needed to be replaced, and then suddenly they threw in the antenna at the end without any further explanation. Lt. Trepaney stated that to have been a concern they were looking at initially. When the recent meeting was called to discuss the problems that were being experienced, they identified the additional problem with the voting system. The antenna was already on the table.

MOTION made by Councilor Boyd and seconded by Councilor Rothhaus that the Town Council authorize and recommend withdrawal of Capital Reserve Funds in the amount of Thirteen Thousand Two Hundred Sixty Eight Dollars and Ninety Cents ($13,268.90) for a new voting system and antenna for Merrimack Communication's Fire Rescue radio system, and that the Town Manager and/or her proxy be authorized to sign anything necessary to perfect the transaction. MOTION CARRIED 6-0-0

5. Legal Fees Associated with Kinder Morgan
Submitted by Town Councilor Dan Dwyer
The Town Council to review the total cost of legal fees paid to date in association with the proposed Kinder Morgan pipeline project.

Councilor Dwyer spoke of having been on board with identifying a dollar figure for anticipated legal expense associated with the Town's efforts to ensure Kinder Morgan and the subject matter of the proposed NED pipeline would be treated properly. At that time, $25,000 was identified as a starting point. He stated the Town has expended $35,856 on legal fees on this matter as of May 31, 2015.

He stated he wished to put the information in front of the Council to generate discussion with regard to where this effort may be going. He expressed the desire for an in depth discussion at an August meeting

to cover subjects such as is the Council willing to consider placing a cap on legal expenses and what that might be, etc.

He noted the question asked during the public comment period with regard to what we are getting for our money. He stated his belief it would not be wrong of the Council, at this point, to state further questions cannot be answered until the September/October timeframe when Kinder Morgan finally presents their proposed route. Legal counsel is taking the lead from the Town, and it may be time for the Council to look at what we are getting in value for our dollars.

Vice Chairman Mahon remarked not only is it the $35,000 for legal fees, it is the $31,000 contract the Conservation Commission has with their consultant to conduct work, e.g., Environmental Impact Study, which is being paid for through Conservation funds. The Sewer Department has expended $3,000 - $5,000 on technical analysis for the impact of the pipeline. That is being covered by the rate payers. The Merrimack Village District (MVD) has expended approximately $3,000 - $5,000 to date. That is paid for by ratepayers.

Moving forward, there will likely be additional costs for the Sewer Department and the MVD in terms of the different things they will have to review and do in order to satisfy their questions regarding the impacts of the pipeline. The Conservation Commission may extend that $31,000 contract if the consultant is asked to be present at scoping meetings and other public meetings with FERC where he may be needed to testify as an expert on environmental issues.

Councilor Rothhaus commented he believes it a good conversation that should be had sooner than later. He noted the figures cited do not include staff time, which is substantial. He remarked when the process began he wanted to ensure all of our bases were covered so that we could put on the table to FERC exactly what our concerns were with the route through Merrimack. That work he believes to be pretty much completed. The only outstanding issue at this point, he believes to be the Survey Access Agreement. He stated his opinion there is the need for further discussion to gain a better understanding of what has to occur, but at this point, he believes we are at a point where we could ease back.

Town Manager Cabanel stated she is not particularly liberal with the use of legal counsel. She tries to do a lot herself. That is why a good deal of her time has been consumed by the issue. She spoke of the meeting between Liberty Utilities and the NH PUC, which is slated for September, and the need for counsel to advise the Town on what the outcome of that means. Councilor Rothhaus stated his belief Attorney Tourangeau has been a consummate professional, and is good at what she does. Councilor Dwyer stated his agreement Attorney Tourangeau has been outstanding and has provided great advice.

Councilor Vaillancourt stated her appreciation for the agenda item as she believes it valuable for the Council to have this discussion. She commented on the Council's action to identify the $25,000 dollar amount, and remarked no one could plan for what was going to happen and what would be required of legal services. She added she is not sure joining the Coalition with a single attorney would be less expensive than what is being done now or if it would be more valuable to Merrimack or accomplish more than what has already been accomplished.

Councilor Vaillancourt stated she is personally resentful that tax dollars are being spent like this and that Town staff is required to spend such a large amount of time on this issue, but it is necessary. She echoed the comments made regarding the great work that has been and continues to be done by the Town Manager. She stated her belief if Merrimack is going to protect its rights this work needs to continue.

Councilor Vaillancourt remarked she is resentful, and has let her elected officials know that she is resentful. She encouraged Merrimack residents to do the same. She believes they need to be reminded the people that they were elected to represent are spending very hard earned tax dollars on this matter.

Town Manager Cabanel informed the Council the Town Manager of Milford made her aware the FERC has tentatively scheduled a scoping meeting at the Milford Town Hall on July 30th from 6:00 - 11:00 p.m. She questioned if any other scoping meetings had been scheduled, and he was not aware.

Councilor Koenig stated agreement the advice and information the Council has received from legal counsel has been very good. He stated appreciation for that and the work the Town Manager has put in to avoid the need for legal counsel to review documents, etc. He questioned what can be done relative to the NH PUC and Liberty Utilities. Although it would be nice to understand what transpires, he does not see how Merrimack could change the actions one way or another.

Councilor Boyd stated the contrarian piece to that would be if Liberty Utilities is not approved, Kinder Morgan's mouth would drop as well. They have to satisfy the need with the FERC that there are contracts out there to provide. Councilor Koenig reiterated Merrimack will not change that one way or another. Councilor Dwyer stated the contrary opinion to that is the real national level of how this thing kind of starts. This is a five-year plan. This is the biggest pipeline project in America; 450 miles. It is the nucleus of the Department of Energy who put out for the lack of a better term this Request for Proposal (RFP) to all companies in the world to do this pipeline. Kinder Morgan is the one that stepped up. This is beyond local town politics, beyond Senator Shaheen, it developed in the Department of Energy. Kinder Morgan answered the call. Marcellus fields, they want that gas mined, they want it brought out to the East Coast. They talk about Spectra being competing interest. Spectra's pipelines that fall down in Massachusetts, they are looking for more capacity and the only way they can get more capacity is a pipeline running from the Marcellus fields. These guys are friends, they work in unison feeding off of each other's networks.

Councilor Vaillancourt responded you are right, and I don't disagree with you, but Massachusetts had this pipeline slated to go through the northern part of their state and it is not anymore, it is coming through New Hampshire. To say that an individual state has absolutely no sway or no voice, that is the part of the statements she disagrees with. She stated she will go to her grave believing if we put enough pressure on our State Government and we make enough noise we do have a chance to have some influence.

Councilor Dwyer countered the politics and the nature of the Commonwealth of Massachusetts proved to be too litigious. He commented he likes to read between the lines. They wanted to have rallies and people think look we won and we kicked it out of Massachusetts. He is not sure they deserve that much credit or the lesser of two evils was the 80-mile power corridor; the path of least resistance.

Town Manager Cabanel commented she is unclear of the affect, but Liberty Utilities is adding into the portfolio that Tennessee Gas is counting on in order to justify the pipeline, 115,000 dekatherms/day of the 500,000 dekatherms/day that they are touting as being committed. If the PUC denies; Liberty Utilities does not in fact have the users or sufficient customers to use that 115,000/dekatherms of natural gas it may change the way the route goes. New Hampshire does not need to be served if the PUC says it does not need to be served.

Vice Chairman Mahon stated the testimony already given to the PUC is that they want two taps, and that is why they are partnering with Kinder Morgan and Tennessee Gas because they want a tap out in the western part of the State so they can get into Keene and another so they can expand their coverage literally up the center of the State, from Nashua to Concord.

Speaking with regard to comments made concerning what occurred in Massachusetts, Vice Chairman Mahon suggested consideration be given to the possibility that they went in there knowing they were going to lose so they could move it north. He does not believe they did not know about Chapter 79 and all of the other environmental issues that go on in that state before they drew up that plan.

Councilor Rothhaus remarked if this conversation was about getting our arms around the cost and how we might be very efficient about future costs, he is not sure where the discussion will lead, when it should take place, etc. He believes the Town Manager understands the Council does not wish to expend the funds, and he is not sure what further discussion is required. If waiting for two months another $30,000 could be expended.

Councilor Boyd remarked knowing what we know now provides the Council a unique opportunity to sit down with counsel and really map out the next 3-4 months to determine where legal counsel's value is in this process, e.g., can we keep her on retainer just so that she doesn't go anywhere else and can she say this is going on at the PUC, Merrimack needs to be a part of this, etc. Coming down the pike is the issue with Liberty Utilities and the PUC and the route that is eventually going to go to the FERC. We should at least get to that point and then assess with counsel whether we want to go through the whole kit and caboodle with the application process. At the onset, his desire was for the Town to have an attorney that talked FERC that would be able to walk in there and represent our interest. He still believes that.

Town Manager Cabanel noted Kinder Morgan will be presenting a larger environmental report to the FERC. It needs to be read and interpreted. The FERC will be responding back with questions, and that needs to be interpreted. Councilor Rothhaus commented when that 1,000 page report is received, numerous hours are spent reading through it to, and an error is found on page 575, paragraph B, how much are we going to spend to make that correction, and what impact will it truly have in the total scheme of things? The way he sees it, we have done that homework already, that due diligence has been performed, and we have put on the table for our community what we see as impediments to the proposed route. He does not know that there is the need to spend that much more at this point in time.

Town Manager Cabanel questioned if the Council wished to discuss it at the Retreat. The response was they would have to.

Vice Chairman Mahon remarked the issue with the PUC is one the Town is out of. We needed to be involved with that when it opened so that we could have intervener status. We were not aware of that until late last year/early this year. We're left with looking at the second environmental assessment and preparing for the scoping meeting, at which we will present testimony. That is where they will pick up all of the environmental information that they need to be able to put together their Environmental Impact Statement. From his perspective that is what he sees as major expenditures at this point; reviewing the second environmental assessment and being prepared for the scoping meeting.

Councilor Boyd noted the Council allocated $25,000, which has been exceeded. He questioned if an action of the Council was required to address the overage. Assistant Town Manager/Finance Director Paul Micali stated the allocation of $25,000 comes from the FY16 budget, which begins July 1st. What

has been expended to date was out of last year's budget. It is being covered through savings achieved in salary line items.

Minutes

Approve the minutes from the June 11, 2015 Town Council meeting.

The following amendments were offered:

Page 10, Line 13; replace "has" with "gas"
Page 10, Line 6; replace "Hoffman" with "Huffman"
Page 11, Line 49; add "it is" after "She stated"
Page 12, Line 17; replace "god" with "good"

MOTION made by Councilor Boyd and seconded by Councilor Vaillancourt to approve the minutes of the June 11, 2015 Town Council meeting as amended. MOTION CARRIED 6-0-0

Comments from the Press - None

Comments from the Public

Carol Dipirro, 10 Cambridge Drive

Commented we all resent this, and this is part of their game; they are trying to wear us down. We are fighting the 800lb gorilla. She stated she is not married to the idea of joining the Coalition, it was only a suggestion. There is the need to figure out what is right for Merrimack. She does not want Merrimack to stop fighting. We may have to pick and choose our battles, but the members of the Council all voted against this, and she hopes the fight will continue. She commented she realizes it is a lot of money, but there are also a lot of individuals putting a lot of their own personal time into this. It is hard to put a value on what everyone across the State is putting in. That is what is infuriating about Senators Ayotte and Shaheen still saying we need natural gas. They need to back us up. The more aggravated we all get, the louder our voices will get.

Wendy Thomas, 10 Wildcat Falls, Merrimack

Commented Ms. Dipirro calls it an 800lb gorilla, she calls it death by 1,000 cuts. This is Kinder Morgan's M.O. They've got tons and tons of money. They will fight us every single step. That is what they do. We have to go out and hire lawyers, and they just sit back. She commented she has a way to save money right now; don't let them survey in the Town. She spoke of the money being spent refining the Survey Access Agreement. The Council voted against the pipeline, and she believes Merrimack is the only Town that is allowing surveying. Although she has heard reasons for allowing the survey, it doesn't resonate with her. People in Town that know about this don't want it.

She questioned if the letter regarding the recent issue at Peaslee Road would be drafted by legal counsel, and was informed it would be. Ms. Thomas stated there are no repercussions. The Town is saying please don't do this, follow the rules, but you are not saying if you do this again we are going to kick you out of Town. Town Manager Cabanel stated that is what the letter will say.

Ms. Thomas spoke of the language in the Survey Access Agreement, which does not include any penalty.

Councilor Boyd stated the penalty is you leave Town. The Council cannot assess any type of penalty beyond that. Ms. Thomas stated she is not hearing that. Councilor Boyd noted Vice Chairman Mahon mentioned the remedy several meetings ago. He commented the question was brought up previously, and Vice Chairman Mahon stated the penalty is they leave Town. Ms. Thomas stated "but they are back". What is their argument; we made a mistake.

Councilor Dwyer stated he has tried to explain you can't kick these people out. They have Federal laws behind them. To answer the direct question of why shouldn't we say no; because if we say no we get pennies on the dollar in appeal 2-3 years from today. That is what happens when you don't cooperate in letting them survey your land. If you say no, you get nothing. Then you sue them and fight and then the Federal Government does their eminent domain and then we get pennies on the dollar for all that Town land, and it gets you nowhere. The pipe will still be in the ground and we get nothing. If you want to be that individual homeowner and say no, then okay, but we're responsible for the whole Town. Tax dollars paid for the Horse Hill Nature Preserve (HHNP). He does not want to end up getting pennies on the dollar for their going through the HHNP. He would want to get fair market value because the taxpayers purchased that land with millions of dollars. We can't kick them out.

Ms. Thomas stated she heard what he was saying, but every other town is disagreeing. Councilor Dwyer responded let them; history will prove him right. You cannot kick Kinder Morgan out. They have the right to survey the land. Ms. Thomas stated she does not believe they do have the right. Vice Chairman Mahon stated, if they get their Certificate, they can. Councilor Vaillancourt remarked she has stated it before personally, she does not believe the Town should allow the survey. She understands the reason why the Council agreed to it. Even if we said no you can't survey she personally does not believe that would have stopped them from being on Peaslee Road this week. She stated her belief they will do whatever they want to do regardless of what we say. The reason we know about what happened on Peaslee Road is because somebody came forward and provided her the information, which she passed along to the Town Manager who addressed it. She encouraged more people, if they see them and know they are not supposed to be there, to let someone know.

Ms. Thomas stated a desire to remind the Council, Kinder Morgan is also responsible for the safety of the highway, and they have a horrendous safety record. She commented the highway is not just a highway it is going through people's properties, through residential drinking water, conservation land, Town property, etc.

Carol Dipirro, 10 Cambridge Drive

Stated her belief our State Government just passed something to try and force them to buy land rather than having a small easement. She suggested that is a perfect example of how we can fight back and maybe not get pennies on the dollar. She does not understand why the Town would allow them to survey, and it does appear to be costing us a lot of money that does not need to be spent. She questioned why we are letting them survey our land.

Councilor Dwyer stated if you let them survey your land you're involved in the process. It then gives you the opportunity and the power to show them all of your areas of concern. It is very simple why you would want them to survey your land; you can point out the location of your well, swimming pool, vernal pools, etc. This is what the process is about. If you don't want a survey then you are out. No

matter what you have been told by other people, if you are not cooperating then you are out of the process, and they are going to steamroll right over you. We decided, as a Council, that we weren't going to play that card that we are going to cooperate from the beginning. That was the legal advice we received as well. We would be going against our own attorney's advice. The best advice she gave us was try to be involved in this process.

Councilor Dwyer commented it is an extremely difficult mountain to climb. The laws in this Country have been made precisely to thwart local involvement.

Councilor Vaillancourt stated there are two legal opinions about surveying, and they are both valid and both backed up with precedent, case law, etc. She stated her belief the Council has really explained repeatedly why they have allowed it. You can agree or disagree with it, and it is absolutely your right to come up again knowing there is not an agreement and say I would like for you to reconsider, but to keep asking why is not a good use of everyone's time. If someone were to seriously want the Town Council to reconsider, she suggested an agenda item be requested asking the Town Council to put it to a vote. She stated she is not interested in taking away anyone's voice as she believes individuals have a right to come before the Council, but to constantly ask why did you allow it, she thinks it has been explained.

Ms. Dipirro stated she had not heard it quite so clearly.

Comments from the Council

Councilor Rothhaus stated if you do not participate in the survey you will lose. That is what happened to a farm that belonged to his mother-in-law and her family. It is the way it is. They actually drove someone out here to talk to her, and she said I'm not even interested in hearing what you have to say, go back home. And then all of a sudden the property was gone. Councilor Dwyer stated those are the stories he has heard over and over again from people who know.

Councilor Dwyer commented, as the Town Manager just said, Federal law trumps State law. That is just the way it goes. He spoke of the volunteers who have done a lot of research, and requested they research whether Kinder Morgan or any other gas line company has ever submitted an application to FERC that was ultimately denied. His research said no.

As long as Kinder Morgan does the things the FERC has told them to do, they are going to get that permit. They have seen water, they have seen sewer interceptor lines, they have seen endangered species, and they deal with it. There is nothing that is unique in Merrimack that hasn't been done across America to some other pipeline or some other power grid company on a host of different energy issues.

Councilor Vaillancourt suggested the Council not rub salt in the wounds. Councilor Dwyer responded he was trying to make people's expectations a little bit more reasonable. Councilor Vaillancourt remarked sometimes less is more.

An unidentified member of the public requested the opportunity to make a statement. Vice Chairman Mahon responded the Council had moved on in the agenda, and was under Comments from the Council. The unidentified speaker continued by stating the Council should not give up. Vice Chairman Mahon stated that has not been said. The unidentified speaker continued by stating her point is when they spoke to Shaheen's Office and Ayotte's Office they ended with this process needs to change. It may not change for this pipeline, but the process isn't right. Just because that is the way it has worked does not mean we stop these conversations. You don't give up.

Councilor Dwyer responded he would like to think he hasn't. He remarked he has put his money where his mouth is on the vote. He is unsure what more he can do. The unidentified speaker continued by stating in Whittier they have put a lot of money where their mouth is.

Councilor Boyd thanked Councilor Dwyer for bringing the agenda item forward, and remarked he believes it an important conversation. He stated he does not feel comfortable with the idea of giving up Merrimack's legal representation and signing on with the Coalition and their counsel. Merrimack is the largest community in the project, and we need to figure out a way to find a sensible solution for us that financially makes sense so that we can be a part of that process and able to represent the interests we feel need to be represented at that level.

Vice Chairman Mahon informed the viewing audience the Annual Field Day for the Nashua Area Radio Club would be held over the coming weekend. The club participates in a national program on an annual basis for emergency preparedness. The event will be conducted at Wasserman Park beginning at 2:00 p.m. on Saturday and ending at 2:00 p.m. on Sunday.

Adjourn

MOTION made by Councilor Dwyer and seconded by Councilor Boyd to adjourn the meeting.
MOTION CARRIED 6-0-0

The June 25, 2015 meeting of the Town Council was adjourned at 9:45 p.m.

Submitted by Dawn MacMillan

DRAFT