



Town Council Meeting Minutes

Thursday March 23, 2017, 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 Rothhaus, Councilor Boyd, Councilor Dwyer, Councilor Flood, Councilor Koenig, Councilor Mahon, Town Manager Eileen Cabanel, and Assistant Town Manager/Finance Director Paul Micali.

Pledge of Allegiance

Chairman Harrington led in the Pledge of Allegiance.

Announcements

Voting Day is Tuesday, April 11, 2017 from 7:00 a.m. to 7:00 p.m. at the three polling locations; James Mastricola Upper Elementary School, the Merrimack Middle School, and the St. John Nuemann Church. Please contact the Town Clerk's Office at 424-3651 or visit the New Hampshire Secretary of State's [website](#) to find your specific polling location.

Regular meetings of the Town Council will be conducted on Thursday, April 27, 2017, and May 11, 2017 at 7:00 p.m. in the Matthew Thornton Room.

The Merrimack Parks and Recreation Department and Merrimack Friends & Families invite Merrimack families to Wasserman Park on Saturday, April 8th for the 25th Annual Easter Egg Hunt. The event runs from 10:00 - 11:30 a.m., and groups are divided into separate time blocks so all of the children have the ability to find lots of Easter eggs. The Easter Bunny will be onsite; bring your camera. This year we will be handing out 5,200 eggs. Visit the Parks and Recreation Department website for complete details.

The Merrimack Police Department would like to welcome our new Animal Control Officer, Haylie Gulino. Haylie is responsible for handling all of the animal related calls in Town, and is looking forward to working with residents.

This is your last chance to order compost bins and rain barrels at discounted prices. Orders need to be placed by March 24th to guarantee the order. Details can be found on the Public Works' Facebook page, the Town website, or by calling the Public Works Department (PWD).

Perfluorooctanoic Acid (PFOA) Information Update - None

Public Comments – None

Recognitions, Resignations and Retirements

1. Recognition of Retirement of Town Employee

Submitted by Human Resources Coordinator Sharon Marunicz

The Town Council will present a recognition award to Richard Blanchard in recognition of his retirement from the Wastewater Division of Public Works with more than 35 years of service. November 30, 1981 – March 31, 2017

Mr. Blanchard was unable to be in attendance. On behalf of the Council, Chairman Harrington wished Mr. Blanchard the best of health and happiness in his retirement, and thanked him for his many years of service to the community.

Appointments

1. MS4 Stormwater Follow-up Discussion with Local Legislation *Submitted by Town Council*

Chairman Nancy Harrington and Vice Chair Finlay Rothhaus

Review results of HB 342 and SB 121 and seek further information regarding implications of EPA regulations upon Merrimack.

In attendance were: Senator Gary Daniels and Representatives Richard Hinch, Chris Christensen, Robert L'Heureux, and Anthony Pellegrino.

Kyle Fox, Director, PWD, stated the 2017 New Hampshire Small Municipal Separate Storm Sewer System (MS4) general permit is regulated, for Merrimack, by US Environmental Protection Agency (EPA) Region 1 out of Boston and is regulated through the National Pollutant Discharge Elimination System (NPDES). The goal of the permit is to reduce stormwater pollutants running off of impervious surfaces untreated directly into surface waters. The program was set up to comply with the Clean Water Act. The New Hampshire and Massachusetts permits are the most restrictive permits in the United States. Each state has its own permit.

When asked, Director Fox noted the overarching group is the National EPA. New Hampshire is under Region 1, which is out of Boston. They are the permit writers for Merrimack.

Director Fox stated there to be only 4 states in the country that are regulated by the EPA. The remaining states have been delegated authority by the EPA to manage their own programs. Massachusetts, following the issuance of their new permit in the summer of last year, is in the process of trying to become a delegated state. New Hampshire is looking to become a delegated state through pending legislation.

The new permit, as printed and filed on January 18th of this year; filed two days before the administration changed over, will put the Town into immediate non-compliance. The permit states that we can't "cause or contribute to an exceedance of water quality standards". All projects that we do will be subject to more stringent anti-degradation regulations, which is a State and Federal regulation. This will make new and/or redevelopment projects cost prohibitive and allow State and Federal levels to intervene in local development projects. In addition, the permit states that there shall not be any new or increased discharges to impaired waters.

1 Utilizing the EPA cost analysis tools, the Town of Merrimack estimates the cost of our five-year
2 permit will be in the vicinity of \$3.6 million or about \$720,000/year in addition to what we already
3 spend on stormwater. The cost commitments of this permit for the next ten years (5-15 year period
4 after this one) will cost in the multi millions of dollars. The first five years of the permit is when we
5 do all of the investigations, testing, setting up programs, preparing reports, etc. It is the following 10
6 years where we actually put structural things into place; pipes in the ground, basins, etc. That will cost
7 millions of dollars. A true number will not be known until the permits are acquired.

8
9 Overall in New Hampshire, there are 44 communities saddled with this permit, and carrying the cost
10 burden to implement its requirements. Merrimack is part of a coalition of towns working together to
11 support the Senate and House Bills, and work towards the development of a stormwater permit that is
12 good for the waters of the State, but is financially manageable for the municipalities. There are
13 currently 14 communities in the coalition including Manchester, Dover, Rochester, Salem,
14 Londonderry, Bedford, Portsmouth, and Amherst. Additional members are being solicited by the
15 Coalition Executive Committee. Director Fox indicated he was informed just prior to the meeting that
16 there are two more members as of today.

17
18 Chairman Harrington stated her understanding the issue is not so much with the criteria as that is
19 dictated by the national Clean Water Act, it is the methodology of the procedures or regulations that
20 are so onerous as compared to potential State Department of Environmental Services (DES)
21 regulations. What has happened with the other states is their individual state DES has taken over the
22 process. Although they still have to meet the criteria of the Clean Water Act, how they do that is
23 determined state by state. Director Fox stated that to be correct, and the big difference for Merrimack.

24
25 Director Fox commented the goal for everyone is clean water. We all want the same thing; it is a
26 matter of how do you get there. We feel that the Region 1 EPA has overstepped its bounds in a lot of
27 ways in the permit, and by having NH DES become the delegate authority to manage the program we
28 feel we can get a permit that is manageable, affordable, and written by people who live in the State.

29
30 Chairman Harrington stated Concord is not under the permitting process. Water comes from Concord
31 down, and a lot of what is happening around Merrimack is a result of drainage coming down. It is
32 based upon the criteria of population that Merrimack is part of a regional area that includes Nashua and
33 Manchester, which means that our total population is over 50,000. Director Fox responded that is part
34 of it. What it really relates to is we're in the urbanized area of Boston, which is why the southern and
35 eastern parts of New Hampshire are really targeted in this.

36
37 Chairman Harrington stated prior to the establishment of the final permit criteria there was a great deal
38 of testimony. Part of that had to do with providing evidence as to the inaccuracies of the information
39 used to base decisions on, e.g., old data related to water body testing was utilized. Although evidence
40 was provided of the inaccuracies of the information used, it had no impact on the decision reached.
41 Director Fox responded that is largely accurate; the original permit that Merrimack is still under was
42 started in 2003, which is when the initial rush of communities in New Hampshire fell into the program.
43 It was intended to be a five-year permit. We're now on year 14 of that permit. In 2008 the EPS issued
44 a draft permit. They reissued the permit again in 2013 for draft and parts of that one again in 2015.
45 Each step of the way there were volumes of comments from municipalities stating the issues that we

1 all have with the permit. Director Fox commented, for him, it feels like we were largely ignored by the
2 EPA with the final permit.

3
4 Chairman Harrington commented on having read that Governor Sununu had written a letter to Director
5 Pruitt, EPA, requesting that he visit. Councilor Boyd responded the attorneys that represent the
6 coalition engaged Senator Andy Sanborn, Bedford, who drafted his own letter and submitted that to
7 Governor Sununu for his signature. Upon review, Governor Sununu made some minor changes to that
8 letter, which eventually had his signature, and was sent to Director Pruitt.

9
10 Director Fox added Merrimack's record over the past 14 years during our permit, is spectacular in
11 regards to stormwater management. We did the drainage bond projects, our sewer extension project
12 next to Naticook Lake last year, etc. Every project that is done is with stormwater in mind. The Town
13 has done a terrific job cleaning up our waters. Chairman Harrington reiterated the new data is not
14 being used in the decision making process.

15
16 Councilor Boyd noted if a community is found in non-compliance, it could be fined, per day,
17 depending on the particular issue they are non-compliant with. As Director Fox alluded to, there is the
18 potential Merrimack will be non-compliant as of July 1, 2018. During conversations he had with
19 members of the EPA last year, they indicated they would work with the Town; would not
20 automatically start assessing a fine. What they don't tell you is that it doesn't stop the Sierra Club,
21 Conservation Law Foundation or any other third party advocacy group from litigating this and
22 identifying the towns that are non-compliant. The courts court could offer injunctive relief that would
23 begin the clock of the impact the municipality would have to pay in terms of a fine.

24
25 Representative Chris Christensen stated Representatives Barry, Moore, and Hynes sent their regrets;
26 they had other commitments, and could not be in attendance.

27
28 Representative Christensen stated there to be a House Bill and a Senate Bill about which a lengthy
29 letter was provided a few days prior. Senate Bill 121 passed earlier in the day with an amendment,
30 which basically eliminated the whole Bill and made it parallel to the House Bill.

31
32 There are two bills, one on each side of the building, doing essentially the same thing; creating a study
33 commission to look at how to achieve being our own regulatory body as opposed to EPA.

34
35 Senator Gary Daniels commented both the House and the Senate have passed bills. The Senate Bill
36 passed earlier in the day turning it into a study commission that says that the commission shall
37 determine if the DES should take over the MS4 permit system from the EPA, and, if so, to recommend
38 a fee structure that would pay for the department to hire the required number of employees to manage
39 the issuance of permits. If there are any differences between the bills, it is likely in the membership of
40 the commission. Not knowing how the House Bill is coming over or where the Senate Bill will end
41 up, it doesn't seem like it is anything that is insurmountable, and should easily be worked out on
42 membership within a Committee of Conference.

43 Chairman Harrington questioned the procedure noting there are two corresponding bills. Senator
44 Daniels stated the bill passed in the Senate and will head over to the House. The House Bill has passed
45 and will be coming over to the Senate. Each chamber will talk to the other and it may be that they pass

1 both of them and then sit down as a Committee of Conference and work it out so that there is one. It
2 could also be that one bill is tabled while the other is worked on. It seems as though everyone is on the
3 same page right now, and working to get to a point where we can regain control.

4
5 When asked if he has a positive sense about the eventual outcome, Senator Daniels responded he
6 reviewed the minutes of the hearing, and would be glad to submit those electronically to the Council.
7 There was a lot of information included from Senator Sanborn; a lot of what Director Fox spoke of.
8 There were a few individuals from Merrimack who testified. It all seems to be in the same vein that
9 we need to regain control. He does not know that there is anybody that is really supporting let the EPA
10 run our lives particularly with the fines they are looking at imposing. Senator Sanborn goes a little
11 further to say that as of July 1, 2018 you couldn't even do development without DES and EPA
12 permission.

13 When asked about a timeframe, Representative Christensen stated the reports to be due November 1,
14 2017, which then gives time for a bill to be introduced in January of 2018 to go through the process.
15 There are other things happening, e.g., the previous day the Resources Committee had a hearing on
16 SB127, which has to do with adjusting or clarifying dissolved oxygen standards. That is one of the
17 ways we measure impaired waters. That is significant in the sense of where you can put your treated
18 water or stormwater. The DES is a little behind on their report of what is called EPA level; 303(d) list.
19 Those are the impaired waters. There are two things occurring; possible adjustment of the impairment
20 definitions and simplifying that locally, which then translates into this 303(d) list that goes to the EPA.
21 The other end of that is that the list is currently behind schedule.

22
23 Senator Sanborn's bill originally called for that list to be done by April 1st. There was a scheduling
24 issue there because the bill wouldn't have gone through both houses in time to do that. At the previous
25 day's meeting, the EPA indicated they will have the 2014 report done by early next month, and then
26 the 2016 report will be out for public comment and reading probably in July. By the time we get to
27 2018 we will be on the schedule. We should have good information pretty soon that will be able to be
28 taken to these study commissions to help move the process along within the first half of 2018.
29 Representative Christensen stated he is confident that will occur.

30
31 Senator Daniels stated the Senate Bill is a little different. The bill is effective upon passage, so once
32 the House passes it and the Governor signs it, it becomes law. Within 45 days the Commission has to
33 get together and be established. Their deadline for reporting is December 1, 2017.

34
35 Representative Christensen added either way it is this fall and would be in time for filing something for
36 the second half of this session. Senator Daniels added; even if it had to come in through Rules as a
37 special.

38
39 Councilor Mahon remarked you have to go through the regular process with introducing a bill in the
40 next session, which he presumes would authorize the increase in personnel for DES and manage the
41 funding mechanism for all of that. There will be a period of time for DES to draft rules for them to
42 operate under that statute. He questioned if there is any sense of how the EPA will react to the rules
43 process that will take place if the bill passes and the mechanism is set up. It seems to him it would be
44 after July 1st, when the Town would be in non-compliance.

1 Representative Christensen remarked there is language within one of the bills concerning studying the
2 transition. In the course of doing, that DES will be talking to EPA, and as long as the process is
3 ongoing, he believes it very likely there would be some sort of extension past July 1st if necessary. As
4 long as the bill is in place, DES can start drafting rules, and have them ready to go as soon as the bill is
5 signed by the Governor. Senator Daniels stated his concurrence adding, based on the fact there is an
6 EPA site in Milford that has been there for 25 years and has not been cleaned up, he thinks the State
7 can probably move much faster than the EPA. Once we get into the study committees we will work
8 with the departments, and there is no reason why they can't start formulating rules and have them
9 ready. The session runs from January 1st, and this would be one of the first bills taken up in the new
10 year because of the reporting dates and being held over from this year. They should know within the
11 first two weeks of the session where we are with the bill. He suggested people involved with it and
12 legislators like them can work with the department to make sure they are working on those rules and
13 know that the July 1st deadline is a real deadline.

14
15 Town Manager Cabanel stated it to be really important to drive the point home that the enactment of
16 this EPA permit is going to cost Merrimack \$720,000 per year for five years, which means that our tax
17 rate goes up \$2.40 and that a \$300,000 home would have to pay an additional \$726 in taxes to pay for
18 this. After the five-year period that may double or triple. She reiterated how urgent it is for the
19 Legislators to assist the Town in winding its way through this.

20
21 Representative Christensen responded those are all good points. He believes the key thing in the short-
22 term is bringing up-to-date the impaired waters issue; that 303(d) list. As that list is brought up-to-date
23 he believes they will be in a lot better position to know what needs to be done to be in compliance. As
24 we get into our own regulatory situation within the State instead of through the Federal program we
25 will be redefining things to get local needs straightened out. He does not believe those numbers will
26 be instituted, but at this point, we need to understand it will be a rigorous program and there will be
27 some expense involved.

28
29 Chairman Harrington reiterated there has already been acknowledgment regarding the philosophical
30 belief in the Clean Water Act by what the Town has already done. The Town would not have invested
31 in the projects it has done if that were not the case. Senator Daniels stated one of the problems out
32 there right now is that DES and EPA are so far behind they are not recognizing all of the good that has
33 been done in the towns. Senator Daniels commented all four of his towns seem to be in the same
34 group, and this issue is high on his list.

35
36 Councilor Boyd stated Massachusetts Governor Charles Baker just signed a letter to the Federal
37 Government indicating Massachusetts wants to take over their permitting process, and as it stands right
38 now New Hampshire remains the only state under the EPA auspices as it relates to regulating the MS4
39 permit. He believes we are capable of doing it. He believes there to be a sense of reticence on the part
40 of DES on wanting to take on this particular responsibility.

41
42 Senator Daniels commented he feels if Massachusetts can do it, New Hampshire can do it better. The
43 fact that New Hampshire remains the only state came up in testimony earlier in the day. DES is there
44 to carry out the wishes of the Legislature and the Legislature has the responsibility of giving DES the
45 personnel and resources it needs to do the job.

1
2 Councilor Mahon remarked he believes the EPA got exactly what they wanted; to get this out of their
3 house. They made whatever they issued so onerous to force the State's hands to get this out of their
4 hands. There is too much local knowledge needed to be able to put something like this together in a
5 reasonable and sensible fashion.

6
7 Representative Christensen noted there to be several other water bills working their way through the
8 process. One has been reported on considerably; HB485, which has to do with ambient groundwater
9 quality standards. That has been retained in Finance. They have been working with the MVD and the
10 NH Waterworks Association seeking input on costs of implementation, schedules, etc. He explained
11 the bill went through the Resources Committee first and there was no fiscal note on it and no fiscal
12 information provided at the hearings or the sub-committee work sessions even though they asked for it.
13 The night before it was to go to the floor of the House they finally received some sketchy information.
14 The Finance Committee held it because there is a deadline or timeframe under which DES has to
15 supply the fiscal information. They had to hold it until that information comes in and also to give the
16 cities and towns that have water systems time to develop their own sets of information. In this
17 instance, they think of big water systems like Manchester, Merrimack, and others around the State, but
18 there are another 65-75 community water systems for condo developments, campgrounds, mobile
19 home parks, etc. They certainly don't have the money to either extend the water from another source
20 into their local system or add the expense of filtration systems that might be needed. Then we don't
21 have the testing yet to see if they have PFOA in their water; maybe they are clean already. There is a
22 lot of missing information, which is another reason for treading cautiously.

23
24 Councilor Boyd questioned if it is fair to say that without the fiscal note on the Bill the Legislature
25 could be accused of issuing an unfunded mandate as it relates to DES' ability to assess what is an
26 appropriate or inappropriate amount of PFCs in potable water. Representative Christensen responded
27 in this particular case, the State laws regarding drinking water quality standards, ambient groundwater
28 standards, etc., pre-date 28-A - Unfunded Mandate.

29
30 *Chairman Harrington opened the floor for other issues the Council wished to address with the*
31 *legislators in attendance.*

32
33 Vice Chairman Rothhaus remarked for the past few years, the Town's Highway Safety Committee has
34 discussed the Airport access road ramp where the northbound exit merges with the southbound ramp
35 coming to Route 3 in Merrimack. It has terrible visibility. It is believed by everyone he has spoken to
36 with the exception of NH DOT, to be a hazard. A few letters were sent off to the State, and NHDOT's
37 initial response indicated they could see the problem and were contemplating excavating back the berm
38 that winds you from the northbound ramp. A year later they said they didn't see any problem. He
39 requested any assistance the Town's representatives can provide. Senator Daniels commented that he
40 had not heard of that issue previously, and was thankful for the input.

41
42 Councilor Mahon stated his understanding there is a bill pending that addresses air quality testing for
43 the emissions that were not tested for coming out of Saint-Gobain because they did not have the
44 equipment or the authority to test. Representative Christensen responded that is HB463, which passed
45 the House earlier in the day.

Councilor Mahon questioned SB128. Senator Daniels stated the bill is relative to electric utilities. He is hearing loads of information and receiving a good many emails based on the original bill. There are a number of people who believe this would raise electric rates and that the ratepayers will be funding natural gas. The latest amendment has made it clear that no money will go to fund that. Then there are objections the stranded cost will have to be paid by the ratepayers. Senator Daniels stated he has talked to one he feels to be a trusted source on the Ratepayers Association, who commented the bill probably isn't the best, but that he would probably vote for it as it seems to be a step in the right direction. Senator Daniels stated it is on his agenda for next week to ascertain exactly what is entailed in that bill. He stated he would not make a decision uninformed.

Chairman Harrington thanked the Legislatures for their attendance.

Public Hearing - None

Legislative Updates from State Representatives – None

Town Manager's Report

The LED streetlight project is more than 90% complete. The project will be completed within the next few weeks, and includes installing the remaining fixtures and performing a final audit on the Town's streetlights to address any outstanding issues.

The Parks & Recreation Department has released its new Spring & Summer Activities Guide. The new brochure features more than 120 different programs and events that will be held between April and August. Printed copies are available at Town Hall, the Library, the O'Leary Center, and Wasserman Park. Brochures can also be viewed online by going to www.merrimackparksandrec.org.

Councilor Mahon commented the streetlights seem to be coming on earlier than necessary.

Consent Agenda - None

Old Business - None

New Business

1. Citizens for Clean Water

Submitted by Laurene Allen

Introduce PFOA support and information group and review facts and propose direction including consideration of PFOA Advisory Board.

Laurene Allen remarked she has resided in Merrimack since 1985, and is a Licensed Clinical Social Worker and a business owner of Family Guidance Center in Milford. Prior to being in private practice she did a lot of work in community needs assessment, grant writing, and working with communities on

1 tough issues. She has watched as the Town has gone through the issue with PFOAs, and has seen a
2 combination of misinformation, contradicting information, etc. To this day, some still have questions.
3

4 In January, she decided to step in to lend her skillset to the effort as she is concerned with hearing a lot
5 of different factions; State and local level. Everyone is well intended, but the information is very
6 compartmentalized. She has spoken with a lot of residents and experts on this subject matter. She has
7 reached out to academics, scientists, toxicologists, read a lot of studies, etc. She cited a number of
8 individuals she has spoken with including two of the most prominent folks in the country who have
9 traveled the world addressing the issue of PFOAs and health study monitoring; Greg Howard and
10 Madeline Scammell, Boston University Department of Health.

11
12 She spoke with a group out of UMASS Lowell named the Toxic Use Reduction Institute. They are
13 establishing a comprehensive academic database all about PFCs. Their goal is to amass information
14 that any member of the public can access. They have put out a series of questions to communities
15 including Merrimack. She and Carol DiPirro have been invited to attend a meeting they are
16 conducting next month.
17

18 Carol DiPirro commented the main reason she had gotten involved in the fight against the pipeline was
19 because she heard it was going through our water supply. The Town came off of that issue only to find
20 out our water is contaminated and has been for 20 years. She has been a resident of Merrimack for
21 20+ years. Her son was born and raised in Merrimack, and only drank Merrimack water. Between her
22 and Laurene they know of sick kids, kids with unusual illnesses, etc.
23

24 Ms. DiPirro commented a bunch of people got together, and started talking. Some are so ill they
25 cannot really participate. The PFOA support and information group (group) is trying to collect
26 information and be their voice, resource, etc. She remarked this is a toxin in our water, it is a
27 carcinogen, and they are watching HB485. The desire is to understand all of the science of this issue;
28 to understand, present it, and work together to figure out the best solution because we do have
29 contaminated water.
30

31 Councilor Dwyer stated objection to the statement that the Town has contaminated water as that is
32 untrue. Ms. DiPirro stated it to be scientific fact. Councilor Dwyer reiterated the statement is untrue.
33 When asked about PFOAs and PFCs in the water, he noted there are PFOAs everywhere on the planet
34 Earth. Ms. DiPirro stated agreement, but added they are at different levels than they are in this Town,
35 and we need more testing, which is part of why they were before the Council, to pursue that and get
36 more information so we are not arguing, and we're working together. That is the goal.
37

38 Chairman Harrington commented we also have a lot of nitrogen in the water. We have a lot of
39 Phosphorous. We have a lot of salt, and other things. When you use the word contamination you are
40 talking about toxicity, which is a scare tactic.
41

42 Ms. DiPirro stated it is an emerging contaminant as the State defined it. Chairman Harrington stated
43 she appreciates the importance of it, but the last thing she wants to do is scare anybody and overreact
44 to something that we need to deal with, but not to the point where we are going to scare anybody.
45 When we are talking about MVD water we have to deal with facts. We can debate the level that is

1 acceptable, but we are well below that. That doesn't mean we still aren't observant and intervene, but
2 we do need to be cautious.

3
4 Councilor Boyd stated his agreement with Councilor Dwyer; this is not W.R. Grace, the civil action in
5 Woburn. He commented he is on their Facebook page, reads everything that is put out there, and
6 appreciates their work. He noted the Council had Senator Ayotte before it begging her to write a letter
7 to the EPA just so that we could have a limit, some type of an understanding as to what is an
8 appropriate level. He remarked he cringes when hearing the word contamination. We do have issues;
9 he continues to drink the water as does his family because the water quality at the MVD is below the
10 established standards. Until such time that the wells exceed the established standard (70) using that
11 word is the worst thing to be communicating to people.

12
13 Councilor Boyd remarked he has been trying to do his job as one Councilor to do things he feels are
14 befitting to help the community; to put information in their hands so they can make an informed
15 decision as to whether they should be drinking the water, cooking with, bathing with the water, etc. He
16 agrees with Councilors Dwyer and Harrington that using a word like contamination causes flashbacks
17 to W.R. Grace. That was a huge problem and they are still paying for it to this day. Ms. DiPirro
18 apologized for using a word that upset him. Councilor Boyd remarked what we have here is a
19 problem. It doesn't rise to the level of Woburn, MA.

20
21 Ms. Allen commented on information she wished to leave with the Council, and noted the word
22 contamination is included in the information. On the DES website that big red banner at the top says
23 PFOA Contamination Investigation. That is perhaps why they have become familiar with using that
24 word. She spoke of some of the groups that post on the Facebook page, e.g., New Hampshire Safe
25 Water Alliance, etc. She questioned if Councilor Boyd has read anything he felt was inflammatory or
26 offensive that was written by her or Ms. DiPirro. Councilor Boyd remarked that is a social media site.
27 He tries to do as much as he can in the forum of the Town Council meetings so that the general public
28 can hear how he stands. He is a fierce and vocal defender of the Bill of Rights, and although he may
29 not agree with what an individual has to say on a social media site, he will defend their right to say it.

30
31 Councilor Mahon questioned the author of the information that was provided with the agenda packet.
32 Ms. Allen responded that it was written by a group of people who were looking at the bills. Councilor
33 Mahon stated the first line of the second paragraph reads in part: "there is evidence in our community
34 of chronic health conditions known to be associated with PFOA exposure". He questioned the source
35 of evidence and the evidence, and commented it seems to be antidotal. Ms. Allen responded there is a
36 bill that just passed that is looking at a chronic disease registry and chronic health conditions.
37 Councilor Mahon stated that was not what he had asked. The language states "there is evidence". He
38 questioned what evidence. Ms. Allen stated it means people who have diagnosis. It goes on to say
39 "known to be associated with". It does not say caused by.

40
41 Councilor Mahon questioned how that information was gathered. Ms. Allen stated the information is
42 gathered by people coming forward and giving that information. Councilor Mahon questioned who is
43 being given that information. Ms. Allen stated it is being collected. They have collected some of it
44 because people have said who do we tell about this? Councilor Mahon reiterated it is all antidotal.
45 Ms. Allen responded antidotal based on community members stating that. She remarked 100 people

1 were gathered at a Town building about a month ago meeting with a Town resident who is an attorney.
2 They do have civil action suits that have been filed. She went to hear what people were saying; person
3 after person spoke of Non-Hodgkin Lymphoma, prostate cancer, cancers that are rare and only found
4 in pediatrics, etc. She remarked it was quite astonishing, and she does not consider that antidotal.

5
6 Ms. DiPirro added some of the wording she believes comes from the Seacoast and the Pediatric Cancer
7 cluster out there. She stated her belief when stating “our community” they are not saying necessarily
8 Merrimack, but a greater community.

9
10 Councilor Mahon responded he does not doubt that based on what he has seen from what competent
11 medical authorities have done to investigate that stuff. It is highly probably that something like that
12 exists out there. But you are trying to transfer that to here or someone is trying to transfer it to here.

13
14 Ms. Allen responded she believes there are a lot of people in Town who are saying can we get together
15 and just organize that data, can we tabulate that data and see what we have. There is that voice in
16 Town. They have approached her and asked for that. She commented what are you going to do say no
17 we shouldn't do that it is only antidotal? She stated she has had calls with people asking her about
18 health conditions. She has referred them to the experts.

19
20 Councilor Mahon reiterated the document provided uses inflammatory language to get people incited
21 about this. It states “there is evidence”, which implies there is something going on. There are reports.
22 That is different than evidence. Councilor Mahon noted the information also includes the statement:
23 “we can assume that Merrimack residents have had exposure above the levels that would be expected
24 given the presence of a corporate giant with a dismal history of litigation of their contamination
25 elsewhere in the world.” That too is inflammatory language and highly subjective.
26 The information then refers to New Jersey. Councilor Mahon commented on having lived in
27 Deepwater, NJ, home of the DuPont plant. He spent 21 years there. If he has an issue did he bring it
28 from there. He stated he went and had his blood tested, which only 153 people have shown up to do
29 when 200 are needed. Over 700 invitations have been sent out. If 700 invitations went out, 200±
30 registered, and only 153 followed through, it is not an issue for the residents. If it were an issue the
31 needed 200 would have been reached much quicker.

32
33 Ms. Allen stated she has heard some people are concerned about the questionnaires; very invasive.
34 Some are concerned about privacy. People have also been inferring because the State has asked Saint-
35 Gobain to fund the blood test that they will have access to their data. Councilor Mahon responded the
36 survey was a laugher. It didn't even go into some of the things they could have asked. Ms. Allen
37 stated those are just some of the types of things that people have said; that is antidotal.

38
39 Chairman Harrington commented part of the difficulty is in the Council hearing things 2nd and 3rd
40 hand. Through statistics is where you get the facts. Ms. Allen stated Saint-Gobain has been involved
41 in litigation in many many places. Chairman Harrington stated you are transferring and making
42 assumptions based on that rather than on fact, and that is why these blood studies are so important
43 because those are the things that will identify the facts as to whether there are clusters and if there is a
44 correlation. Ms. Allen agreed the data is needed. Chairman Harrington spoke of the volume of data
45 that is necessary to complete a comparative study. We are only at step 1, and part of the difficulty is

1 that when you are saying it is evident and this has happened in other places, you are making the jump
2 before the data is available. Ms. Allen stated the data is coming from premiere people, PFOA experts
3 in particular. Chairman Harrington reiterated people are making that leap to something, which may or
4 may not occur down the road. As a result people are getting anxious over something that may or may
5 not be reality.

6
7 Ms. Allen stated an interesting fact about the two months' of testimony from committee, which
8 Representative Christensen heads on HB485; the end vote was 335-29. That was of House
9 Representatives in New Hampshire. Six of our Town Representatives voted for and 1 against based on
10 what they heard in facts, studies, and Dr. Chan during the discussion of the Bill when it was in Finance
11 Committee said well if this bill passes it will be a big fiscal impact because within 60 days we'll have
12 to set our state levels at 20. She found that interesting as nothing in the bill names a number. It says
13 let's get data that is right for New Hampshire given the circumstances we have. He's basically saying
14 that the level should be 20, and given a review of the data it will be 20. For him to come forward and
15 say the rate would be 20 within 60 days, she does not know what that means because the bill has been
16 amended several times. They have stated let's give it a phase in time, let's consider the fiscal. The
17 fiscal was never attached because DES never gave the fiscal in the beginning because they have really
18 been against the bill.

19
20 When asked what she was looking to the Council for, Ms. Allen stated she wished to make the point
21 that they were asked to present at a conference at the beginning of March, which they did. The subtitle
22 of the conference was "do you need a health study", and was about data gathering. They were
23 approached by academics and scientists; rather disheartening because she loves this Town, and they
24 said they would like her to do a case study presentation. She asked, and was informed Merrimack is a
25 case study in the academic world.

26
27 Ms. Allen stated there to have been a very educated population that attended the conference, and she
28 found it very informing. What she took away was lots of information that they wished to share with
29 this community. They decided to start a website, which will be a physician link because physicians
30 don't know what to do with this. The State said that they would provide information. What she has as
31 resources from other states they have said there is a good piece of literature that is medical monitoring
32 guidelines for physicians. It says if you have been exposed and your blood test says this and this, and
33 you are this age, then this is what your doctor should look for. Knowing that there is exposure in a
34 community they should be screening for certain things. That link can be on the website.

35
36 Ms. Allen stated there to be a support and information group she has organized that will be at the
37 Library Monday night at 7:30 p.m.

38
39 Ms. Allen stated she has spoken with the MVD; attended one of their meetings last month, and,
40 following the meeting, had the opportunity to speak with Representative Pellegrino and Ron Miner,
41 Superintendent, MVD. She questioned if they would be open to receiving more information, and was
42 informed they would. She requested, when asked if the water is safe, that the Council respond with a
43 statement such as we are well under the current Federal advisory level. When you say I guarantee you
44 are safe, and there are people who do have health issues that are related, that makes her uneasy. Vice

1 Chairman Rothhaus responded health issues may be related. He restated that is what he believes the
2 concern to be that issues may be related as that is not known.

3
4 Ms. Allen suggested asking Representative Christensen to provide the Council with the packet that was
5 presented to his committee that showed studies, medical information, etc. They did have that
6 information as did the House, and they did vote 335-29 in support of this bill.

7
8 Councilor Flood stated she has heard nothing in the room from any of the speakers that is false. She
9 believes there to be different definitions and ways of looking at things. She stated she has been in
10 Town for 50+ years and has seen various emergencies come and go. Some cast Merrimack in a very
11 bad light. She believes when Merrimack is cast in a bad light it is upsetting given our love of the
12 Town. She stated her belief the Council has been quite proactive with this issue. However, when she
13 sees more eyes and ears coming in she cannot see a down side. She likes citizens stepping forward.
14 There might be disagreement in the room, but if Ms. Allen can gather data the Council could possibly
15 regret profoundly that it didn't do something and that something didn't ring a bell. She stated she has
16 read information gathered/written by reputable people, and some say that no level is safe, while on the
17 other hand there are Federal levels of 70, 90, etc.

18
19 Ms. Allen remarked as was stated earlier the EPA is a little behind in their facts and data. The goal in
20 New Hampshire with the group from the Seacoast is to get information to New Hampshire that is right
21 for New Hampshire. Councilor Flood stated her appreciation for information being brought forward,
22 and that she would like to be brought information other than through an official source.

23
24 Ms. Allen stated one of her goals is to share all of the information she has gathered. She requested the
25 Council consider an advisory committee; perhaps consisting of a member of the Council, a
26 representative of MVD, and someone such as her. The intent of the committee would be to serve as a
27 central location to gather and share information. Different groups have different information. The
28 MVD informed her they are in negotiations, but the filters were supposed to be here in January. Wells
29 4 and 5 are supposed to have temporary filters provided by Saint-Gobain. Chairman Harrington stated
30 her belief they have arrived; they simply have not yet been installed. Ms. Allen responded they said
31 no. If they have arrived then they recently arrived as they had not arrived when she asked back on
32 February 28th.

33 Town Manager Cabanel stated her understanding they are trying to get it up and running by the
34 summer months when the need is significant. She is uncertain if they have arrived. Councilor Boyd
35 suggested the Council seek that information. Ms. Allen stated that to be an example of the need for
36 information sharing. Councilor Mahon stated the timing of when they were to arrive was never
37 definite. Ms. Allen stated the MVD had stated publicly by mid-January and then changed it to end of
38 January, and MVD did confirm that. Councilor Mahon remarked it was contingent on what is going
39 on in New York. Ms. Allen stated New York is all set. The filters currently are parallel with the
40 temporary filters. She stated her belief they have not turned them on yet due to ongoing litigation.
41 They are trying to get the town to sign off to say when they turn this on no one will ever ask for
42 another penny. The new Mayor in town is not willing to do that. They went silent with MVD when
43 MVD said hey you are bringing them out here, thanks; now are you going to pay to maintain them and
44 will you put them in. They are negotiating.

1 Ms. Allen stated her understanding to be the same as the Council; wells 4 and 5 are going to get
2 temporary filtered, the engineers will find a solution, we put them on, and our numbers will come
3 down. The temporary filtration they have doesn't support wells 4 and 5 simultaneously; not strong
4 enough. She has been thinking for months that the filters will go on, it will be a short-term solution,
5 and we will figure out the long-term solution. Those wells have to come back on line so we have
6 enough water. Now she is reading that Bedford is proposing to hook up with the MVD. She reiterated
7 her desire for a mechanism to be put in place for the gathering and sharing of information on a regular
8 basis.

9
10 Ms. Allen questioned why the blood samples are being done the way they are, and why they don't
11 want to screen volunteers. Councilor Boyd explained you cannot take 200 people off the street as 200
12 people could have moved into London Court within the last 3 weeks. You need to have randomized
13 sampling. Ms. Allen stated they could be screened. Chairman Harrington explained that would
14 invalidate the results. They are randomly sending out letters, but when they put the data together that
15 is where the data analysis comes in. If there is any impression of it leaning they will do more. You
16 would have to identify variables involved; what kind of variables exist within your community, and
17 you would correspond that with other communities that have similar indications to see if there are
18 corresponding variables.

19
20 Councilor Boyd remarked when this first happened we were in the middle of a drought, and a lot of our
21 wells were not at full percolation. The data in April and May when the snow finally melts off, we will
22 probably have a better indication of the impacts on these particular wells.

23
24 Councilor Boyd reiterated comments made by Councilor Mahon that the Council has no say in what
25 occurs with the MVD wells.

26
27 Chairman Harrington stated her belief there is frustration on both sides. There are varying beliefs of
28 the severity of the problem. There is frustration on the part of the Council in having no authority over
29 the issue, yet the public perception is that it does. As representatives of the citizenry of Merrimack the
30 health and wellbeing of the community is of utmost importance, which is why the Council has been
31 very active from the start in working to ensure that the issue is addressed whether at the State level or
32 through MVD. Chairman Harrington remarked as she has stated since the start, the MVD has been
33 responsive from day 1, and has gone above and beyond.

34 She stated she is sensitive to expressing concern but not panic, and understanding the difference. She
35 is pleased with Ms. Allen and Ms. DiPirro coming forward to educate the public about their
36 availability.

37
38 Ms. Allen stated she wished for the Council to know that people she has heard from are concerned, and
39 it is about accurate information. We need the data. She commented it was interesting to her in January
40 the way they grouped the data with only 7 of the blood tests from Merrimack residents; they have more
41 data than that from those well owners. Amherst blood results were released in a whole different way;
42 very responsibly. She wonders what is happening behind the scenes, but she knows who is paying for
43 the work to be done. Chairman Harrington responded again you are jumping, and you may be right or
44 wrong. You will automatically think that because you are coming from that point of view. Her point

1 of view is, don't jump there when you don't have evidence. Ms. Allen responded the 7 blood tests that
2 we have from Town are quite significant.

3
4 Town Manager Cabanel stated she pressed the Acting Commissioner of DES to provide the results for
5 the 7 Merrimack residents, and he stated they do not have that information. They have not gotten
6 down to that level yet. Ms. Allen questioned if the Council wished to hear from 1 of the 7 as she was
7 in attendance. Town Manager Cabanel remarked she may have her own personal results, but she does
8 not believe she would have the results of all 7. Ms. Allen stated the Commissioner has the individual
9 results, has sent letters to all 7. Here in Town they have some as they have this movement that was not
10 solicited it was people asking if they could provide their results when received. She stated she had an
11 impression when speaking with the MVD, and is wondering if someone is funding and negotiating
12 with them what terms they are setting in terms of protecting themselves. Of course there is a little bit
13 of guarding of the data. They have access to it.

14
15 Ms. Allen remarked people are getting the data and saying so now that I have it what does it mean.
16 That is why we need to get the physicians in touch with these experts who can advise them.

17
18 Chairman Harrington stated the Council understands what is being requested, and her desire for the
19 opportunity to consider the request. She noted sharing of information can occur whether a commission
20 is formed or not. Councilor Boyd stated agreement, and remarked if Ms. Allen and Mr. DiPirro are
21 seeking a Town Council representative he would be more than happy to participate in their group as a
22 volunteer. Councilor Dwyer suggested Councilor Boyd volunteer as a citizen. Councilor Boyd
23 responded he would be happy to do that, and that he could relay information learned to the Council.

24 25 **Minutes**

26
27 Approve the minutes from the Special Town Council meeting of February 16, 2017.

28
29 *The following amendments were offered:*

30
31 In each instance it occurs, replace "Viva Voce Roll Call" with "Voice Roll Call".
32 Page 5, Line 15; replace "\$3,000,000" with "\$3,300,000"

33
34 **MOTION** made by Councilor Boyd and seconded by Councilor Koenig to accept the meeting
35 minutes of the Town Council meeting of February 16, 2017, as amended. **MOTION CARRIED**
36 **6-0-1**

37 *Councilor Dwyer Abstained*

38 **Comments from the Press** - None

39
40 **Comments from the Public** - None

41
42 **Comments from the Council**

43 Chairman Harrington noted this to be Councilor Mahon's last meeting. She spoke of the Council's
44 appreciation of his continued assistance to the community. She wished him good luck and good
45 health.

1 Vice Chairman Rothhaus expressed his gratitude to Councilor Mahon, and commented he will be
2 missed.

3
4 Vice Chairman Rothhaus commented, during the discussion of PFOAs his comments may have
5 sounded as if he didn't believe PFOAs cause Cancer, and he definitely believes they do. If interpreted
6 that way it was unintentional. The perfect amount would be zero. Filtration should happen.

7
8 Councilor Flood expressed her fond goodbyes to Councilor Mahon, and wished him luck in his future
9 endeavors.

10
11 Councilor Mahon expressed his appreciation for the sentiments. He spoke of being pleased with his
12 colleagues and the good work they have done in Merrimack; have really solidified this form of
13 government in this Town. Unfortunately, it has caused continued reduction in participation at the
14 polls.

15
16 Councilor Dwyer spoke of the decades of service Councilor Mahon has given to the Town, and
17 thanked him for all that he has done.

18
19 Councilor Boyd commented when last the Council said its goodbyes to Councilor Mahon he had
20 commented Councilor Mahon was not just a colleague but a mentor. He meant that and stands by it.
21 His experience will be missed. He wished him and his family happiness and good health.

22
23 Councilor Koenig echoed the remarks of his colleagues. He spoke of having known Councilor Mahon
24 for 22; years since serving on the Space Needs Committee in 1995, and spoke of how much he and
25 other members of the Council have gained from his experience and willingness to share. He thanked
26 him for that and for stepping up to come back and assist the Council again this past year.

27
28 Chairman Harrington spoke of the upcoming vote for the Highway Garage, and requested citizens get
29 out to vote and support the effort. She spoke of a bond that is retiring and how this new bond, if
30 approved, would take its place, resulting in no increase to the tax rate.

31
32 Town Manager Cabanel suggested members of the public visit the existing Highway Garage to see the
33 current conditions firsthand.

34
35 **Adjourn**

36
37 **MOTION made by Councilor Boyd and seconded by Councilor Dwyer to adjourn the meeting.**

38 **MOTION CARRIED 7-0-0**

39
40 *The March 23, 2017 meeting of the Town Council was adjourned at 9:07 p.m.*

41
42
43 Submitted by Dawn MacMillan