



Town Council Meeting Minutes

Thursday, June 26, 2014, at 7:00 PM, in the Matthew Thornton Room



Chairman Harrington 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 Mahon, Councilor Rothhaus, Town Manager Eileen Cabanel, and Finance Director Paul Micali.

Pledge of Allegiance

Members of Boy Scout Troop 15 lead in the Pledge of Allegiance.

A moment of silence was observed in memory of David G. Yakuboff, Sr. and Ruth Liberty.

On behalf of the Merrimack Town Council, Chairman Harrington extended deepest sympathy to the family and friends of Ruth Liberty who passed away on Wednesday June 25, 2015 at the age of 94. Ruth was extremely dedicated to the community where she was the Supervisor of the Checklist as well as the Deputy Town Council and Deputy Tax Collector. She also served as a member on the 250th Anniversary Committee, the Heritage Commission, the Historical Society, and was the driving force behind the Summer Concert Series. The pathway leading to Abbie Griffin Park was named Liberty's Way in honor of Ruth as she was instrumental in raising funds for the Merrimack Community Bandstand and Abbie Griffin. The Council's thoughts and prayers are with her family.

Chairman Harrington remarked during this first meeting since the passing of the Council's beloved Chairman, David Yakuboff, the sadness of his absence is felt by all. She remarked she is confident there are thoughts many of the Councilors would like to express, and requested the Council hold off on those expressions until the conclusion of the meeting.

She stated the need to address the harsh reality of decisions as a result of Chairman Yakuboff's passing. It was noted the items submitted for the agenda by Chairman Yakuboff continue to be identified in that manner. The official vacancy determination and procedural process will be discussed during new business. The discussion of Chairman and Vice Chairman was placed at the end of the agenda. In the meantime, the Council will proceed as Chairman Yakuboff would want; make the wise and fair decisions we are responsible to do.

Announcements

Town offices will be closed on Friday, July 4, 2014 in observance of Independence Day. Merrimack's July 4th festivities will include the following: Sparkler 5K Road Race and Walk; 8:00 a.m. at the Merrimack YMCA, 6 Henry Clay Drive, Rotary Club of Merrimack's Annual Pancake Breakfast; 8:00 - 11:00 a.m. in the Merrimack High School Cafeteria, 38 McElwain Street, the Merrimack Rotary Family Day; 12:00 - 8:00 p.m. in the grass fields on O'Gara Drive at the Upper Elementary School, the Annual 4th of July Parade kicks off at 1:00 p.m. from the Tractor Supply at Commons at 515 D.W. Highway, and the 4th of July Fireworks begin at 9:00 p.m. at the Merrimack High School.

The Town Council has amended their regular meeting schedule for the months of July and August, and will resume its regular meeting schedule in September. The meeting dates are as follows: Thursday, July 17, 2014 and August 21, 2014 at 7:00 p.m. in the Matthew Thornton Room.

Approved: July 17, 2014

Posted: July 18, 2014

Naticook Summer Day Camp officially opened up for the season on Monday, June 23rd and will be open for the next 8 weeks (thru Aug 15th). Registration numbers are a little low right now, but they are picking up for each week.

The Summer Concert Series at Abbie Griffin Park officially kicked off on Wednesday, June 25th. The concert series is held every Wednesday through August 27th (except for the week of July 4th when it will be held on July 3rd with the Merrimack Concert Association Holiday Concert).

Comments from the Press and Public - None

Recognitions, Resignations and Retirements

1. Recognition of Town Committee Members

Submitted by Town Council Chairman David G. Yakuboff, Sr. and Vice Chair Nancy Harrington

The Town Council will present certificates to the following individuals for their service to the Town of Merrimack:

The Town Council presented certificates to the following individuals in recognition and appreciation of service to the Town of Merrimack:

John Lastowka, Agricultural Commission

Ron Davies, Conservation Commission

Simon Thomson, Conservation Commission

Linda Bonetti, Economic Development Citizens Advisory Committee

Edward Fasci, Economic Development Citizens Advisory Committee

Allyson Doyle, Heritage Commission

Anthony Richardson, Technology Committee

Appointments

1. Update on the July 4th Family Fun Day/Midway

Submitted by Rotary Club of Merrimack President Andy Steeves

To update the Town Council on the festivities for the July 4th Family Fun Day/Midway.

Mr. Steeves was not in attendance.

Public Hearing

1. Public Hearing - Tiered Sewer Access Fee Structure

Submitted by Community Development Director Tim Thompson, Public Works Director Rick Seymour and Wastewater Treatment Facility Assistant Director Jim Taylor

The Town Council will hold a public hearing to consider the recommended proposed revision to the existing Sewer Access Fee Structure, pursuant to Article X of Chapter 158, Sewer Use Ordinance of the Merrimack Town Code and RSA 149-I.

Chairman Harrington declared the Public Hearing open at 7:15 p.m.

Approved: July 17, 2014

Posted: July 18, 2014

Chairman Harrington opened the floor for public comment. No one from the public addressed the Council.

Chairman Harrington declared the Public Hearing closed at 7:16 p.m.

Town Manager Cabanel informed the Council it was believed beneficial to conduct a Public Hearing; however, one is not required.

MOTION made by Councilor Rothhaus and seconded by Councilor Mahon to adopt the proposed revisions to the existing Sewer Access Fee Structure, pursuant to Article X of Chapter 158, Sewer Use Ordinance of the Merrimack Town Code and RSA 149-I

ON THE QUESTION

Councilor Mahon commented this came up as part of the discussion of Community Development issues. It was one of the areas reviewed, which appeared to be out of line. The Public Works Department was asked to review it to identify modifications that could be made. He stated his opinion the department has done a remarkable job of identifying a fair and equitable way of fee assessment that is neither onerous nor excessive, and reduces some of the fees that the Ordinance places upon new users to help offset the expense of development of the system. Councilor Boyd stated his concurrence with the comments made by Councilor Mahon.

MOTION CARRIED 6-0-0

Legislative Updates from State Representatives - None

Town Manager's Report

This week we are installing new ramps into the Skateboard Park as part of our routine maintenance schedule. The work is scheduled to be completed today and the park will reopen with our summer hours, which are 3:00 - 8:00 p.m. daily except for Wednesdays.

The Police Department will be assisting, once again this year, with the help of Eric Damon, by having a "Dunk Tank" at the Fourth of July festivities. Police volunteer, Brian Snell, will be coordinating the display, and all monies will be going to the Fraser Square Memorial Project. Please come by and show off your arm while giving to a good cause.

The Police Department wants the public to report any suspicious activity, especially at our Town parks. Recently two vehicles were vandalized at Horse Hill Nature Preserve, so please do not hesitate to call.

The Hillside Terrace drainage improvement project is now complete. The Town-wide street sweeping program has been completed. Repairs to the broken loop traffic sensor at Connell's Plaza and D.W. Highway that was causing traffic backups over the last few days has been repaired.

Consent Agenda

1. Changes to Chapter 193, Welfare Guidelines [Final Reading]

Submitted by Welfare Administrator Patricia Murphy

The Town Council to consider the recommended changes to Chapter 193 – Welfare Guidelines of the Merrimack Town Code, pursuant to Charter Article V, Section 5-4.

MOTION made by Councilor Boyd and seconded by Councilor Mahon to move the Consent Agenda. MOTION CARRIED 6-0-0

New Business

1. Declaration of Town Council Vacancy

Submitted by Town Council Vice Chair Nancy Harrington

The Town Council to officially declare the vacancy left by the passing of David G. Yakuboff, Sr., pursuant to Charter Article 4-5.

MOTION made by Councilor Mahon and seconded by Councilor Dwyer that the Town Council declare a vacancy on the Council, pursuant to Charter Article 4-5

ON THE QUESTION

Councilor Mahon noted the Charter calls for the vacancy to be declared, and that the Vice Chairman assumes the position of Chairman.

MOTION CARRIED 6-0-0

Chairman Harrington noted the Charter does not include language specifying a procedure for filling the vacancy. A procedure, which has been utilized in the past calls for interested parties to submit a letter stating such interest to the Town Manager. Letters would have to be *received* no later than close of business on July 10, 2014. Those expressing interest would be interviewed by the Council on July 14, 2014 and July 15, 2014 dependent upon the number of applicants coming forward. During the meeting of July 17th, the Council would conduct a vote on who should fill the vacancy.

Chairman Harrington questioned the will of the Council with regard to the proposed procedure.

MOTION made by Councilor Mahon and seconded by Councilor Boyd to adopt the procedure for filling the vacancy, as stated

ON THE QUESTION

Town Manager Cabanel noted it is the requirement for the vacancy to be filled within the 20-day timeframe that has necessitated the moving of the previously scheduled July 24th meeting date to July 17th.

Councilor Dwyer remarked as someone who has lived through this procedure twice, he is of the opinion when an individual places his/her name on the ballot it involves a great deal of work and courage. In the case of a required appointment, he finds it less subjective to review the prior year's

ballot, and if an individual who appeared on that ballot and came in 2nd, 3rd, 4th, etc. were interested, he would be very interested in receiving a letter of interest from such an individual. He noted he has spoken with Lenette Peterson, who does intend on submitting a letter of interest, and stated his intent to support her nomination, as the only runner-up for the position in the previous election. He spoke of his personal experiences with similar appointment processes, and noted he does not believe the proposed process to be flawed. However, he intends to utilize his choice to look to the ballot believing the citizenry supported that individual, which makes it easier for him to come to a decision.

Councilor Mahon commented the other way to view the results of the ballot is that the voters selected individuals other than those who were not successful in their attempts. He stated the Council would be looking for an individual it believes to be a well-qualified candidate. He remarked it is an opportunity for residents to come forward, and he is hopeful that will be the case.

Chairman Harrington noted whoever is appointed would remain on the Council until the April 2015 election. The successful candidate from that election would serve until April 2016. The successful candidate from the 2016 election would serve a three-year term.

Councilor Koenig stated his belief it is important and imperative that members of the Town Council, who are elected by the Town members to represent the Town, take that responsibility to make the best and proper choice to fill that vacancy. It is the duty and responsibility of the Council to do so. He stated his desire to wait until interested parties are known to make the decision on the best and most qualified candidate.

Councilor Rothhaus remarked it is difficult to understand what the results of the election indicate. He stated his opinion the proposed process is appropriate. Councilor Dwyer commented, for him, looking to the ballot makes a decision less subjective. He reiterated he does not find the system to be flawed in any way.

Town Manager Cabanel noted all individuals interested in serving in this capacity are encouraged to apply.

MOTION CARRIED 6-0-0

2. Eagle Scout Project Proposal

Submitted by Life Scout Evan Petrie

Life Scout Evan Petrie is looking for Town Council approval of his proposed Eagle Scout project which entails the construction of (2) bridges within Grater Woods.

Life Scout Evan Petrie informed the Council the proposed project is for the construction of two bridges (20' x 3') in Grater Woods. Completion is anticipated in July/August.

He provided a photo of a bridge constructed by the Grater Woods Sub-Committee noting the proposed bridges would be similar in design. The bridges would be constructed near the entrance to Beebe Lane (Drilled Rock Trail). The trail would be diverted leading to two bridges connected end-to-end with a center support in the middle.

Approved: July 17, 2014

Posted: July 18, 2014

Tasks associated with the construction of the first bridge include diverting of the trail, removal of two small trees and shrubbery, and the sinking of two 4 x 4s into the water (appears to be areas of seasonal flow) contingent upon approval by the New Hampshire Department of Environmental Services (NHDES). Tasks associated with the construction of the second bridge include diversion of the island trail, removal of a small tree and shrubbery, and the construction of a 20' bridge.

The bridges will be 18-20' in length and 3' in width. The two that are joined to become one are approximately 18' long and joined in the middle. Support beams will be two 2 x 12s bolted together and 20' in length. Floor boards will be 2 x 8 x 3, and abutments on either side of the bridge will be 6 x 6 beams, which are staked into the ground. Center support for the two 18' bridges will be 4 x 4 posts sunk into the ground.

Cost of materials is: \$750/wood, \$135/hardware, \$100/tools, and \$50/other expenses totaling \$1,035. Materials will be purchased through local businesses. Costs will be covered through fundraising efforts, which will consist of donations solicited from family and friends, and perhaps a pancake breakfast, yard sale, and/or bake sale. He spoke of the possibility of local restaurants dedicating an evening whereby a portion of revenue gained by patrons mentioning the fundraiser will be donated to the project.

The Grater Woods Sub-Committee has approved the project as has the Conservation Commission. Approval by NHDES is pending.

Councilor Boyd spoke of his use of Grater Woods, and commented he is aware Matt Caron, Vice Chairman, Conservation Commission, will be providing his assistance. He remarked there is no better person to look to for assistance. He thanked Life Scout Petrie for his presentation and the project, and wished him well.

Councilor Koenig requested additional information on the reasoning for diverting the trail. Life Scout Petrie responded in order to place the bridge in the most appropriate area, a slight diversion to the trail is necessary. He noted the proposed area is a bigger span and a lesser area of water, which will allow the bridge more area on the banks.

Councilor Koenig noted the proposed bridges would be placed on top of 4 x 12 posts, which would be on top of 4 x 4s driven into the ground. He questioned the height from the top of the bridge to step down to the dirt at the end of the bridge. Life Scout Petrie responded it would be in the area of 1'. As a result, he has given consideration to building up ramps on either side to allow for a smoother transition off the bridge. When asked, he stated the lumber would be treated.

Councilor Mahon commented the project was well received by the Conservation Commission. He remarked it is another example of how the Grater Woods Sub-committee is moving forward with their projects and how the community is coming forward to support the improvement of that area.

MOTION made by Councilor Boyd and seconded by Councilor Mahon to approve Life Scout Evan Petrie's proposed Eagle Scout project which entails the construction of two (2) bridges within Grater Woods, and furthermore that the Town Council thank him and his volunteers for undertaking the project. MOTION CARRIED 6-0-0

3. Committee Appointments

Submitted by Town Council Chairman David G. Yakuboff, Sr. and Vice Chair Nancy Harrington
The Town Council to consider appointing recommended individuals to the Town's Committees, pursuant to Charter Article 4-8.

Chairman Harrington identified the following nominees:

Cynthia Warhola; Agricultural Commission
Douglas Dowell; Economic development Citizen Advisory Committee
Anita Creager; Heritage Commission
Chris Christensen; Parks & Recreation Committee
Brian McCarthy; Technology Committee
John Sauter; Technology Committee
Peter Flood; Town Center Committee
Bill Wilkes; Town Center Committee
Rich Conescu; Zoning Board of Adjustment (alternate to full)

MOTION made by Councilor Boyd and seconded by Councilor Mahon to appoint the nominees, as presented, pursuant to Charter Article 4-8

ON THE QUESTION

Councilor Mahon noted the only nominee that underwent a formal interview process was Mr. Conescu for the appointment to the Zoning Board of Adjustment, a quasi-judicial board. During the wide-ranging discussion Mr. Conescu was found to be a very committed and knowledgeable individual who is also excited to continue his service to the Town. Chairman Harrington echoed those remarks. She noted additional openings on the board and commented it is a rewarding endeavor.

Councilor Dwyer commented interviews for positions on the Zoning Board of Adjustment, Planning Board, and Conservation Commission seem to take a higher priority due to legal matters involved with the two boards and the funding source that comes under the auspices of the Commission. Although membership on other Town board/committees/commissions are of great importance, those who volunteer their time to serve and wish to be re-appointed are generally appointed.

MOTION CARRIED 6-0-0

Oath of Office administered by Chairman Harrington to Rich Conescu and John Sauter.

4. Appointment of Library Trustee

Submitted by Town Council Chairman David G. Yakuboff, Sr. and Vice Chair Nancy Harrington
The Town Council to appoint the recommended Library Trustee to fill the vacancy until the April 2015 election, pursuant to Charter Article 6-2 and RSA 202-A:10.

MOTION made by Councilor Mahon and seconded by Councilor Boyd to appoint Matthew Publicover to the Library Board of Trustees to fill the vacancy until the April 2015 election pursuant to Charter Article 6-2 and RSA 202-A:10

ON THE QUESTION

Councilor Boyd noted he had an opportunity of serve with Mr. Publicover previously on the School Budget Committee. He has come to know Mr. Publicover as thoughtful, well prepared, and committed to the community.

MOTION CARRIED 6-0-0

Oath of Office administered by Chairman Harrington to Matthew Publicover.

5. 2013-2014 OHRV Grant Award for the Merrimack Police Department

Submitted by Lt. Paul Trepaney

The Town Council to consider the acceptance and expenditure of an OHRV grant from the New Hampshire Fish and Game to the Merrimack Police Department in the amount of \$1,080.00 to fund overtime patrols on off-highway recreational vehicles owned by the Department to enforce OHRV laws in the areas of Town not accessible to standard patrol vehicles, pursuant to Charter 8-15 and RSA 31:95-b.

Lt. Paul Trepaney, Merrimack Police Department, noted the request was copied and pasted from last year's request, and should have been identified as the 2014-2015 OHRV Grant Award. All other information is correct.

The grant award is provided by the New Hampshire Fish & Game to help the department put extra patrols on the department owned OHRVs to enforce the different areas of town where access is not gained with the normal patrol vehicles. The grant funds about 6 overtime patrols. When asked, Lt. Trepaney stated his recollection the grant has been received for the past 8-9 years. Director Micali commented there was a break in that time; about 2-3 years earlier when funding was not received.

Councilor Boyd questioned when the patrols are likely to occur, and was informed they are conducted on weekends. He spoke of the importance of the patrols and his pleasure with receipt of the grant funding to accommodate that. Lt. Trepaney noted the Police Chief is exploring discussions with the Conservation Commission around the possibility of funding additional patrols as a result of concerns the Commission has expressed.

MOTION made by Councilor Mahon and seconded by Councilor Rothhaus to accept the OHRV grant from the New Hampshire Fish and Game to the Merrimack Police Department in the amount of One Thousand and Eighty Dollars (\$1,080.00) and authorize the Town Manager to sign the required contractual paperwork. MOTION CARRIED 6-0-0

6. Acceptance of Camp Scholarship Donations for Parks and Recreation

Submitted by Parks and Recreation Director Matt Casparius

The Town Council to consider the acceptance and expenditure of donations from the following organizations for the Parks and Recreation Department to be put towards the Naticook Summer Day Camp Scholarship Program: American Camp Association - \$550, Rotary Club of Merrimack - \$370, Bear Christensen Trust - \$370, Merrimack Lions Club - \$200 and Merrimack Friends and Families - \$1,000, pursuant to Charter Article 8-15 and RSA 31:95-b.

Town Manager Cabanel commented each year various organizations and individuals donate monies to the Parks and Recreation Summer Camp Program so that children who might not otherwise be able to attend are able to. Chairman Harrington identified the names of those making donations towards this endeavor. Director Micali noted the funds received will cover the cost of approximately 14 campers for one-week sessions. Residents wishing to apply for a scholarship should contact Pat Murphy.

MOTION made by Councilor Boyd and seconded by Councilor Rothhaus to accept donations from the following organizations for the Parks and Recreation Department to be put towards the Naticook Summer Day Camp Scholarship Program: American Camp Association in the amount of Five Hundred and Fifty Dollars (\$550), Rotary Club of Merrimack in the amount of Three Hundred Seventy Dollars (\$370), Bear Christensen Trust in the amount of Three Hundred Seventy Dollars (\$370), Merrimack Lions Club in the amount of Two Hundred Dollars (\$200), and the Merrimack Friends and Families in the amount of One Thousand Dollars (\$1,000), pursuant to Charter Article 8-15 and RSA 31:95-b

ON THE QUESTION

Councilor Boyd thanked those making donations for their support of the program, and remarked it is a tremendous gesture of good will.

MOTION CARRIED 6-0-0

There being no objection, the Council recessed at 8:04 p.m.

The Council reconvened at 8:10 p.m.

7. Third Quarter Ending Financial Review

Submitted by Finance Director Paul T. Micali

Finance Director Paul Micali will review third quarter ending March 31, 2014 financial information.

Director Micali provided a PowerPoint presentation for the third quarter financial report. Health insurance costs are tracking approximately \$100,000 lower than last year. With regard to New Hampshire Retirement System costs, he noted FY14 experienced a large spike in percentage the Town had to pay into the system for police and fire. The increase was anticipated and budgeted for. Overtime costs have increased. Director Micali spoke of the difficult winter, which was a factor in the overtime for the Highway Department. Overtime for the Police Department has increased due to changes and requirements of the Police Standards Board resulting in moving away from utilizing special patrolmen to cover overtime. The department was also put in a position where they were not getting people that wanted to be special patrolmen, and come in to serve on those odd shifts to fill in on overtime, etc.

Councilor Rothhaus questioned whether the increase is more than was anticipated. Director Micali stated it is not, and in fact there is a savings. Councilor Koenig noted the numbers identified within the presentation are third quarter figures and not a comparison of a full-year versus the third quarter.

Director Micali stated the numbers listed are a total for March 31st of each year (three whole quarters per year).

Addressing the electrical kilowatt comparison, Director Micali stated the kilowatt usage has increased this year. Some of that is the result of the amount of time it was necessary to run the blowers for heating due to the cold winter. Although usage is increasing, the Town is able to purchase electricity on the open market at a reasonable price, which is lower than what can be gained through PSNH. Purchase price is approximately six and a half cents per kilowatt. Although usage has increased, overall the Town has experienced savings over prior years.

Chairman Harrington noted the increased cost for streetlight usage. Director Micali stated he is looking to identify the reason for the increase. Councilor Koenig noted the numbers listed are kilowatt hours not monies expended on electricity. When asked what the comparison would be in dollars, Director Micali responded it would be almost flat, and in fact less than the prior year.

The graph entitled Natural Gas Therm Usage Comparison, indicates an increase. One of the reasons is the average temperature was much lower this year than in prior years. However, as the Town is able to go out on the open market and receive favorable rates, the cost to the budget is actually representative of a savings from prior years. It was noted one of the aspects that allows for the receipt of a favorable rate for natural gas is the compost facility. Director Micali commented the natural gas companies that provide gas to us enjoy the compost facility because it uses a large supply of natural gas, which is why the companies want to come in and bid on the Town of Merrimack. By having that in the Wastewater Treatment Plant the savings are garnered in the general fund.

With regard to revenues, Director Micali stated interest is less than what was projected. However, auto registrations have increased, and are expected to exceed budget projections.

Director Micali stated there to be sufficient appropriations to cover expenditures. Revenues are coming in close to budgeted projections. Final numbers for the fiscal year will be available and presented in the September timeframe.

When asked if he had a rough estimate, Director Micali stated the expectation in the areas of building permits and auto registrations, projections will be exceeded (perhaps an increase of \$200,000 over projections in auto registrations).

8. Repurchase of Tax Deeded Property

Submitted by Town Manager Eileen Cabanel

To consider the repurchase of recently tax deeded property tax map parcel 6C/211 and the Town Council deems that this shall include all back taxes, interests, costs and penalty, pursuant to RSA 80:80 III and Article 66-1 of the Merrimack Town Code.

Town Manager Cabanel remarked there were 4-5 tax deeded properties over the course of the past year. Some have paid interest, costs, etc. to regain their properties. The request is in regard to 111 Wire Road, which was taken by tax deed. There is an individual interested in paying the outstanding taxes, fees, etc. The recommendation is to accept the repurchase and deed over the property to the former property owner.

MOTION made by Councilor Mahon and seconded by Councilor Koenig to approve the repurchase of the property at tax map parcel 6C/211 and that the Town Council deem that this shall include all back taxes, interests, and costs, pursuant to RSA 80:80 III and Article 66-1 of the Merrimack Town Code. MOTION CARRIED 6-0-0

9. Disposal of Tax Deeded Properties

Submitted by Town Manager Eileen Cabanel

The Town Council to consider the disposal of the following tax deeded properties, pursuant to RSAs 80:88, 80:89 and 80:90.

Tax Map: 6A-2/161 - 310A Baboosic Lake Road; 1.5 story camp-seasonal with .20 acres

Tax Map: 6A-2/108 - 8 Mayhew Road; .17 acres

Town Manager Cabanel stated there are two parcels that need to be sold, and in order to do so a motion is required to be made for each property.

MOTION made by Councilor Mahon and seconded by Councilor Dwyer to place the property located at 310A Baboosic Lake Road, acquired by the Town by Tax Deed, for sale by auction with a minimum bid amount

ON THE QUESTION

Councilor Rothhaus questioned whether the properties in question have gone through the two-year period. Town Manager Cabanel stated they have completed the process whereby the Town is owed three years' worth of taxes (dating back to 2011). The former property owners have not come forward to pay their taxes, fees, and penalties for three years. Councilor Rothhaus noted the properties were deeded recently. He noted Chapter 80 states no transfer of any lien shall happen on tax deeded property without a two-year period and later states unless the Town takes the time to do that. He questioned if the former owners have no intention of repurchasing their property. Town Manager Cabanel stated the Town has only heard from one party. The other party has accepted the letters notifying of the property being deeded, etc. and has not responded.

Councilor Rothhaus remarked he is in no rush as eventually the Town will be made whole. Town Manager Cabanel responded now that the properties have been deeded the Town is no longer receiving taxes. The small parcel of land that is on the books will eventually reach the point where the accrued taxes will be a greater value than the property. Councilor Rothhaus questioned whether a similar concern exists with the property in question, e.g., in two more years the value of the property will be exceeded by taxes owed. Town Manager Cabanel stated that is not the case for the property in question. Councilor Rothhaus commented unless he hears from the former property owner that there is no interest, he will not support such a motion.

MOTION CARRIED

5-1-0

Councilor Rothhaus voted in Opposition.

MOTION made by Councilor Mahon and seconded by Councilor Dwyer to place the property located at 8 Mayhew Road, acquired by the Town by Tax Deed, for sale by auction with a minimum bid amount. MOTION CARRIED 5-1-0

Councilor Rothhaus voted in Opposition.

10. Discussion on State Proposal of F.E.E. Turnpike Widening

Submitted by Town Manager Eileen Cabanel

To discuss the State's proposal of widening the F.E.E. Turnpike in the Exit 11 area.

Tim Roache, Assistant Director, Nashua Regional Planning Commission (NRPC), stated his intention to provide a quick overview of the transportation planning process and the three major documents that are consistently a source of confusion. The Metropolitan Transportation Plan or Long Range Transportation Plan is a federally required document. Through the Federal Transportation Planning Rules, the Regional Planning Commissions (RPCs) or Metropolitan Planning Organizations (MPOs) are required to develop this under Federal law. It covers, at least, a twenty-year window. In this case it goes from 2015 out to 2040. It holds all of the projects that are believed to be needed in that time based on input from communities and data provided for those decisions to be made. The NRPC uses it as its holding tank for the Ten-Year Plan. The long-range plan holds all of the projects in the region, and the NRPC works with the New Hampshire Department of Transportation (NHDOT) to get those projects into the Ten-Year Plan.

The Ten-Year Plan is a State law. It does overlap the Federal process where there is a list of projects that goes out 20 years. What the NRPC has tried to do is use the Federal process to feed the State process and help develop that ten-year plan. The first ten years of that long-range plan, the Metropolitan Transportation Plan, becomes the Ten-Year Plan for the region.

The Transportation Improvement Program (TIP) is a Federal document that lists all projects that are going towards construction in the next four years. This is a Federal requirement. The Ten-Year Plan is used by the NHDOT to feed that four year window.

Mr. Roache commented the piece about the Ten-Year Plan that he wished to get across is although he said it is a State law, the Governor has not yet signed it. It remains in draft form (May 6th version approved by the Senate). When signed we are essentially done with that, and it all comes down to the TIP, that four-year window. The projects that are listed in there will be reviewed this fall and recognized by the various RPCs and then brought into the TIP.

Town Manager Cabanel remarked when speaking with Deputy Director Fox she likened the Ten-Year Plan to the Capital Improvements Plan (CIP); the wish list in order of how things will occur. It is a good document, but the projects are not necessarily completed in the years and amounts that are identified.

Mr. Roache commented the other thing to remember is that the NRPC goes through the cycle of updating all of the documents every two years. Anything sitting out in the Ten-Year Plan will be discussed again in two years. A lot of effort is put into projects that are important and should be kept on the radar, but really what matters is the document that looks at the four-year window.

At the regional level, they look at all of the projects in the Long-Range Plan and rate them against criteria such as safety, maintenance, mobility, etc. Through weighting a ranking or scoring is developed. When the process was undertaken the last time, the widening of the Turnpike ended up as the #6 ranked project in the region. That was put up to the NHDOT for consideration in the Ten-Year Plan. At one point it was on an unfunded priority list by the House and then the Senate put it back into the Ten-Year Plan as a funded project.

Since we have an unsigned Ten-Year Plan, why did this project jump into the TIP? The TIP can trump the Ten-Year Plan. It is the more important document of the two. The NHDOT came to the NRPC and said we would like to start working on the widening of the Turnpike and proposed the amendment to the TIP. They can do it, any of the communities can come forward with a project they would like to see programmed and request that it be put into this document. When the NHDOT comes forward the NRPC and the Transportation Technical Advisory Committee (TTAC) review the proposal with the NHDOT and Federal Highway and make a recommendation to the full NRPC Commissioners, the full MPO and act on that recommendation. That is the way this project came in. It is in the draft Ten-Year Plan that is not signed, but it was sort of advanced by the NHDOT into the TIP.

Councilor Rothhaus stated his understanding, without the RPCs saying yes this is a project we want done, even though it is in the State's Ten-Year Plan, it would not get done. Mr. Roache stated the purpose of the MPO (NRPC serves in that capacity) is to give the communities a voice in decision making on transportation projects. There is a misconception out there a lot of the time that NRPC is sort of this group of planners who may lean a little bit to the left and like bike lanes and sidewalks, and they are out there pushing projects. Really instead what they do is try to produce information that helps folks like Deputy Director Fox who serves on the TTAC and those who serve on the Commission make decisions that are based on the data that the NRPC produces for them. In answer to the direct question; yes if, based on the information, the 13 communities come together and say we don't think this is a good idea, they vote a project down. An example of when that occurred is in 2012 with the amendment for the toll issue. Councilor Rothhaus commented that is when he learned a project not supported by the NRPC would not go through. Mr. Roache remarked it is the getting together of the 13 communities on a project to agree that it is either a priority for the region or it is not.

Mr. Roache remarked he believes, as a whole, the widening would probably be supported by most of the communities. The toll issue has a good many in the region concerned about the way it has been handled.

Councilor Mahon stated the widening project only goes from Exit 11 to 101 in Bedford. Mr. Roache spoke of an error that was not corrected to the Town Council; the original request/report from the NHDOT stated from Exit 11 to 293. When the issue was raised, they conducted a review, which resulted in the response the language should have stated Exit 8. A new notice was placed on the NRPC website indicating the change. Councilor Mahon stated his understanding the request is to do what he would call preliminary engineering work, which is to go through and review what has to be done as part of the project so that they can begin preparing bid documents, etc. Mr. Roache stated the impression to be accurate; it would be for preliminary engineering and environmental permitting.

Councilor Mahon commented the dead silence in this whole thing is where is the toll plaza. During the discussion of the Ten-Year Plan statements were made that it would have to be moved far enough

south to mollify the Federal Transit Authority so that the State would not have to repay the Federal money they received to put in Raymond Wieczorek Drive. Going back 5-6 years ago, the proposal was to put the open road tolling plaza at exit 10. He stated his presumption somewhere during the preliminary engineering a site will be chosen for the open road tolling.

If the tolls at Exit 11 are removed, it would not make sense to have a toll plaza further up the road to try to capture the traffic if you are trying to capture the revenue at Exit 10 for those visiting the outlets, as was stated during the Ten-Year Plan discussion at the House. That traffic would go up to Exit 11. The 900 pound gorilla that is not in the room is where is the proposal to place the toll plaza.

Mr. Roache stated that information is not yet known. What is known is it is in the draft Ten-Year Plan to be signed by the Governor. It shows preliminary engineering in 2015, construction in 2016, 2017, and 2018, but there is no description of where. Clearly they have to come out with this. If you are going to construct it that soon you have to know where you are going to do it. Councilor Mahon stated it to be his humble opinion that, at this point, this is the only leverage for the community on the toll plaza; the open road tolling.

Mr. Roache stated the two-year transportation planning cycle he spoke of will include adoption of a new Metropolitan Transportation Plan and a new TIP. The earliest it could happen would be September. Most likely it will occur at the December meeting. In that timeframe, that is where we will have to consider the projects coming from the draft Ten-Year Plan into the TIP and make that decision. There will be a Public Hearing on that at the NRPC office. The Council will be kept informed. Mr. Roache stated if he knows anything about where it is going to go he will be sure to be in touch with the Council.

Town Manager Cabanel stated her understanding the public hearing process for this particular project has already opened and closed and the board has already voted on moving it forward. Mr. Roache stated that to be correct. He remarked on this particular piece, the widening, that did open and close, and what was approved was the preliminary engineering and the Right-of-Way; no construction funds. The Ten-Year Plan doesn't show any construction so as of right now there will not be a construction phase in this. When they do the update to the document in the September to December timeframe, there is still no construction for this particular piece of the project. When they decide the construction phase is ready to move forward, there will be another opportunity for this piece to have a public hearing and state what you want. Again the MPO has to agree to this.

Councilor Dwyer remarked when you see that \$3.2 million total proposed TIP funding, that is an engineering cost. That is not bridge making, pavement, nothing; it is strictly engineering costs from Exit 8 to 293. Mr. Roache stated that to be correct. Councilor Dwyer asked for clarification that has been funded in the budget. Mr. Roache stated it is going into the TIP. Councilor Dwyer questioned, if the Governor signs it, does it mean that \$3.2 million will be bid, there will be plans, and the \$3.2 million would be committed to the engineering work that is done from Exit 8 to 293. Mr. Roache responded the \$3.2 million is committed once the amendment is approved by all four MPOs across the southeast portion of the State regardless of whether or not the Governor signs it.

Councilor Dwyer added they have the money to spend and they will spend it, but it is not known when the next phase would be funded and actually constructed. Mr. Roache responded, according to the

Ten-Year Plan, in the timeframe of 2020-2022. Councilor Dwyer commented this is where the life of politics comes into play, where the Executive Council and Legislators have a role. He remarked, in his personal opinion, Governor Sununu may have had a great idea, but in reality ten-year plans are not worth the paper they are written on. In our form of government the Legislature funds the budgets so to make these plans ten years in advance when politics is the heart of legislating the money to be spent, those toll booths in Bedford may or may not be moved. We are going to expend \$3 million on engineering, but the political decisions should be made; are you moving the toll booth. If you don't actually move the toll booth then the widening project becomes moot. Will it really be moved when the politicians get the information and are told it will be \$25 million to move the toll booths. That is when the politicians enter the picture. The plan is a wish list. He would rather see the four-year plan. Across the country we all rely on Federal dollars for highway funds, we should be budgeting and planning only four years ahead. Let's attack the red list bridges first, the largest most important projects.

Chairman Harrington and Councilor Mahon spoke of the need to have the preliminary engineering completed in advance of any application for Federal funding.

Deputy Director Fox commented the TTAC voted to recommend to the full Commission that the project be adopted into the TIP. The rationale used by this technical committee was in line with congestion, capacity, etc. The project is intended to widen the two-lane sections of the Turnpike to three lanes. Without the preliminary engineering that widening cannot take place. He commented if you were to sit on top of the Wire Road or Baboosic Lake Road bridges you would see congestion on the Turnpike in Merrimack is a problem. Chairman Harrington remarked the project is still a good idea regardless of the tolls. Mr. Roache added technically you could do this project without touching the tolls. Councilor Mahon stated there is no road toll revenue coming from the sale of motor fuels that will support the project they want to do. All of this is contingent upon toll increase on the Turnpike. Councilor Rothhaus remarked he believes it to be a necessary project, but the funding mechanism is what gives us all heartburn.

Mr. Roache reiterated the next opportunity to talk about the big picture is in that September to December timeframe, and he will keep the Council informed. Councilor Mahon remarked it will be interesting to see when the break-even point comes in the cost of relocating the tolls as to what they would have to repay the Federal Government for Wicczorek Drive. He explained if they toll the exits they will have to repay the Federal monies.

Selection of Vice Chair of Town Council

Chairman Harrington noted Section 4-3 of the Town Charter, states: In the event of a vacancy occurring in the office of Chair, the Vice Chair shall serve out the unexpired term." As a result, the position of Vice Chairman is vacant.

Councilor Dwyer nominated Councilor Mahon

Vote on the election of Councilor Mahon to the position of Vice Chairman of the Town Council **6-0-0**

Councilor Mahon declared Vice Chairman of the Town Council.

Minutes

Approve the minutes from the May 22, 2014 Town Council meeting.

The following amendments were offered:

Page 2, Line 27; replace the word “superseded” with the word “superceded”

MOTION made by Councilor Mahon and seconded by Councilor Dwyer to approve the minutes of the Town Council meeting conducted on May 22, 2014 as amended. MOTION CARRIED 6-0-0

Comments from the Press - None

Comments from the Public - None

Comments from the Council

Councilor Mahon shared fond memories of time he was able to spend with Councilor David Yakuboff. He first met Dave while they were running for the Charter Commission. Councilor Yakuboff was bound and determined to be the Chairman of that commission, and strongly desired a city form of government with a Mayor and Council. To his disappointment, Councilor Mahon was elected Chairman. However, about two meetings into the process while explaining some of the nuances between the city and town forms of government, the look in Dave’s eyes suddenly changed as he understood the complexities of it all. By the end of the discussion he appeared pleased someone else was in the position of Chair.

When Councilor Mahon later encouraged him to fill an unexpired term on the Town Council, Dave questioned what sent him in his direction. Councilor Mahon had responded it was because he knew him to be an individual who listened, was willing to state his opinion, and willing to change his mind. That was one of the many things Councilor Yakuboff brought to the Council. Councilor Mahon spoke of projects that were well served by Councilor Yakuboff’s efforts, such as the library roof project where a proposal brought forward by Councilor Yakuboff spurred the roofing contractor into a revision of his original plan. Councilor Mahon remarked the Council is a lot poorer for the fact it will no longer have that kind of insight.

Councilor Mahon spoke of his experience with Ruth Liberty having served with her on the 4th of July Committee. He commented she was a relentless fundraiser, and enjoyed very good personal relationships with townspeople. When she moved out of town it was very difficult for her having been her a long time and having devoted so much time to the Town. She had a love for this Town. He commented for a prime example of how someone has left their mark on a community all you have to do is look at Abbie Griffin Park.

He reiterated the community is poorer for the loss of these individuals. They have left legacies that can be admired and serve as memories.

Chairman Harrington commented as she was listening to the Life Scout that presented earlier in the evening she could not help but think Dave wants her to tell him to go see Paul.

Councilor Rothhaus remarked he had known Councilor Yakuboff for a number of years. His first opportunity to work alongside Dave was on the Charter Commission. Dave truly enjoyed being part of that process. He spoke of the interview process for Councilor Yakuboff's appointment to fill the remainder of a term on the Council and how animated the process became. Councilor Rothhaus commented he ran into Dave the day after he was appointed, and told him of the book "Don't Fight with the Pigs" written by a Harvard Professor, which relays if you do fight with pigs you get dirty. Dave would often remind him of the advice he had given.

Chairman Harrington remarked she received an e-mail from Dave on June 2nd because he knew she was a bit anxious about the position of Vice Chairman. She had responded don't you ever be absent from a meeting. He commented had responded "You are more than qualified for the position, and I will help you in any way I can." She is still holding him to that.

Councilor Koenig remarked he probably knew Dave the least of any of those on the Council. They met while running for election. He has enjoyed working alongside him, and in doing so realized how dedicated he was to the Town of Merrimack and to doing the best he could for the community. It was stated at one point in the past couple of weeks that he felt strongly that people shouldn't serve on a board or committee if they had an agenda. It was pretty clear to him that Dave did not come necessarily with an agenda except to do what was good for the Town of Merrimack, which is one of the things he appreciated most about working with him and serving alongside him on the Council. He stated his appreciation of having had the opportunity to work with Dave, and remarked he is sure the Town of Merrimack will miss him terribly. He wished his family well.

Councilor Koenig commented he had a few opportunities to interact with Ruth Liberty; each time being a pleasant experience. He remarked it was nice to have her impact and influence on the Town of Merrimack.

Councilor Boyd stated his first introduction to Dave was more of an observation as neither of them knew of each other. He was a newlywed and he and his wife had just purchased their home around the time the Charter Commission was going through their elections. One day on his way to work he saw this big burly guy putting up his Dave Yakuboff Charter Commission signs. Having an interest in politics he took note of signs, etc. He could not help but notice Dave was the only one he was aware of that put up signs. That made him determined to get to the polls to vote for him as he was impressed with how passionate he was about wanting to serve on the Commission.

Councilor Boyd remarked when he was first elected to the Council and the budget process was underway, Dave invited him to his office where they stayed for 3.5 hours while Dave educated him on the municipal budget. That was his first real exposure to a municipal budget. His first impression of Dave back in 2005 held true 6 years later as there was a guy that didn't know him from a hole in the wall and was willing to take time out of his schedule to sit down with him, answer his questions, and give him the overview of the budget. To this day he remains grateful to him for being not just a friend and colleague but a mentor. He commented it would be an understatement to say he will miss Dave, but not an understatement to say that this body and the Town are definitely missing someone who

Approved: July 17, 2014

Posted: July 18, 2014

cared about his community. Councilor Boyd spoke of the phrase that truly describes Councilor Yakuboff “Leadership is the person who quietly works behind the scenes...”.

Councilor Dwyer remarked he got to know Councilor Yakuboff when he lost to him during the appointment process. He commented he will never forget the look he got; like Dwyer, I know you, you are that full-page ad guy. When he won the seat on the Council the group met for an event at Watson Park. As the new guy he had a bit of the feeling of odd man out, and Dave was the one who befriended him right away, which is something he will never forget. From there they just hit it off; after a very short period with Dave you felt like you had known him for a great many years. Dave was involved in and loved this Town. It was where his heart was at. He will be greatly missed.

Town Manager Cabanel spoke of the opportunities she had to work with Dave, and how she found him to be a voice of reason. She remarked one of the things he talked about most was how much he loved his family. He had this wonderful, large family. A large addition was constructed on the back of his home to accommodate the many family gatherings. She remarked Dave was a very special person who will be missed terribly.

Director Micali remarked he and Dave first met 10-11 years ago as acquaintances. When he ran for the Charter Commission he had placed a sign on a gentleman’s lawn on Wire Road. Driving by that sign all of the time he wondered who is this guy wanting to run for Charter Commission. His father requested they stop in at All Basic one day so that he could ask Dave a question. Dave would stop whatever he was doing to talk politics with anyone at any time. He had a way to make you feel as though you were the only one there. Director Micali remarked he talked with Brian Snell today who commented to him you would not believe the number of dollar bills that were signed that we found, and he kept them all. He spoke of how Dave will be missed.

MOTION made by Councilor Mahon and seconded by Councilor Boyd to adjourn the meeting.

MOTION CARRIED 6-0-0

The June 26, 2014 meeting of the Town Council was adjourned at 9:18 p.m.

Submitted by Dawn MacMillan