

Approved: January 14, 2016

Posted: January 19, 2016



Town Council Meeting Minutes

Thursday November 19, 2015, 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 Vice Chairman Mahon, Councilor Boyd, Councilor Dwyer, Councilor Rothhaus, Councilor Vaillancourt, Town Manager Eileen Cabanel, and Assistant Town Manager/Finance Director Paul Micali. Councilor Koenig was excused.

Pledge of Allegiance

Chairman Harrington led in the Pledge of Allegiance.

Announcements

Corpro, a surveying company subcontracted by Hatch Mott MacDonald, will be working along the Right-of-Way on Route 101A, Continental Boulevard, and Hall Ave. on Friday, November 20th from approximately 8:00 a.m. to Noon. Town Offices will be closed on Thursday, November 26th and Friday, November 27th in observance of the Thanksgiving holiday. The Transfer Station will also be closed on Thursday, November 26th; however, will reopen on Friday, November 27th.

Regular meetings of the Town Council will be conducted on Thursday, December 3rd and December 17th at 7:00 p.m. in the Matthew Thornton Room. A tentative Joint meeting of the School Board and Town Council has been scheduled for 7:00 p.m. on Thursday, December 10th. Additional information will be provided when available. To date, the following three agenda topics have been identified: 1) School Resource Officer, 2) O'Gara Tennis Courts; and 3) Update regarding housing proposal and possible impacts on school population to be provided by Tim Thompson, Director, Community Development Division.

Town Manager Cabanel clarified the work being performed by Corpro is not on Hall Ave., but from Hall Ave.

The annual Badges vs. Hardhats community food drive is on. Drop off non-perishable food items at either the Merrimack Police Department lobby or the Public Works Department now through January 1st. All donations are distributed to community food banks for families in need this holiday season.

Merrimack's winter parking ban is in effect. There is no parking between 11:00 p.m. and 6:00 a.m. now through April 15th. Let's help keep the streets clear so the PWD can treat the roads and remove snow for safe commuting.

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

• Informational Reports and Updates

The Town has received notification that Tennessee Gas Pipeline Company, L.L.C. (TGP) will hold public information sessions to present information regarding the Application for a

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Certificate of Site and Facility to be filed with the new Hampshire Site Evaluation Commission (SEC), for the construction of a new natural gas transmission line and compressor station in southern New Hampshire. Sessions will begin with a project overview at 6:00 p.m. followed by a question and answer period from 6:30 - 8:00 p.m., and public comments from 8:00 - 10:00 p.m. The schedule is as follows:

Rockingham County: Tuesday, December 1, 2015, Windham High School, 64 London Bridge Rd., Windham, NH

Cheshire County: Wednesday, December 2, 2015, Hidden Hills Estates, 18 Lisa Dr., Rindge, NH

Hillsborough County: Thursday, December 3, 2015, Hampshire Hills, 50 Emerson Rd., Milford, NH

At each session, TGP will present information regarding the NED project, and the public will have the opportunity to ask questions and provide comments. Members of the public will be asked to submit questions in writing, and the questions will be addressed. The public will then have the opportunity to provide oral comments.

TGP will also host open houses before and simultaneous (5:00 - 10:00 p.m.) to the public information sessions to provide an additional opportunity for the public to learn more and ask questions about the NED project.

Given the conflict with the Council's meeting of December 3, 2015, a consensus was reached to move the Council meeting to December 2nd.

Chairman Harrington spoke of a letter she distributed, which was written to the Federal Congressional Delegation Members of Massachusetts and New Hampshire by a regional group of municipal officials. The letter requests the Federal Energy Regulatory Commission (FERC) combine the proposals for additional gas pipeline capacity into New England into one consolidated review. The Town Council was asked to review the letter and determine if there was a willingness to sign it.

Councilor Vaillancourt clarified there are two letters; one directed to the FERC and one to the Congressional Delegations. Both ask for support of the same consolidation of review. The one to the Congressional Delegation is asking the Delegation to make the same request to the FERC that all of the municipalities are making.

Councilor Boyd questioned the intent of a consolidated review noting the two he is aware of are Spectra and the NED. Councilor Vaillancourt noted the letter names the different projects as Tennessee Gas/Kinder Morgan's Northeast Energy Direct (NED), Tennessee Gas/Kinder Morgan's Connecticut Expansion, Spectra's Atlantic Bridge, Spectra's Access Northeast, the Portland Natural Gas Transmission System Continent to Coast project, and any other gas pipeline proposal currently before the FERC.

Chairman Harrington stated her understanding of the purposing to be to highlight with so many pipelines being considered, the NED pipeline may not be needed in terms of capacity. If they review proposals on an individual basis they will not be able to evaluate in that view.

Councilor Dwyer stated he would not support the letter as it is completely anti-gas line pipeline. He commented they want to throw every monkey into the barrel on this one, and have us okay it. He noted he has been on the record about the issue in Merrimack, but he has also been on the record from day one saying he is not against American infrastructure energy pipelines of every kind in America. If Kinder Morgan does something to us in Town that we need to address he is on board as he has stated previously.

Councilor Boyd stated agreement noting the Spectra pipeline is expansion of existing infrastructure not new construction such as the NED, which is why he is opposed to the NED. Furthermore, the issue, as it relates to Portland and the issue relating to Connecticut doesn't have any direct impact to our community or our particular region. The analysis we have been looking at would occur right here in New Hampshire. To request a consolidated review of all pipelines he believes to be contrary to what the Council is trying to do and mutes its ability to be able to respond to any potential issue that may come up as it relates to the NED. He stated his concern, if at the intervenor level we seek consolidation we lose a little bit of leverage.

Councilor Vaillancourt commented her take on the letter is not anti-pipeline. Chairman Harrington stated agreement. Councilor Vaillancourt stated her belief the letter clearly asks for a consolidation of the review of the projects because the way the process is going now each project is being reviewed and considered individually. They could approve every single project, which would result in an onslaught of natural gas coming to the area.

Councilor Vaillancourt read the following section from the letter into the record:

"Combining the projects in one consolidated review would foster an open and transparent process for the needs analysis critical for FERC's decision on which projects, if any, may warrant the eminent domain authority associated with a Certificate of Public Convenience and Necessity. Public need cannot be evaluated without consideration of other projects attempting to fill the same or similar need. Cities and towns cannot be forced to host a pipeline solely because an energy company would like to build one. Need must be evaluated taking into account competing projects as well as non-fossil fuel solutions such as solar, wind, small scale hydro, conservation, accelerated repair of leaks, and efficiency improvements."

Councilor Vaillancourt stated her belief it is a very reasonable request. Chairman Harrington added the following sentence from the letter:

"Only by comparing competing lines and the history of these companies do we get improvement through competition. These projects may well be redundant with each other."

Chairman Harrington reiterated she does not interpret the letter to mean all of the proposed projects are unnecessary, but rather that they all need to be considered when evaluating the need for the New England area. By doing it all together the total view will be achieved and decisions can be made about the need.

Town Manager Cabanel commented, once the evaluation is complete, it may be that the proposed NED pipeline is the one believed to be necessary.

Councilor Dwyer stated it is anti-pipeline letter, and it is factually incorrect in several areas. He noted the wording “*an energy company wanting to build a pipeline*”, and stated Kinder Morgan does not want to build this pipeline. Kinder Morgan didn’t come up with this pipeline. The Department of Energy put out a bid nationally and Kinder Morgan fulfilled the bid. The letter is deceiving. That sentence makes it sound like Kinder Morgan wants to build this pipeline for profit, etc. This project is not Kinder Morgan driven, this project is the Department of Energy driven. That is a fact from day one. Everybody wants to trash Kinder Morgan at every turn, and that is what this letter does.

Vice Chairman Mahon stated his presumption the Department of Energy’s request for proposal was a result of what the region experienced a couple of years ago during that 50-day window for energy. They put that out there. Kinder Morgan was not obliged to apply and neither was Spectra or anyone else, but they did. The other piece of this is that one of the requirements laid on the FERC by the statute is not allowing capacity that will go unused and therefore become an additional burden on the ratepayers. If they review these independently of each other there is a very real possibility that could happen. We’re already seeing some of that in some of the other analysis that are being floated around as to the amount of capacity, how much might be used, and how the efficiencies that have miraculously crept into the system over the past few years are mitigating some of the requirement for that amount of gas to be pumped in here for 50 days a year.

Chairman Harrington remarked to imply that Kinder Morgan is doing it out of some patriotic duty in response to national call for help is not an appropriate characterization. Councilor Dwyer remarked if it sounded like that, that was not intentional. Chairman Harrington remarked that she is not putting them down, they are a company that wants to make money.

MOTION made by Councilor Vaillancourt and seconded by Councilor Mahon that the Town Council authorize Chairman Harrington or the Town Manager, Eileen Cabanel, to sign, on behalf of the Council, the Northeast Municipal Gas Pipeline Coalition, Municipal Coalition Against the Pipeline and the New Hampshire Municipal Pipeline Coalition letter to the FERC and to the Federal Congressional Delegation Members of Massachusetts and New Hampshire

ON THE QUESTION

Councilor Rothhaus stated he would be abstaining as he had not had the opportunity to read the letter.

MOTION CARRIED

3-2-1

*Councilors Boyd and Dwyer voted in opposition
Councilor Rothhaus Abstained*

Chairman Harrington stated Congresswoman Kuster has also sent a letter to Norman Bay, Chairman, FERC. She read the following sentence from the letter into the record:

“We are acutely aware of the regional need for electricity and the plethora of energy projects that are being proposed in all New England states to meet that need. Given the regional nature of our electric market and the complicated changes that are underway across the region, both for new projects being proposed and with old sources leaving the grid, we believe that FERC can only properly perform its duties by assessing these projects as a whole.”

Chairman Harrington stated Kinder Morgan would be submitting their final application to the FERC the following day.

Councilor Vaillancourt commented, at the last meeting, Chairman Harrington noted AECOM, which is the company hired by Kinder Morgan to evaluate environmental issues related to routes, has requested a response to the route change in terms of its environmental impacts. However, the initial request was accompanied by a map that was extremely outdated. Town Manager Cabanel stated a revised letter was received, and is being responded to by Director Thompson. The letter identifies the new proposed route, and not only takes into consideration various aspects of water and other natural resources, but also takes into consideration certain spaces between the proposed pipeline and new construction; industry and residential development that is underway or being planned. Those components also have to be added.

When asked, Chairman Harrington stated there is a meeting between the Merrimack Village District (MVD) and Kinder Morgan listed on the schedule for 4:00 – 6:00 p.m. on December 3rd in the Matthew Thornton Room. Town Manager Cabanel stated she had not been informed of the scheduling of the meeting.

Councilor Dwyer reminded the public, as part of the formal filing of the application, the route will be revealed. Chairman Harrington stated her understanding all routes would be submitted although a preferred route would be identified. Councilor Dwyer commented historically when a preferred route is requested, 99% of the time that is what they get.

Speaking with regard to the Application for Intervener Status, Councilor Vaillancourt questioned if the Council would have a formal letter that would be publicly presented and voted upon. She spoke of the 21-day period for response to filing of the application. Town Manager Cabanel stated the timeline begins after acceptance by the FERC. Once received, the FERC has 10 business days to act on it. If they act on it within those ten days, that starts the clock running on the 21-day filing period for intervener status. Legal counsel has already drafted the letter.

Councilor Dwyer stated his belief that time period is accurate for accepting the application, but not approval. It was explained further the acceptance is simply a matter of accepting the application as complete. Vice Chairman Mahon remarked acceptance of the application also triggers the FERC to issue a schedule for their hearings and the process that will be undertaken, which generally takes 365 days.

- **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**

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- 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/InBev, 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). The agreement is being "actively worked". Two issues remain; the confidentiality piece and access to adjoining properties (10-22-15).**
- Town Council Letter to the FERC re: Town and TGP Survey Access Agreement Negotiations - **eFiled 9/4/15.**
- Town Council Letter to the FERC re: Amherst Alternative Route 1 Impacts to the Town of Merrimack - **eFiled 9/4/15.**
- NH Municipal Pipeline Coalition Letter Re: Oversight of FERC and Approval of Gas Pipelines **(9/14/15)**
- Letter to FERC re: Additional Scoping Comments from the Town of Merrimack specific to a Meter Station sited in Town - **eFiled 9/30/15**
- Letter to FERC re: Response Request from TGP and Request for Additional Extension of Scoping Period - **eFiled 10/16/15**
- Town Council Workshop with Kinder Morgan representatives - **held 10/8/15**

- Notice received indicating Kinder Morgan's intent to file a formal application with the FERC on November 20th. Once received the FERC has 10 business days to act on it. If they act on it within those ten days, that starts the clock running on the 21-day filing period for intervener status. The Town's legal counsel has been preparing the Town's request to be designated as interveners.
- The Merrimack Village District (MVD) received a formal request from Kinder Morgan to attend one of their meetings - **Meeting scheduled for 4:00 - 6:00 p.m. on December 3rd in the Matthew Thornton Room.**
- Notice received (TGP) will hold public information sessions to present information regarding the Application for a Certificate of Site and Facility to be filed with the New Hampshire Site Evaluation Commission (SEC) - **Hillsborough County session scheduled for Thursday, December 3, 2015, Hampshire Hills, 50 Emerson Rd., Milford, NH**
- Town Council asked to consider signing on to a letter written by the Northeast Municipal Gas Pipeline Coalition, Municipal Coalition Against the Pipeline and the New Hampshire Municipal Pipeline Coalition letter to the FERC and to the Federal Congressional Delegation Members of Massachusetts and New Hampshire requesting the FERC combine the proposals for additional gas pipeline capacity into New England into one consolidated review - **Council authorized Chairman Harrington or Town Manager Cabanel to sign on behalf of the Council (11-19-15)**

Comments From the Press and Public - None

Recognitions, Resignations and Retirements - None

Appointments

1. Winter Farmers Market

Submitted by the Merrimack Agricultural Commission

Town Council to be presented with the details of the Winters Farmers Market.

Town Manager Cabanel spoke of having met with Bob McCabe and Don Miner the prior week to discuss the Winter Farmers Market, which will be located at the Adult Community Center. An agreement is already in place between the two parties. Town Manager Cabanel remarked it is not a requirement for the Agricultural Commission to seek approval by the Council. However, given the positive nature of the partnership she wished to allow the opportunity for publicity and to extend kudos for the work that has been done.

Bob McCabe, Chairman, Agricultural Commission, commented the Farmers Market had a great summer at 526 D.W. Highway. Vendors and customers inquired what would happen after the last summer market. Mr. Miner has volunteered to keep it going.

Don Miner, member, Agricultural Commission, spoke of the demand in the area for an ongoing Farmers Market. During the summer months he polled customers to determine if there is interest in a year-round market. The response was a resounding yes. He is still awaiting word from vendors as the details could not be provided until everything was in place. The intent is to kick off the winter market on December 3rd from 3:00 - 6:00 p.m. The market will run every Thursday through the winter.

Mr. McCabe noted the Finance Department has reviewed the lease. He commented on how nice the facility is. The larger of the two rooms will be utilized. Advertising will be done through the Library and local news and social media. Products that will be available include meat, honey, maple syrup, baked goods, wine, potatoes, winter squash, etc. It is not yet known when the winter market will end. The summer market will start again in the middle of June. The intent is to see how it goes and what the feedback is.

Public Hearing – None

Legislative Updates from State Representatives - None

Town Manager's Report

The Zoning Board of Adjustment last night approved 3 variances that allow the Monahan Companies to proceed forward to the Planning Board with plans for a mixed use development. The proposal calls for a mix of hotel, retail, office, restaurants, and apartment uses along with a parking garage. The project will still require both a Conditional Use Permit from the Planning Board as well as site plan approvals for the various phases of the project before construction can commence. It was noted the development is intended to be located at the base of the Merrimack Premium Outlets property, where a hotel pad site was previously designated.

The Holiday season is upon us. Secure your valuables out of sight in your vehicles while shopping and make arrangements for package deliveries to your office or neighbors home so they're not left out unsecured on your doorstep.

Merrimack Fire wants everyone to be safe this Thanksgiving. Thanksgiving Day is the busiest day of the year for home cooking fires. Stand by your pan always; remain in the kitchen when cooking at high temperatures, if you have to leave the kitchen shut off the stove or oven until you return. Do not fry a turkey on a wooden deck and make sure that the turkey is completely thawed before placing in the hot oil. Turkey fryers can easily boil over and catch a house on fire if they are too close to combustibles. If you follow some simple safety tips everyone will have something to be thankful for.

Our Wastewater Treatment Facility was selected as the New Hampshire Plant of the Year for 2014. The selection is made by the New Hampshire Water Pollution Control Association, and will be announced at the winter meeting held at the Crowne Plaza in December. Finalists were the cities of Concord and Keene and the Town of Milford. Selection is based on environmental permit compliance, safety record and innovative and energy efficiency projects.

Consent Agenda - None

Old Business

1. O’Gara Drive Tennis Courts Follow-up Discussion

Submitted by Town Council Chairman Nancy Harrington and Vice Chair Tom Mahon

Town Council will discuss the details and options from the latest information received from the National Park Service relative to the O’Gara Drive tennis courts.

Several years ago the Town received a grant through the State from the Federal Government to pay 50% of the cost of constructing tennis courts. The grant also included the skating rink as the desire was for the amenity to contain an entire year’s worth of recreational activity. The second grant that arrived ten± years later was to reconstruct the tennis courts and add lighting.

The amenities were constructed on a piece of land on O’Gara Drive, owned by the School District and leased by the Town. That piece of property not only includes the amenities encumbered by the grant, but also a skateboard park and basketball courts.

The tennis courts are in a state of disrepair. The Town has been working with the State to identify the responsibilities imposed by the Federal Government in connection with the grant. There are two issues; the Town’s obligations under the lease to the School District and the Town’s obligation to the Federal Government for maintaining these recreational enmities in perpetuity. Chairman Harrington noted the cost provided for repair of the tennis courts was \$183,000 with a three-year warrantee. The Council reached a decision not to expend the funds, and to ascertain the Town’s obligations with regard to this facility. Councilor Dwyer clarified what the Council agreed to was not to expend the funds on that site. Although the idea of moving the amenities to another location was tossed out, the discussion never got off the ground.

Town Manager Cabanel stated Matt Casparius, Director, Parks & Recreation Department, was successful in obtaining a response to the Town’s inquiries in an email from Eric Feldbaum, Community & Recreation Specialist for the Division of Parks and Recreation under the New Hampshire Department of Resources and Economic Development (DRED). Three options were identified. The first stated the Town could break the lease, according to the Federal Government. If the lease were to be broken, the provisions for section 6(f) of the lease, which is the “in perpetuity” section of the responsibilities, remains in effect. The Town would then have to substitute public recreational property of equal or greater value. The new recreational amenity would have to go on land in Town that is not currently a designated park, open space or recreational area. The area leased from the School District would no longer be subject to any Land and Water Conservation Fund (LWCF) Program requirements and the protections in perpetuity would transfer to the new facility.

Another option would be for the Town to allow the current lease agreement to expire, at which time the provisions of section 6(f) would also expire, and the Town would no longer be federally required to provide perpetual public recreational property. The Town would be required to fulfill its obligations until the end of the lease. The Town could formally request of the National Park Service to declare the facility obsolete, which the Park Services is prepared to do. The Town could then convert the piece of property to passive recreational use, which could be benches, a volleyball court, etc. The caveat to that is you could never sign a lease on that property again unless you wanted the obligations to move forward with the National Park Service. If the lease is extended, it would then apply to the whole property.

A third option was that the Town and School District could extend the current lease past the signed expiration date. If so, the provisions of section 6(f) would continue to be applicable and the Town would be responsible for program compliance through the term of the extension. In this instance, the perpetuity restrictions remain in place as a recreational space for the length of the new lease. This option would require the Town to replace the amenity.

Councilor Rothhaus questioned if all three components; skate park, ice rink, and tennis courts, are part of the grant, and was told the grant was for the skating rink and tennis courts only. Councilor Vaillancourt commented it is all part of the same parcel. You can't pick and choose what will be addressed. Whatever the Council decides to do impacts the entire parcel. Chairman Harrington stated her understanding if the lease expires all amenities revert to the School District.

Town Manager Cabanel stated what she spoke of is what the Town is able to do as far as the Federal Government is concerned. What Councilor Vaillancourt is talking about are the obligations under the lease with the School District (entire parcel).

Councilor Vaillancourt noted the language that states: "If no new lease is signed with the School District – the perpetuity restrictions disappear but they also would take over the entire parcel of land. (Basketball courts, Skateboard Park, etc.). MSD would regain legal control of their own property."

Councilor Dwyer stated his belief everyone would be in agreement this was a horrible deal back when, and was negotiated very badly when words like in perpetuity are used. From that day forward the whole thing has muddled to where it is today because the Town was always bound by countless pages of rules, etc. In the end, he is of the opinion the land should revert back to the School District. It is their land, and should be their land. That is the entrance to the school; they should have control of how it looks, how it functions, etc. He stated his support of option 2 as the cleanest way to get out of this really bad deal of the past. In the meantime, cooperate with the School Board in any way we can, but let them know that is the direction.

You could negotiate future arrangements, e.g., if the School Board wishes to keep the skate part and the basketball courts, they may say can the Town pick it up under the Parks & Recreational for maintenance, etc. Town Manager Cabanel stated that would be restricted. Councilor Dwyer responded he does not care about what Washington tells him regarding picking up trash at a streetlight. He is of the belief the Town can negotiate for itself.

Vice Chairman Mahon suggested the Town apply for the obsolescence designation. When meeting with the School Board, they could be made aware the Town does not intend to renew the lease, and in 2018 the property will revert to their possession.

Councilor Vaillancourt stated Councilor Dwyer does not speak for her; and when accepting grants there are stipulations, etc. She remarked this happened in the 1970s and resulted from the Town and the School District working together in obtaining a grant for recreational purposes for the people of the Town. She does not think it is horrible.

Councilor Dwyer commented for the last ten years the appearance of this property has been shameful. It has been a blighted piece of property. Councilor Vaillancourt reiterated Councilor

Dwyer does not speak for her. She spoke of a document referenced in prior meeting minutes relative to the structural integrity of the property and a three-year warrantee. She questioned why the Town had not sent a structural engineer to look at the property and write a report. She is of the belief that would have been to the Town's advantage when not wanting to expend the funds. She stated she requested a copy of the report and it does not exist.

Councilor Vaillancourt noted when making a request for the obsolete designation, we would have to change the tennis court area to something that is passive recreational use. She is unsure if that is something the Council would negotiate with the School Board, but is something the Council should have an idea around ahead of the meeting with the School Board.

Councilor Rothhaus stated it was a bad deal; in perpetuity means when our country collapses for whatever reason it still goes on. It was a bad idea. The question is always asked; what are the consequences of accepting grant funding, what strings come with it. This one was unfortunate. He stated his surprise it is so simple to bail out, and his support of seeking a designation of obsolete. He feels badly as he believes the skateboard park accommodates a group of kids that aren't necessarily accommodated in other forms of recreation in Town. That is something he feels will have to be discussed in the future. He stated he was not willing to spend the money it would take to rehab the existing amenities; with or without the research on the foundation and footing.

Councilor Dwyer stated the report exists, and he is unsure of why Councilor Vaillancourt was not provided with it. When asked if he has a copy of it, he stated he did five years ago. He has seen it and read it many times. The Town already contracted with someone to have it done. Councilor Vaillancourt stated she has seen estimates, but no structural integrity report.

Councilor Dwyer stated the entire School Board was given a copy of it. Councilor Vaillancourt interjected, and stated they were not. Councilor Dwyer stated that to be his recollection. Councilor Vaillancourt stated the School Board was given estimates. Vice Chairman Mahon stated the School Board was provided with the estimate. There has been no other analysis. We're basing it on conversations that were had with the contractor as to what the problems were because those were the same issues that were brought in front of the Budget Committee in 1987 or 1988 when they were talking about the free money to put in the lights. He stated he was the only dissenter of 15 for the "free money", and the fact that even then when they resurfaced it, they would only give us a three-year warrantee. Even then they stated there was deficiency underneath. Councilor Dwyer stated he does not need to spend thousands of dollars on a consultant when he can see it with his own eyes. The ledge permeates that whole property site, and that is why the cracks exist on the tennis court. That is why it was going to cost so much, because they would have to blast so much ledge out of the site. Chairman Harrington stated that to have been a verbal discussion.

Councilor Vaillancourt questioned how the Council would handle an alternate proposal for the site. Chairman Harrington responded a discussion could take place after a motion is made and passed relative to which available option the Council would like to pursue.

Councilor Boyd stated it to be an eyesore and safety hazard. It has been like that for a long time. The times the Council has met with the School District to try and find a suitable alternative that

would be amenable to both parties, the School District has always circled back and said we want a tennis court there. They have brought forward no different ideas as to how they could use that particular piece of property to have it blend in with some of the other amenities that we have there. Based on the choices that have been stated, he agrees with the majority of his colleagues that the Council should declare it obsolete and explore terminating the lease as of 2018, and express gratitude and thanks to the School District.

Councilor Boyd remarked the Town has a skateboard park and skating rink there, and as part of the policy discussions, he imagines the Council will consider dismantling and moving those amenities to another area of Town should the School Board not want to accept the responsibility for those amenities.

Director Casparius commented on the number of phone calls and emails exchanged with the State on this issue over the past 6 months. If the tennis courts are declared obsolete, which they have indicated they will do, that fulfills the Park Services requirements through the end of our current lease. If we don't sign a new lease in three years, then the property reverts to the School District, but the perpetuity restrictions disappear. They can do what they want with it at that point. Whether they want to accept responsibility for the skateboard park or the rink is unknown.

Town Manager Cabanel stated the need for additional clarification on the rink as the rink was part of the grant, and they are not declaring that obsolete. Some thought needs to go into asking that question.

Chairman Harrington stated a desire for the Council to reach a decision with regard to which option to utilize, and then engage in a discussion, likely as part of the joint meeting with the School Board, of other considerations.

MOTION made by Councilor Boyd and seconded by Councilor Dwyer that the Town Council request that the tennis courts be deemed obsolete with the appropriate Federal jurisdiction, and furthermore that the Town Manager or her proxy be authorized to sign the letter necessary to be submitted to the jurisdiction to declare said obsolescence of said tennis court. MOTION CARRIED 5-1-0 Councilor Vaillancourt voted in opposition.

Chairman Harrington stated the need to discuss with the School Board the Council's desire to restore the area to passive recreation. It was explained that would entail the removal of the courts, the fence, and lights. Chairman Harrington stated it would be at the end of the lease (2018) that the amenities would be turned over to the School District. Decisions regarding those do not need to be made at this time. Councilor Vaillancourt stated her understanding if the Council requests the tennis courts be declared obsolete and then makes the changes, the Town would be in compliance until the lease expires in 2018.

Councilor Vaillancourt commented on how quickly two years will pass, and remarked she would be sad to see the skateboard park disappear completely from Town and the skating rink has an incredible group of volunteers that are dedicated to it. She stated her preference for the Council to start thinking of where those amenities could be relocated to. Councilor Dwyer questioned who would tell the Town that it cannot put the skate park where it wants to 2 or 5 years from

today. Vice Chairman Mahon responded nobody. Councilor Vaillancourt stated the Town will need to commit to it because that site will no longer be available to the Town.

Councilor Dwyer suggested the School District could take it over, and was told they could. Councilor Dwyer remarked it is being made to sound as if it would be inevitable that it would have to be moved. Councilor Vaillancourt stated the School District does not run Parks and Recreation functions. Councilor Dwyer stated that would be their choice. He commented they run sports teams, etc. Chairman Harrington stated it to be a premature discussion.

Councilor Dwyer commented on remarks made stating they now have to be moved, and questioned who is twisting the arm of the leaders of the Town, e.g., School Board and Councilors, to say these amenities have to be lifted from their current location and brought somewhere else. Chairman Harrington stated that may or may not be true. It does not have to be answered now. There has to be an understanding of the nuances, but there also has to be a discussion with the School Board, before the end of the lease, regarding their interest. It may be that the School Board decides it does not want to have the responsibility. The Town Council may say it is worth moving. However, the configuration of the Town Council and School Board in 2018 will be different than today. Vice Chairman Mahon stated it has never been his intent that the skateboard park disappear. Quite frankly it would be something that would be handed off to the Parks and Recreation Director for him to determine if there is another suitable site or area for that to be placed.

Councilor Vaillancourt stated that to be all she was asking and that she would like to see the Council begin planning now. She added the School District, in its nature, wouldn't operate a skateboard park or a skating rink the way that the Town runs it. It is not that they don't want to see it happen it is just not the nature of their business. Councilor Dwyer questioned if the Town is out of the lease and the obligations are all done, what cloud is over our head that it doesn't stay in its current location and be managed by the Town. Vice Chairman Mahon stated it is because it is School District property and the School District would have to decide if they would maintain it or have the Town maintain it for them. Councilor Dwyer stated there is nothing that prevents that from happening. Vice Chairman Mahon agreed.

Councilor Rothhaus stated his belief there simply cannot be a formal lease in place. There could be an agreement. Chairman Harrington stated those are the nuances she was speaking of which require an answer. Vice Chairman Mahon stated the Council was getting way ahead of where it needs to be, were imputing information or actions on future boards, which it ought not be doing.

New Business

1. Donation Acceptance to the Park and Recreation Department

Submitted by Parks and Recreation Director Matt Casparius

Town Council to consider the acceptance and expenditure of a donation to the Parks and Recreation Department in the amount of \$485.36 from Boy Scout Ian Finken, which is left over money from his fundraising efforts on his Eagle Scout project, pursuant to Charter 8-15 and RSA 31:95-b.

Director Casparius spoke of several Boy Scout projects completed through the Parks and Recreation Department in the last few months. Scout Ian Finken did a sign project at

Wasserman Park. His fundraising efforts were so successful that funds remained after the project was complete. The remaining funds were donated to the Town. A request was being made of the Council to accept the donation.

When asked what the donated funds would be utilized for, Director Casparius responded a specific purpose has not yet been identified. However, his initial thought is that donations associated with these types of projects be utilized to maintain them going forward. Vice Chairman Mahon questioned if Capital Reserve Funds could be established so that donations, etc., could be set aside for the specific purpose of repairs/maintenance of projects for which the funds were raised. Town Manager Cabanel suggested the amount of funds to be far less than what she would expect such a fund to be created for. Assistant Town Manager/Finance Director Micali stated the funds would be retained under a specific donation, which would remain in place until utilized for the identified purpose. Both of the recent donations were donated for Wasserman Park; however, a specific purpose at Wasserman Park was not identified. The funds will set aside and utilized for Wasserman Park. Director Casparius will have to bring forward a proposal for the expenditure of those funds from within the budget.

MOTION made by Councilor Mahon and seconded by Councilor Boyd to approve the acceptance and expenditure of a donation to the Parks and Recreation Department in the amount of Four Hundred Eighty Five Dollars and Thirty Six Cents (\$485.36) from Boy Scout Ian Finken, which is left over money from his fundraising efforts on his Eagle Scout project, pursuant to Charter 8-15 and RSA 31:95-b

ON THE QUESTION

Councilor Boyd requested the Town Manager write a letter of congratulations and gratitude to Scout Finken. **MOTION CARRIED 6-0-0**

2. 2016-2022 Capital Improvement Program

Submitted by Town Manager Eileen Cabanel

Town Council to review the 2016-2022 CIP.

Town Manager Cabanel spoke of the submittal of the 2015 through 2022 Capital Improvements Plan (CIP). The CIP allows the Town to allocate monies to the various Capital Reserve Funds (CRF) as a means of planning for future capital (major) expenses. Doing so allows for capital projects to be paid for in cash versus the issuance of bonds.

Town Manager Cabanel commented when she first came on board, an important goal was to begin building up the CRFs. Several years ago the amount being allocated to CRFs on a yearly basis was miniscule particularly in comparison to the amount being expended. As a result, funds were being depleted. She provided the example of a year when \$360,000 was allocated towards CRFs and expenditures were in excess of \$1 million.

Over the past several years, attempts have been made to build up the CRFs. In the current fiscal year, the Town reached the point of allocating approximately the same amount as what was needed for expenditures. For FY17 the desire is to again start building up the CRFs. Referring to the prior example, she commented on efforts that resulted in going from an allocation of

\$360,000/year to \$1.6 million/year. A lot of progress has been made. The desire has been to establish minimums in terms of total dollars for allocations to CRFs. Several years ago the discussion was around a minimum yearly allocation of \$1 million. Since that time the Town has not only maintained that, but has begun to build up the CRFs to continue setting aside money for things that we know will be needed in the future.

A PowerPoint presentation was provided (can be viewed [here](#)). Displayed were proposed allocations to CRFs for FY17 compared to FY16 allocations.

Town Manager Cabanel noted the Assistant Town Manager/Finance Director receives, from each of the department heads, items that will be needed over the next 6 years. The items are placed under the fiscal year for which the expenditure is anticipated. With that information he creates the spreadsheet identifying allocations that should be made in each of the years leading up to the fiscal year in which the expenditure will be made.

The proposed allocation to the Ambulance CRF has been increased primarily because the cost of ambulances has increased, and the fund itself was down to approx. \$12,000 a few years prior. Communications Equipment relates to the police console the Council has been discussing. Some of the monies remaining at the end of FY15 were allocated towards the purchase of one component of the console. There are two years remaining before the planned purchase. That CRF also includes the cost of the Fire Station dispatch center, which is being looked at for replacement in the same timeframe.

Under Computer Equipment, monies are intended for the purchase of software licenses. Under D.W. Highway \$50,000/year has been set aside. Every four or five years a portion of D.W. Highway is addressed. The proposed increase under Highway Equipment is related to increasing costs. The Library Building Maintenance allocation is intended to build the fund up to allow for projects such as work on the parking lot and the sidewalk alongside the building. They are also saving for the possibility of a keycard system, monitoring, sprinklers, etc. Fifteen thousand is set aside each year for Property Revaluation. The Town will be doing a revaluation in FY17. For Solid Waste Disposal, the Town typically allocates \$60,000/year. That did not occur last year. Monies were expended out of funds remaining at the end of FY15 to purchase a truck for Solid Waste. The Traffic Signal Pre-Emption System is devices located at the traffic signals so that police and fire can pre-empt the signal to go through the intersection. This will be the last year of the \$65,000 allocation to the GIS system. The cost was anticipated to be greater than is now known (approx. \$135,000 flyover/digital mapping of Town). In future years the recommendation will be to allocate/set aside smaller amounts over a longer period of time.

The proposed allocation to the CRF for Road Infrastructure was identified as \$600,000. That includes the bridge work. One of the reasons the CRFs have had to increase over the past several years is due to the number of bridges that have been addressed. Having plans in place and the funds available (20% Town portion) has made the Town an attractive recipient of the 80% grant money received. The proposed allocation to Sewer Infrastructure Improvements is intended to cover the cost of various pieces of equipment. The \$10,000 proposed appropriation to the CRF for Milfoil has been reduced slightly as a result of work being done on a yearly basis.

Major projects/expenses proposed for FY17 include a bridge replacement (Bedford Road/Baboosic Brook) for which the Town's portion (20%) will be \$545,500. Stormwater

Drainage Improvements has an associated cost of \$100,000 for FY17. Town Manager Cabanel stated her goal with regard to paving and infrastructure improvements has been to allocate \$1 million/year. That has not been achieved particularly because of the amount of allocation to bridge work. The Souhegan River Trail will be funded; \$436,000 grant funding received and \$150,000 from the Road Infrastructure CRF. That trail will traverse under the sluiceway of the Chamberlain Bridge. Councilor Rothhaus remarked the Town would have expended in excess of the \$150,000 towards the sidewalk project, but was able to attribute it as the Town's 20% match to the Federal grant monies. With regard to parking lot paving, the Library would like to repave their lot and do some corrective work around the building (walkway). The estimate is \$45,000.

Town Manager Cabanel remarked although it is important to look at what will occur in the upcoming year, it is also important to take a look at future expenses being planned for. She noted the Fire Station project continues to be moved out. The \$650,000 cost is identified in FY19. Assistant Town Manager/Finance Director Micali commented on two CRFs being combined about 6 years ago. There were previously two CRFs; South Fire Station Building Fund and Northwest Fire Station Building Fund. When the two were combined the balance was approx. \$250,000. Two hundred thousand dollars of the CRF would be utilized to cover the cost of the South Fire Station, and the remaining cost would be bonded.

Also projected for FY19 is the Bridge replacement US3 (D.W. Highway)/Baboosic Brook with an estimated cost of \$2,520,000; Town's 20% match would be \$504,000. Town Manager Cabanel stated Kyle Fox, Deputy Director, Public Works Department (PWD), was able to secure Federal Funding (80%). The Town was running up against the limitations on the State budget. They would only budget in the area of \$8 million a year and would not be giving \$2-3 million to Merrimack every year. Some of the planned projects will receive Federal funds. In combination with the US3 bridge will be the Wire Road Intersection improvements (\$500,000). Councilor Dwyer spoke of his recollection a year or two ago former Director Seymour stated they did an engineering study, there was not enough room, and the roundabout at Wire Road would not happen. Town Manager Cabanel stated there will be road improvements, but no roundabout.

Councilor Dwyer questioned where the \$3,105,000 cost identified for the South Fire Station was generated from. Assistant Town Manager/Finance Director Micali stated it is being used as a placeholder. No real work has been done, etc. Town Manager Cabanel noted the Highway garage project has been postponed another year (FY18). When asked, she stated one of the Town's bonds matures at the end of FY18 and another in 2023.

A sewer extension study was done, which identified and prioritized the projects. The first was just completed, and depleted the CRF. The next project to be completed is the Mayflower and McQuestion Sewer Basins, which are planned for FY20 at a cost of \$2,366,000 (bond). The major projects list includes placeholders for new athletic fields and the new library.

Vice Chairman Mahon questioned if the monies allocated towards the sewer projects that were anticipated in the study have been accumulating over time, and was told they have not. Town Manager Cabanel stated her understanding the Town had an agreement with Anheuser Busch that sewer extensions would not be paid for out of the sewer fund, and that they would be paid for out of the General Fund through CRFs. The Town was saving for them, but the first project completed at a cost slightly higher than the balance in the CRF. Councilor Rothhaus spoke of

the difficulty in getting residents who are connected to sewer who won't be with this \$2 million to be convinced it is a good idea for the Town.

A slide was displayed, which represented a consolidation of the various sources of funds that would be utilized to cover the costs associated with major projects. In FY17, it is anticipated \$840,500 will be utilized from the CRFs, \$625,000 from the municipal budget (road infrastructure improvements), \$125,000 for road improvements (registration fee), and State Aid (bridge and Souhegan River Trail).

Speaking with regard to bridge projects, Town Manager Cabanel stated with the bridge projects identified beginning in 2008 and ending with the US Route 3 (DW) bridge in 2019 (commitment received), the Town will have done \$16,453,500 in bridge repair for which the total cost to the Town will be \$2,770,150. Assistant Town Manager/Finance Director Micali stated he and Deputy Director Fox have been told Merrimack's is the most aggressive bridge project in the State of New Hampshire. He reiterated the benefit of having the matching funds available and being able to take advantage of State/Federal funding when it becomes available.

One of the major projects planned for FY17 is the Bedford Road bridge replacement, which is a culvert type bridge that has deteriorated. When reconstructed, the bridge will have an approx. 70' span (currently 21'). As part of the project the elevation of the road will be increased (at low point). In flood conditions it will push all of the water that would go over the road through the structure. The structure has to have a much wider span to accommodate that extra flow.

Stormwater drainage improvements planned for the 15/16 construction season include: Jo Ellen Drive, Amherst Road, Brenda Lane, Wilson Hill Road, Waterville Drive, Thornton Road West, and Town-wide basin repairs.

With regard to paving and infrastructure improvements, the slides provided identified what has been accomplished over the past several years. The Town is currently going out to bid for pricing on paving. When the bid is received it will identify price/ton for the asphalt and price for moving structures. That has to be taken into account when reviewing the Pavement Condition Index (PCI) to determine the roads to be paved in the coming construction season.

Town Manager Cabanel noted preliminary design of the Souhegan River Trail project will begin in late 2015 with construction expected in 2017.

Expenses associated with minor projects planned for FY17 (funded through a variety of sources) include the revaluation (\$75,000), the GIS Update and Maintenance Program (\$135,000), for the Fire Department, forestry truck (\$85,000) (replacing 1988 vehicle), inflatable boat (\$15,000) (replacing 1994 inflatable boat), and thermal image rescue cameras (\$40,000 for three years for a total of 6 cameras), for the Highway Department, a six wheel dump truck (\$170,000) to replace a 2002 vehicle, utility vehicle (\$125,000) replacing a 2005 vehicle (used to remove snow from sidewalks in winter and to cut the slope at the landfill in the summer months and around guardrails), and a ¾ ton pickup (\$35,000), for the Police Department, patrol vehicles; 3 SUVs (\$126,000). It was noted attempts are made to purchase 3 in FY17, followed by 3 the next year, and 4 the following year.

Radio base stations are planned to be completed in FY18 (\$516,000). Funding for the Fire dispatch, Station 1, Radio Base Stations was in the budget. It has been included in the CRF as a placeholder with the anticipation the project will be completed at the same time as the radio base stations. Efforts are being made to achieve economies of scale. Funding for Self Contained Breathing Apparatus (SCBA) equipment (\$82,334) will be set aside for a period of three years to cover the costs should the Town not be successful in its grant applications.

Councilor Rothhaus questioned the cost difference and the purpose for purchasing SUVs as opposed to standard vehicles. Assistant Town Manager/Finance Director Micali responded he was told the price difference is about \$2,000/ea. The reason being they are larger vehicles. While wearing various pieces of equipment/clothing, it is difficult to get out of the front of the vehicles. The SUVs provide additional room. The SUVs are all wheel drive, and mileage is about the same. Councilor Rothhaus requested additional information on mileage differences. In addition, monies will be expended for the purchase of software licenses (\$30,000).

Town Manager Cabanel spoke of a future year's expense associated with portable radios for the Fire Department (\$294,000 in FY19). Discussions are ongoing with regard to the number of radios required, what accessories may be needed, etc.

James Taylor, Asst. Director of Public Works/Wastewater, spoke of the minor projects planned for FY17. The manhole/sewer line rehabilitation is funded each year to address structures. The Town has 1,500 manholes and 90 miles of sewer line. The department is finishing up the compost building rehab project. The structure itself was more expensive than anticipated; however, the result was a better product. They are completing replacement of all of the roof panels, new roof supports, new bolts, etc. The MAUs are two large gas fired heating units. There is a lot of moisture in the building because of existing conditions. It is necessary to provide just enough heat so that it is not fogged in all the time. There is a pump station at Pennichuck Square that takes in 420 homes in Merrimack and pumps the wastewater to the City of Nashua (inter-municipal agreement). The emergency generator listed (\$50,000) is to replace a 1982 generator. The camera van was used and modified to provide camera equipment to view sewer lines to check condition. It has essentially rusted out at this point (\$32,000). At compost they have had issues with overhead doors, and are looking at a watertight enclosure type opener to prevent maintenance and expense.

Mr. Taylor stated the X-country sewer system easement recovery (\$20,000) has been ongoing for the past 4-5 years. It began with a survey. A contractor has been hired, and all of the overgrown easements have been cleared. Hypochlorite pumps (\$13,500) have suffered normal wear and tear (over 25 years old). The tires for front-end loaders are on a regular replacement cycle (\$12,000). The treatment plant fence line has become overgrown and requires clearing (\$10,000). As part of that is on the railroad line, there is the requirement and associated cost for a flagger. There are three CAT 938 loaders for the compost operation (approx. 2006).

Assistant Town Manager/Finance Director Micali noted these projects under wastewater will be paid for by user fees. Whoever uses the sewer is paying for this. He noted just because it is identified here does not mean it will be listed under capital purchases within the budget. Items such as the overhead doors, which are a maintenance items might appear in the maintenance

area, etc. It will still total \$313,000. This is the case only for the sewer fund. The items listed in other funds will be listed as presented in the PowerPoint provided.

Town Manager Cabanel noted another user fee category is the Media Department. Their funding comes from the cable franchise fee. That number is getting larger and larger and expenditures are not really increasing. When asked why the franchise fee revenue is increasing, Assistant Town Manager/Finance Director Micali responded users are utilizing more and more services resulting in an increase in the amount of the franchise fee. The Town's percentage remains constant. Town Manager Cabanel noted in the past three years the Town has opted to utilize some of this revenue to offset general fund expenditures. There is no sense accumulating monies into an account that is already adequately funded. The items proposed under minor projects are intended to keep up with technology and keep the equipment current. Vice Chairman Mahon asked for clarification on the lower power FM equipment, and was told it to allow broadcasting with livestream (can be viewed on computers).

A slide was displayed summarizing the expenditures associated with minor projects for FY17; \$727,000 will come from CRFs, \$138,000 will come from the General Fund budget, \$313,000 from user fees, and \$50,000 from cable franchise fees.

A summary was provided of the existing CRFs. As of July 1, 2015, the total for the various CRFs was nearly \$3.7 million. This year \$1.4 million was allocated and \$1.5 million expended. At the end of the current fiscal year, it is anticipated the total will be nearly \$3.6 million. The planned allocation is \$1.6 million, which is a few hundred thousand dollars over the prior year's allocation. The anticipated expenditures for FY17 total \$1.5 million. At the end of FY17 the total balance is anticipated to be \$3.6 million. In FY18 another larger amount is expected to be allocated and \$2.2 million expended; primarily for communications equipment, which is an anomaly (will not happen every year). As of June 30, 2018 the anticipated total in the CRFs is \$3.2 million. Town Manager Cabanel noted the Council was provided with some project detail along with the agenda.

Councilor Dwyer questioned if the current proposed budget identifies monies being set aside for the Merrimack River ramp project for road improvement leading to the ramp. Town Manager Cabanel responded with regard to the Griffin Street Boat Launch specifically, a few years prior, by consensus, it was agreed monies would be set aside anticipating a portion of the cost being contributed by the State. Councilor Dwyer stated his recollection the State could not enter the discussion until there was a usable access road. Assistant Town Manager/Finance Director Micali noted the monies identified in the CIP are identified in FY18. During departmental discussions of the FY18 budget, should the PWD still believe that project to be needed in that year and bring it forward, there would be a discussion with the Town Manager, and the project would be brought forward to the Town Council. Vice Chairman Mahon commented this is something that has been dealt with over the last 20 years. Councilor Rothhaus suggested it is time to act, and commented it is a gem out there. Councilor Dwyer agreed. Town Manager Cabanel remarked there were some very lean years, and all of those kinds of projects ended up falling out of the budget.

Assistant Town Manager/Finance Director Micali spoke of having been at a conference earlier in the day where several people wanted to talk to him about Merrimack's CRFs; how the CRFs

were established, how projects are being funded and completed, how the Town is avoiding bonding, etc. He stated it is because the Town saves for its projects over a number of years; because we have a CIP that is used and not simply a document that is placed on a shelf.

Councilor Dwyer questioned when the CRFs were established. Vice Chairman Mahon stated there were a lot of limitations in the '70s and '80s on establishing Capital Reserve Funds. You were not, by State law, able to set them up for some of the things we have them set up for. Town Manager Cabanel added they also had to be very specific. Vice Chairman Mahon remarked the restrictions were enormous. They started to loosen up in the '90s. Merrimack established them in the early to mid '80s. He noted with a lot of the CRFs, the Council is the agent to expend. A lot of towns don't want their governing body to be the agents to expend.

Vice Chairman Mahon commented the budgetary statutes at the local level encourage you to only look at one year. They don't want you to look out and see what is around the corner. In 1980 or 1981 the Budget Committee liquidated all Capital Reserve Funds for the Town and the School District. Town Manager Cabanel commented once you get into bonding and have a big placeholder for bond payments it is hard to then start savings for future expenses.

3. Town Council / School District / Conservation Commission Letters of Engagement Discussion

Submitted by Town Manager Eileen Cabanel

Town Council to discuss allowing the Town's environmental attorney to enter into engagement agreements with the School District and Conservation Commission to prepare letters in order to establish intervenor status with the Federal Energy Regulatory Commission re: the proposed pipeline. It should also be noted that the environmental attorney will not be representing either party in going forward with the intervention process.

Town Manager Cabanel commented as we enter into the area of writing our letters and getting into the intervenor process with the proposed NED pipeline and the FERC, we have different entities that all want to be represented by the Town's legal counsel. She has concerns about being able to engage different entities that may have different interests. If she engaged the School District and the Conservation Commission and the Town Council from the point of writing the letter establishing intervenor status all the way through the process, there may be, at some point, some conflict, and she would have to step aside entirely. After further discussion, both the School District and the Conservation Commission would like to engage the Town's legal counsel to write the letter to establish intervenor status. She has questioned the individual within her firm that specializes in the area of ethics as to whether it is acceptable to write separate engagement letters for each of the entities, and that task alone.

The intent would be that the Town's legal counsel would write the letter for the School District, write the letter for the Conservation Commission, and write the letter for the Town Council. Each of the entities would cover costs associated with the individual efforts. Beyond that initial effort, the Town's legal counsel would represent the Town alone.

Approved: January 14, 2016

Posted: January 19, 2016

Chairman Harrington stated her opinion the writing of the letter to initiate intervenor status is of the nature that there should be no concern. Understanding that is the extent to which the Town's legal counsel would be utilized by the other entities, she has no concern/objection.

Councilor Vaillancourt commented the Conservation Commission, at its last meeting, had discussed the timeframe that is involved, and the belief being allowed to utilize the Town's counsel is a huge benefit. The Commission has stated how appreciative they are of the support the Council has provided. The Commission discussed retaining its own legal representation. The Town's counsel has provided recommendations for legal counsel. The Commission is also conducting its own research.

Vice Chairman Mahon commented he raised concern noting case law in New Hampshire regarding an attorney representing two different entities in the same proceeding. Addressing the need in this fashion is simply cleaner.

The consensus of the Council was to allow the Town's environmental attorney to enter into engagement agreements with the School District and Conservation Commission to prepare letters in order to establish intervenor status with the Federal Energy Regulatory Commission re: the proposed pipeline

Minutes - None

Comments from the Press

Sara Webb, Nashua Telegraph

Questioned when the Town Council would meet with the School Board, and was told the meeting is tentatively scheduled for December 10th.

Comments from the Public - None

Comments from the Council

Councilor Boyd expressed a belated wish to the Veterans of our community a very happy Veterans Day. He stated his hope they enjoyed celebrating a day that is very important to us and them for the services they have given in times of war and peace to represent our country.

He congratulated Brandon Snell for another successful blood drive at the St. James United Methodist Church. He commented he believes the final count was 67 pints of blood that were donated. This marked the very first year that Brandon himself could give blood.

Councilor Boyd wished the Merrimack community a Happy Thanksgiving, and reminded the viewing audience of the Merrimack Rotary Turkey Trot, which will be held at the Middle School on Thanksgiving morning. For additional information go to merrimack5k.com.

Approved: January 14, 2016

Posted: January 19, 2016

Councilor Boyd offered his condolences to the Flutie family on the passing of Doug's parents. They passed within an hour of each other. Doug was quoted as saying his Mom had a broken heart as a result of his Father's passing.

Boston College vs. Notre Dame Saturday night at Fenway Park.

Councilor Vaillancourt spoke of the Conservation Commission held earlier in the week, and noted the land purchase closing for the land off South Grater Road known as Tax Map 5A/003, 5A/065, 5A/065-1, and 5B/001, will be completed on November 20th at 10:00 a.m.

The Conservation Commission currently has openings for 1 full-time and 3 alternate members. Individuals interested in serving on the Commission should contact Becky Thompson in the Town Manager's Office. There are also several Sub-Committees of the Commission which currently have openings.

Councilor Vaillancourt stated the Commission has created a beaver management policy and water control activities management plan. Some of that plan involves financial support for the devices that are being installed to help with the management of beavers. Town Manager Cabanel stated monies have been set aside for that in the budget. Assistant Town Manager/Finance Director Micali stated monies have been set aside. He will contact the Commission to ensure what is being set aside is adequate. Town Manager Cabanel remarked, at the end of last year when the dollar amounts were being identified one of the components discussed was for the beaver management plan. Councilor Vaillancourt responded she is not aware of the specifics on the breakdown on who was going to do what. The Commission had requested she ask about it. Town Manager Cabanel reiterated there are funds already set aside. Councilor Vaillancourt remarked the dollars allocated would be effective in reducing certainly the manpower expense of addressing the issues that arise as a result of beaver activity.

Vice Chairman Mahon agreed the funds the Council is being asked to invest in beaver management as a prevention mechanism is minor in comparison to what would be required to address the damage caused to Town assets, e.g., roads, etc., by beaver activity.

Councilor Vaillancourt commented on private homeowners incurring extensive damage as a result of beaver activity.

Councilor Rothhaus stated the Heritage Commission is looking for volunteers.

Councilor Rothhaus wished Florence Smokler a relaxed and long enjoyable retirement. She closed up her restaurant a week and a half ago after having been in business in Merrimack for 26 years.

He spoke of having received an email stating Merrimack Fire Rescue has been given a lot of laudatory comments from Cardiologists in particular and an Emergency Department Physician. He commented the photo was incredible. It showed the artery, which was plugged completely and had opened up resulting in survival. Without the expertise of our fire crew it would have been a certain fatality.

Approved: January 14, 2016

Posted: January 19, 2016

Vice Chairman Mahon spoke of having attended the Annual Municipal Managers' Meeting earlier in the day. He commented that is part of the New Hampshire Municipal Association conference, which Merrimack is not a member of. He spoke of being asked why Merrimack is not a member, and noted they are still trying to win the Town back.

Town Manager Cabanel informed the Council she has asked the department heads to give her a list of things they actually receive in terms of training, etc., from the New Hampshire Municipal Association so that it can be reviewed again. She commented, to her, the problem is a lot of the communities use the legal services of the New Hampshire Municipal Association, and she feels the Town would be kind of subsidizing that. She is unsure if the benefits derived through membership justify the cost.

Chairman Harrington wished everyone a Happy Thanksgiving.

Adjourn

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

The November 19, 2015 meeting of the Town Council was adjourned at 10:09 p.m.

Submitted by Dawn MacMillan