

Approved: November 16, 2017

Posted: November 20, 2017



## Town Council Meeting Minutes

Thursday November 2, 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 Albert, Councilor Boyd (participated electronically), Councilor Flood, Councilor Koenig, Town Manager Eileen Cabanel, and Assistant Town Manager/Finance Director Paul Micali.

Chairman Harrington informed the viewing audience Councilor Boyd was participating electronically. She requested he state, for the record, whether he was alone, and that he was not being coerced. Councilor Boyd responded that he was alone, and was not coerced.

### Pledge of Allegiance

Chairman Harrington led in the Pledge of Allegiance.

### Announcements

Town Offices and the Merrimack Transfer Station will be closed on Friday, November 10<sup>th</sup> in observance of Veterans Day. The Council expressed appreciation to members of the military, past and present.

A Joint meeting of the Town Council and Merrimack School Board will be conducted on Tuesday, November 14<sup>th</sup> at 7:00 p.m. in the Matthew Thornton Room. Regular meetings of the Town Council will be conducted on Thursday, November 16<sup>th</sup>, December 7<sup>th</sup> and December 21<sup>st</sup> at 7:00 p.m. in the Matthew Thornton Room.

On November 7<sup>th</sup> at 6:30 p.m., the Library will be screening a documentary entitled, "All Gave Some: An Oral History of the Vietnam War," with a discussion of the film to follow, including two Vietnam veterans interviewed for the film, Producer, Mitchell Menis, and Director/Editor, Scott Strainge. The creation of this documentary was funded by a NH Humanities Community Grant, in collaboration with Timberlane Regional High School students and staff and documents oral histories of New Hampshire residents involved in the Vietnam War.

Join the Merrimack Parks & Recreation Dept. on Saturday, November 18<sup>th</sup> from 10:00 a.m. - 2:00 p.m. for their Thanksgiving Turkey Scavenger Hunt and compete for the chance to win a 16-pound Thanksgiving Turkey. The Parks and Recreation Department will be hiding turkey shaped cutouts throughout Merrimack. When you arrive at Wasserman Park at 10:00 a.m. you and your family will be given a list of clues that will direct you to each turkey. It is then up to you and your family to drive around and find as many turkeys as you can. The first three families or groups to return to Wasserman Park with the most stickers on their card will win a 16-pound Thanksgiving Turkey. Cost is \$5.00 per family. Registration deadline is November 13<sup>th</sup>.

The winter parking ban begins on Wednesday, November 15<sup>th</sup>. No vehicle or trailer shall be parked on any public street or highway between the hours of 11:00 p.m. and 6:00 a.m. November 15<sup>th</sup> through April 15<sup>th</sup> (Merrimack Town Code, Chapter 183).

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The traffic pattern at the Daniel Webster culvert project has changed. Traffic is back on D.W. Highway, but pushed to the west near King Kone to facilitate restoration of the area between D.W. Highway and D.W. Drive. Please use caution when driving through the work zone.

Chairman Harrington spoke of the vacant position on the Council. Applications are due November 3<sup>rd</sup>. Interview dates are November 8<sup>th</sup> and 9<sup>th</sup> depending on the number of letters received. Selection will occur during the Town Council meeting of November 16<sup>th</sup>.

### **Perfluorooctanoic Acid (PFOA) Information Update**

Chairman Harrington stated Councilor Boyd wished the Council to know he has spoken with Dr. Chan, State Epidemiologist. They have continued to have purposeful outreach to the Southern New Hampshire Medical Center. Information will be disseminated to all primary physicians. The [website](#) for the New Hampshire Department of Health & Human Services provides information on two labs available for use for individuals wishing to have their blood test done at their own cost.

### **Highway Garage Project Update**

Because of the recent storm, representatives from the electric companies were unable to attend the prior morning's meeting to provide information on discounts, as anticipated. The committee discussed some revision of floorplans. The driveway will be moved toward the new building, and visitors will not have to come into contact with the yard. Coloring and siding options were discussed.

The committee is advertising for sub-contractors; information will be posted on the website until December 15<sup>th</sup>. The target date for groundbreaking is April 4, 2018.

When asked if there remain residents without power, Town Manager Cabanel stated the Fire Chief relayed to her earlier in the day that there were no updates available. According to patrols, the only power outages are in the area of Jo Ellen Drive between Forysthia Lane and Park Ave., Cathy Street, and one area for low-hanging wires; Matthew Drive. There were two road closures; Hadley Road (road closed with wires down), and Jo Ellen Drive.

Councilor Albert commended the Public Works Department (PWD), Fire Department and Police Departments. He spoke of those involved in Communications, and the job they do.

Councilor Flood remarked, with the recent storm, the new steps going up into Abbie Griffin Park had been washed down including a lot of seeds and loam. Today, Shawn O'Keefe, of O'Keefe Landscaping arrived on scene with his crew. They put it all back together.

**Comments from the Press and Public** - None

**Recognitions, Resignations and Retirements** - None

**Appointments**

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## **1. Merrimack Public Library Update**

*Submitted by Library Board of Trustees Chair Richard Barnes and Library Director Yvette Couser*  
The Town Council will be presented with a Library update of the years past activities.

Yvette Couser, Director, Merrimack Public Library, stated January 1, 2018 marks the Library's 125<sup>th</sup> anniversary. Events will be celebrated throughout the year. On the Saturday of National Library Week (April 14<sup>th</sup>) they are planning a Human Library, which is when the Library invites people in the community who have been discriminated against for any reason, to provide a forum where people can have their stories heard.

This past year resulted in a lot of staff changes: two full-time Department Heads left (Adult Services/Youth Services) and two retirements (part-time Circulation/full-time Aide in Youth Services). There was an internal promotion to replace the Department Head in Adult Services, and the part-time Circulation position was combined with the part-time position of Secretary to the Library Director.

The building experienced another flood. With the help of Matt Casparius, Director, Parks and Recreation Department, they were able to move some of their events to different locations. Assistant Town Manager/Finance Director Micali was instrumental in helping navigate insurance claims.

Director Couser spoke of maintenance items that were or are being completed such as painting an office, sidewalk repairs (PWD). Last year the Library organized a Turkey Shoot event that raised funds to improve the outside area. They worked with a Teacher from Concord Tech who assigned her class to design landscaping. Some simple steps such as painting the maintenance shed green, removal of the unused Exchange Club shed, privacy fence, additional picnic tables, etc. have been taken.

One of the big partnerships they were able to start this year is with Saint Joseph Community Services and Meals on Wheels. Right now, that enables their clients on a Thursday route to receive library materials from the Library. Councilor Albert noted he is on the Board of Directors for Meals on Wheels, and everybody is very happy about this program. It is the first in Hillsborough County. The CEO of Meals on Wheels is reaching out to the other communities. It is hoped this program will catch on.

The Library is continuing technology classes with the Michael Loverme Memorial Foundation. Right now, they are running a Python programming/coding class on Mondays. They are coordinating with high school students. For this past summer's reading they had a Teen Squad Initiative. Twenty teens applied for positions to participate on 4 squads, which were focusing on different areas of the Library; reading to younger children, working with the 3D printer; learning about it and putting together teaching materials.

Notary Public services are being offered. Director Couser is a Justice of the Peace. The hope is to be able to offer these services to the public when Town Offices are closed.

The Library was approached by a Junior Girl Scout looking to complete her Silver Award. The Scout and her Mother assisted with getting the word out to the community looking for recipes for a cookbook. She received a grant to cover the cost of printing 37 copies. Some of those copies will be put in the collection, and the Friends of the Library have agreed to sell the rest of them to the public.

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She also asked for donations of specialized cake pans. Director Couser stated her belief the Hooksett and Amherst Public Libraries offer specialized cake pans in their collections so that someone having a special birthday can borrow a pan. She spoke of having a very diverse set of pans that will be ready to go soon.

Richard Barnes, Chairman, Library Board of Trustees, stated the Trustees are going through the process of review/updating of all Library policies.

Director Couser stated the Strategic Plan is available on the website. In 2013, the Trustees hired the UNH Survey Center to conduct a telephone survey to obtain an independent survey of people who didn't use the library. The questionnaire focused on user satisfaction, and was completed during a week in October. Four hundred calls were completed. Most people who have a card do not use the library because they have Kindles, use the internet/google. Comments included the desire for the Library to stay open later, offer things like book groups and certain kinds of programs. Director Couser commented what that said to her was the Library is not marketing its services well because it has book groups, electronic materials, etc.

The Strategic Planning Committee conducted, with the help of a facilitator, three meetings with community members of different ages, education levels, etc. There were staff focus groups. From there they watched trends.

Director Couser stated themes that rose to the top in the conversations were that residents saw the library as a learning center and an information hub. Some of the complaints were lack of space and that it was very cluttered, lack of communication, and the desire for more collaboration with other Town departments, businesses, organizations, and the schools.

They had to take the suggestions and boil them down to certain priorities and goals:

- To be a cultural and educational center
- Cultivate technology to create a generation of tinkerers and citizen scientists
- Invest in staff to maximize service for patrons
- Improve patron experience
- Be good stewards of historic buildings and grounds
- Plan for the libraries future needs and services
- Provide outreach to underserved populations

Chairman Harrington spoke of being impressed with the happenings at the Library. Councilor Flood suggested residents go to the Library to see first-hand the plentiful offerings. Councilor Albert questioned the number of customers the Library has served. Director Couser stated they count card holders. Half of the residents in Town have cards.

Trustee Barnes stated this year's Turkey Shoot will take place on November 13<sup>th</sup> at the High School Cafeteria. Monies raised will go towards the outdoor book drop.

## **Public Hearing**

### **1. Public Hearing –STEP Grant Acceptance for the Merrimack Police Department**

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*Submitted by Lieutenant Eric Marquis*

The Town Council will hold a public hearing to consider the acceptance and expenditure of a grant in the amount of \$16,334.32 made available through the New Hampshire Office of Highway Safety for the Merrimack Police Department for “Sustained Traffic Enforcement Patrols”, pursuant to RSA 31:95-b and Charter Article 8-15.

The Sustained Traffic Enforcement Patrols (STEP) grant would fund 52 four-hour patrols between the hours of 7:00 a.m. and 11:00 a.m. and 3:00 p.m. and 7:00 p.m. There would be twelve other patrols for four hours during the National Highway Safety Operation Safe Route campaign and two patrols during the Join the Click campaign. The STEP patrols would be utilized to focus on known trouble areas during the commuting hours. The patrols could be used to focus on traffic control devices that are not being followed, speeding in various areas, and/or school bus complaints.

This past year a total of 796 vehicles were stopped during the patrol, resulting in 803 warnings, 71 summonses being issued, and 2 arrests.

Councilor Koenig commented the memo the Council received addressed three different grants, yet only two are before the Council for a Public Hearing. Lieutenant Marquis stated his belief it related to the amount of the grants (amounts lesser than \$10,000 not requiring a public hearing).

Councilor Koenig suggested if accepting grant funds for the same department that they all be done together regardless of the amount.

Town Manager Cabanel stated agreement the items should be grouped together on the agenda; however, noted each of the grants requires its own separate Public Hearing. Councilor Koenig commented if two of the three must go before a Public Hearing, why not just put all three before a Public Hearing, and accept them all.

***Chairman Harrington declared the Public Hearing open at 8:03 p.m.***

No public comment was offered.

***Chairman Harrington declared the Public Hearing closed at 8:04 p.m.***

**MOTION made by Councilor Albert and seconded by Councilor Boyd to approve the acceptance and expenditure of a grant in the amount of Sixteen Thousand Three Hundred Thirty-Four Dollars and Thirty-Two Cents (\$16,334.32) made available through the New Hampshire Office of Highway Safety for the Merrimack Police Department for “Sustained Traffic Enforcement Patrols”, pursuant to RSA 31:95-b and Charter Article 8-15**

*A Roll Call vote was taken, which resulted as follows:*

Yea: Councilor Koenig, Councilor Rothhaus, Councilor Flood, Councilor Albert, Councilor Boyd,  
Councilor Harrington

6

Nay:

0

**MOTION CARRIED**

**2. Public Hearing –DWI Patrols Grant Acceptance for the Merrimack Police Department**

*Submitted by Lieutenant Eric Marquis*

The Town Council will hold a public hearing to consider the acceptance and expenditure of a grant in the amount of \$12,150 made available through the New Hampshire Office of Highway Safety for the Merrimack Police Department for “Merrimack DWI Patrols”, pursuant to RSA 31:95-b and Charter Article 8-15.

The Merrimack DWI Patrols Grant would fund 33 six-hour patrols between the hours of 9:00 p.m. and 3:00 a.m. These patrols would focus on detecting DWIs, and would predominantly be conducted on Thursday, Friday, and Saturday nights. The department may schedule patrols around special events such as Super Bowl, St., Patrick’s Day, which are known events that are focused around alcohol.

This past year the department conducted 18 patrols resulting in 8 arrests; two for illegal possession/transportation of drugs, 2 for DWI, and 4 for protective custody. Officers stopped 146 vehicles and issued 124 warnings for various offenses as well as 10 summonses.

Councilor Koenig noted the increase in the number of patrols. Lieutenant Marquis stated additional funds were provided based on availability.

*Chairman Harrington declared the Public Hearing open at 8:06 p.m.*

No public comment was offered.

*Chairman Harrington declared the Public Hearing closed at 8:07 p.m.*

**MOTION made by Councilor Albert and seconded by Councilor Boyd to approve the acceptance and expenditure of a grant in the amount of Twelve Thousand One Hundred Fifty Dollars (\$12,150) made available through the New Hampshire Office of Highway Safety for the Merrimack Police Department for “Merrimack DWI Patrols”, pursuant to RSA 31:95-b and Charter Article 8-15.**

*A Roll Call vote was taken, which resulted as follows:*

Yea: Councilor Koenig, Councilor Rothhaus, Councilor Flood, Councilor Albert, Councilor Boyd, Councilor Harrington

6

Nay:

0

**MOTION CARRIED**

**Legislative Updates from State Representatives** - None

**Town Manager’s Report** - None

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**Consent Agenda** - None

**Old Business** – None

**New Business**

**1. Donation Acceptance for the Merrimack Police Department**

*Submitted by Lieutenant Eric Marquis*

Town Council to consider the acceptance and expenditure of a donation in the amount of \$150.00 from Anne Moran for the Merrimack Police Department to be used towards the National Night Out event, pursuant to RSA 31-95-b and Charter Article 8-15.

Mrs. Moran was involved in a motor vehicle accident in Merrimack on August 2, 2016, which brought the response of police and fire personnel. The Police Department received a card from her in July of 2017 along with a personal check for \$150. She wrote that “she received both care and support” from personnel at the scene of the accident and that she is “truly grateful for this”. She requested the donation be used for something on the department’s “wish list”, which cannot fit in the budget. The department wishes to apply that towards the National Night Out event. Councilor Albert requested a letter of gratitude go to Mrs. Moran for her donation.

**MOTION made by Councilor Koenig and seconded by Councilor Albert to approve, with gratitude, the acceptance and expenditure of a donation in the amount of One Hundred Fifty Dollars (\$150.00) from Anne Moran for the Merrimack Police Department to be used towards the National Night Out event, pursuant to RSA 31-95-b and Charter Article 8-15.**

*A Roll Call vote was taken, which resulted as follows:*

Yea: Councilor Koenig, Councilor Rothhaus, Councilor Flood, Councilor Albert, Councilor Boyd, Councilor Harrington

6

Nay:

0

**MOTION CARRIED**

**2. Donation Acceptance for the Merrimack Police Department**

*Submitted by Lieutenant Eric Marquis*

Town Council to consider the acceptance and expenditure of a donation in the amount of \$3,500 from Digital Federal Credit Union (DCU) for the Merrimack Police Department to be used to offset expenses for the PACT Program and National Night Out event, pursuant to RSA 31-95-b and Charter Article 8-15.

In September, the Department received a check in the amount of \$3,500 and a letter written by Diana Taxiera, Public Relations Manager, DCU Credit Union. The letter stated, in part; the donation represents “DCU’s support of our organization’s efforts in providing programs that make a difference in the communities we serve.” The Police Department requested the Council accept the donation, and allow expenditure of the funds for the PACT Program and National Night Out event. Councilor Albert

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spoke of the positive impact PACT and the National Night Out event have for the department and citizenry. He thanked DCU for being a community partner.

**MOTION made by Councilor Rothhaus and seconded by Councilor Koenig to approve the acceptance and expenditure of a donation in the amount of Three Thousand Five Hundred Dollars (\$3,500) from Digital Federal Credit Union (DCU) for the Merrimack Police Department to be used to offset expenses for the PACT Program and National Night Out event, pursuant to RSA 31-95-b and Charter Article 8-15.**

*A Roll Call vote was taken, which resulted as follows:*

Yea: Councilor Koenig, Councilor Rothhaus, Councilor Flood, Councilor Albert, Councilor Boyd, Councilor Harrington

6

Nay:

0

**MOTION CARRIED**

### **3. Distracted Driving Patrols Grant Acceptance for the Merrimack Police Department**

*Submitted by Lieutenant Eric Marquis*

Town Council to consider the acceptance and expenditure of a grant in the amount of \$6,292.03 made available through the New Hampshire Office of Highway Safety for “Merrimack Distracted Driving Patrols” for the Merrimack Police Department, pursuant to RSA 31:95-b and Charter Article 8-15.

Vice Chairman Rothhaus stated he would not support the request. He spoke of the community policing component of the department, and the continued efforts in that regard. He remarked he is proud of how the Police Department works. With this grant, the number of summonses issued is typically double the amount issued on a regular basis.

Councilor Albert stated he believes it to be an important program. People must be aware of this behavior, which is one of the major causes of accidents. He stated his support of acceptance of the grant funds.

Councilor Koenig stated he would not support acceptance mostly because he disagrees with the way the law was passed on hand-held devices; very specific to cell phones, but radios and things like that are not implied when they can be just as distracting for someone that has a radio in their car and are handling the handset, etc. He does not believe it appropriate to accept grant money to chase people down that are touching their phones. Were there someone weaving on the roads, he believes they should be pulled over anyway to determine what the problem is.

Lt. Marquis noted the grant also incorporates negligent operation, which is any type of distraction at all. Councilor Koenig noted the focus talks about hand-held devices more than anything else. Lt. Marquis agreed that is the main focus. Councilor Koenig commented that is what he disagrees with most.

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Councilor Albert questioned if, during the patrols, there is an educational aspect. Lt. Marquis stated the interaction is verbal; explaining what the law is and how it works. Councilor Albert commented last year there were 440 warnings issued and 75 summonses. He does not believe the department is being heavy handed in that regard.

**MOTION made by Councilor Albert and seconded by Councilor Flood to approve the acceptance and expenditure of a grant in the amount of Six Thousand Two Hundred Ninety-Two Dollars and three cents (\$6,292.03) made available through the New Hampshire Office of Highway Safety for “Merrimack Distracted Driving Patrols” for the Merrimack Police Department, pursuant to RSA 31:95-b and Charter Article 8-15.**

*A Roll Call vote was taken, which resulted as follows:*

Yea: Councilor Flood, Councilor Albert, Councilor Boyd, Councilor Harrington  
4

Nay: Councilor Koenig, Councilor Rothhaus  
2

**MOTION CARRIED**

*There being no objection, the Council went out of the regular order of business to take up Item #5.*

**5. All Veterans’ Tax Credit Discussion**

*Submitted by Town Manager Eileen Cabanel*

Town Council to discuss and consider the options for adopting the all veterans’ tax credit

On August 8, 2016, a new RSA regarding veteran tax credits went into effect. It expanded the number of eligible veterans by broadening the range from its previous identification of veterans who served during times of war. The enabling legislation has an option for selecting a credit amount up to \$500 per veteran. The Town current has identified a \$500 credit for each veteran.

Vice Chairman Rothhaus commented were this to go through and pass, he would be a recipient of the benefit.

***Vice Chairman Rothhaus recused himself***

Town Manager Cabanel commented this was a topic discussed during the Retreat. Several communities in the area/State have adopted this veterans credit. The concern was there is no way of knowing the increased number of veterans that would come forward to accept this credit. The standard veterans tax exemption totals \$567,000. A review of what other communities experienced was conducted. The highest increase was in Nashua. They had an additional 79 veterans come forward. The total increased cost was \$39,500.

There are three options for the new version of the tax credit: adopt by Ordinance, place on the ballot, and Citizens Petition Warrant Article.

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Councilor Albert stated his support of the Council moving forward with this. Chairman Harrington questioned how the current ordinance was put forward, and was told it was by ballot. Town Manager Cabanel noted, at that time, the discussion was of half a million dollars.

Councilor Flood commented if you are a veteran you willingly signed up knowing you may well serve during war time. She does not see a reason for differentiating.

Councilor Boyd stated his support. Although small, there is a financial component, and he believes it should be put to the voters.

Councilor Koenig commented initially the intent was to support those who served during war time as sort of a gift (in perpetuity). The amount has grown over time. The impact in terms of the potential increase is not yet known as there is very little information available. The first data point is Nashua's increase of 79 veterans. Any increase in the credit would be offset by an increase to the rest of the tax base, which is already picking up half a million dollars.

He commented he would not turn down \$500 if offered to him, and he can understand where people would like to get it especially with taxes the way they are. He believes the citizenry would be supportive of this. He proposed the Council adopt it as an Ordinance with a 3-year phase in period.

Chairman Harrington echoed acknowledgment of the impact veterans have made. As the change would impact the remaining tax base, the voters should approve or not approve.

Councilor Albert stated support of putting the matter on a Warrant Article.

Councilor Koenig called to the Council's attention the note at the bottom of the communication that indicates the filing deadline for all exemptions and tax credits to be April 15<sup>th</sup>. He stated if the matter is to go before the voters as a Warrant Article and pass, veterans would have 5 days after the election to get into Town Hall and apply for it to apply this year. If it is put on by Ordinance that can be done in the next month or two.

He stated the townspeople adopted the Charter, and the Charter holds the Council responsible for financial issues of this nature. He believes it to be reasonable for the Council to make the decision and be responsible for it. Councilor Albert stated support of an Ordinance.

**MOTION made by Councilor Koenig and seconded by Councilor Albert that the Town Council set up an Ordinance to adopt RSA 72:28-b All Veterans Tax Credit with a phase in over a three-year period with \$165 credit in the year 2018, \$330 credit in the year 2019, and \$500 in the year 2020 and beyond**

#### ON THE QUESTION

Town Manager Cabanel stated her opinion if adopting the new tax credit it should not be phased in. Doing so results in those already receiving a credit getting that \$500 and those eligible for the first time receiving \$165.

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Yea: Councilor Koenig, Councilor Albert

2

Nay: Councilor Flood, Councilor Boyd, Councilor Harrington

3

**MOTION FAILED**

**MOTION made by Councilor Albert and seconded by Councilor Koenig that the Town Council set up an Ordinance to adopt RSA 72:28-b All Veterans Tax Credit**

**ON THE QUESTION**

Councilor Flood stated she would be voting in opposition as she believes the matter should go before the voters.

*A Roll Call vote was taken, which resulted as follows:*

Yea: Councilor Koenig, Councilor Albert,

2

Nay: Councilor Flood, Councilor Boyd, Councilor Harrington

3

**MOTION FAILED**

**MOTION made by Councilor Flood and seconded by Councilor Boyd that the Town Council put a Warrant Article on the ballot for the April 10<sup>th</sup> Town Meeting for the voters to decide if there should be a \$500 tax credit for all veterans in Merrimack**

**ON THE QUESTION**

Councilor Albert stated he does not wish to impose any taxes on anyone, but he also believes there are certain things that are simply common sense, and that is how he saw this. He stated he would support the motion as his desire is to get the credit to the veterans. He stated his belief the community will support this.

*A Roll Call vote was taken, which resulted as follows:*

Yea: Councilor Koenig, Councilor Flood, Councilor Albert, Councilor Boyd, Councilor Harrington

5

Nay:

0

**MOTION CARRIED**

**Town Manager's Report - Addendum**

Town Manager Cabanel stated the old tax rate was \$22.79. The new tax rate is \$23.37 (\$0.58 increase). The Municipal/Town portion is a decrease of \$0.01. The municipal portion includes everything you think of in terms of Town services (makes up 21% of the tax rate). Combined total of school tax rate is a \$0.58 increase. The two combined amounts now represent (74%). The County had an increase of \$0.01.

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Councilor Albert requested the information be placed on the news portion of the website.

*The Council returned to the regular order of business.*

**4. Consideration of Changes to Chapters of the Merrimack Town Code [First Reading]**

*Submitted by Town Council Chair Nancy Harrington and Vice Chair Finlay Rothhaus* The Town Council to consider the acceptance of recommended changes to Chapters 90, 102, 123, 130, 136, 174 and 181 of the Merrimack Town Code, pursuant to Charter Article V.

Chapter 90 – Alarm Systems

Councilor Koenig commented he has had heartburn with this since its adoption. He noted the alarm systems chapter has a clause under the definition of an emergency alarm system that says: “An “emergency alarm system” shall not include residential smoke, fire and carbon monoxide detectors.” He stated that to provide him a comfort level that the Town won’t start chasing after residents because their alarms are ringing for whatever reason.

What concerns him is the language variations where for example this refers to the Chief of Police and the Chief of the Fire Department, whereas the very next ordinance defines who the Chief of the Fire Department is and then refers to the Fire Chief. The ones after that don’t define who the Chief of the Fire Department is, but refers to the Fire Chief. They don’t read consistently.

Michael Currier, Chief, Merrimack Fire, remarked the ordinances were established many years apart. The first Ordinance for alarm systems was put in place long before he got on board. It continues to be modified to not change the meaning, but to give ownership to it.

The blasting ordinance has only existed since the Merrimack Premium Outlets came in. The Ordinance was done with modern terms and procedures, and started with the definitions. Were there an attempt to re-write all Ordinances, it would be a time-consuming process, and one that would open up a lot. Councilor Koenig responded it does, which is why the Council conducts its review every 5 years; so, it can be kept current. He recommended definitions be added to the start, and that a simple reference be used thereon.

Chief Currier commented most of the ordinances or regulations identify the Fire Chief or designee. In the circumstance where you have a retirement and have no Fire Chief there is a designee now established so the Ordinance is still enforceable. It is the same language at the State “or designee”. He was supportive of adding a definition and removing “or designee” throughout.

**MOTION made by Councilor Koenig and seconded by Councilor Albert to move Chapter 90 to Public Hearing, as amended**

*A Roll Call vote was taken, which resulted as follows:*

Yea: Councilor Koenig, Councilor Rothhaus, Councilor Flood, Councilor Albert, Councilor Boyd, Councilor Harrington

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0

**MOTION CARRIED**

Chapter 102 – Blasting and Explosives; no questions were posed.

**MOTION made by Councilor Boyd and seconded by Councilor Rothhaus to move Chapter 102 to Public Hearing**

*A Roll Call vote was taken, which resulted as follows:*

Yea: Councilor Koenig, Councilor Flood, Councilor Albert, Councilor Boyd, Councilor Harrington, Councilor Rothhaus

Nay: 6  
0

**MOTION CARRIED**

Chapter 123 – Emergency Lanes; no questions were posed.

It was suggested definitions be added for the sake of consistency.

**MOTION made by Councilor Boyd and seconded by Councilor Albert to move Chapter 123 to Public Hearing**

*A Roll Call vote was taken, which resulted as follows:*

Yea: Councilor Koenig, Councilor Rothhaus, Councilor Flood, Councilor Albert, Councilor Boyd, Councilor Harrington

Nay: 6  
0

**MOTION CARRIED**

Chapter 130 – Fireworks

Councilor Koenig asked for clarification of §130-4 - Disposal of unfired fireworks, which states: “The Fire Chief/Police Chief or their designees shall be authorized to seize, take, remove or cause to be removed, at the expense of the owner, all fireworks possessed or offered for sale in violation of this chapter.”

Chief Currier stated that is referencing §130-3 - Sale of fireworks prohibited. Were someone selling fireworks, the Fire Chief or Police Chief has the right to cease those fireworks, and dispose of them. Councilor Koenig questioned the meaning behind possess. Chief Currier commented there could be a scenario where an individual was selling out of one truck/vehicle, and made the claim he/she was only selling the one box. With this language, anything in the individual’s vehicle could be ceased.

Councilor Koenig requested amended language be identified to clearly state the intent. Councilor Albert stated agreement with the suggestion of removing the word “possess”.

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Vice Chairman Rothhaus stated with the end of the sentence reading “offered for sale in violation of this chapter”, the current language works. You can possess fireworks you are not selling that are illegal fireworks.

Assistant Town Manager/Finance Director Micali suggested the language be amended to read: “The Fire Chief/Police Chief or their designees shall be authorized to seize, take, remove or cause to be removed, at the expense of the owner, all fireworks offered for sale and in his/her possession, in violation of this chapter.”

Councilor Koenig suggested the language read: “The Fire Chief/Police Chief or their designees shall be authorized to seize, take, remove or cause to be removed, at the expense of the owner, all fireworks offered for sale or possessed in violation of this chapter.”

**MOTION made by Councilor Koenig and seconded by Councilor Rothhaus to move Chapter 130 to Public Hearing, as amended**

*A Roll Call vote was taken, which resulted as follows:*

Yea: Councilor Koenig, Councilor Rothhaus, Councilor Flood, Councilor Albert, Councilor Boyd,  
Councilor Harrington

6

Nay: 0

**MOTION CARRIED**

Chapter 136 – Food Service Establishments; no questions were posed.

**MOTION made by Councilor Boyd and seconded by Councilor Koenig to move Chapter 136 to Public Hearing**

**ON THE QUESTION**

Chief Currier noted the State is in the process of revisions. This may come back to the Council.

*A Roll Call vote was taken, which resulted as follows:*

Yea: Councilor Koenig, Councilor Rothhaus, Councilor Flood, Councilor Albert, Councilor Boyd,  
Councilor Harrington

6

Nay: 0

**MOTION CARRIED**

Chapter 174 – Swimming Pools

Councilor Koenig stated §174-5 - Portable and aboveground pools, states: “A portable swimming pool or aboveground pool whose measurements exceed 10 linear feet in diameter and which contains a greater depth of water than one foot shall be brought up to a height of four feet and shall have a retractable ladder and/or a safety latch on the gate barring entry to the pool.”

**Approved: November 16, 2017**

**Posted: November 20, 2017**

He questioned what was to be brought up to a height of four feet. Chief Currier responded it shall have a fence around it. The language should be amended so that it reads: “shall have a fence brought up to the height of four feet”. Chief Currier noted the language should be further amended to read: “10 linear feet in diameter and/or contain a greater”.

When asked, Chief Currier stated the pool’s wall also qualifies as the fence, which is why it references a retractable ladder; once that is up the pool wall acts as a fence.

When asked if inflatable pools that are 3’ in depth would require a fence, he stated they would. Councilor Albert commented some of the kiddie pools are over 1’ tall. It was noted one would have to leave the pool filled to be in violation.

Chief Currier stated this comes up a lot in the summer time, and people must put fences up. Most things that are 3’ have retractable ladders. He commented if you don’t have something that gives the Building Department authority to say you have to put a fence up or in lieu of a fence you must have a retractable ladder, then you end up having a lot of dangerous situations in backyards that are not fenced in.

Chief Currier suggested the language could state “or other applications approved by the authority having jurisdiction to provide adequate safety”, which is done in the sprinkler rules.

Vice Chairman Rothhaus commented there must be recommendations by the pool industry. When asked, Chief Currier stated he was uncertain what the State has for requirements. He added it came from somewhere and we keep pushing 4’. When they install an inground pool 4’ is the minimum height of the fence. That is the industry standard. When asked about neighboring communities, Chief Currier stated Nashua uses 4’, Bedford uses 4’.

Chief Currier was asked to work on the language, and bring forward a recommended change for the Public Hearing.

**MOTION made by Councilor Koenig and seconded by Councilor Rothhaus to move Chapter 174 to Public Hearing, as amended**

*A Roll Call vote was taken, which resulted as follows:*

Yea: Councilor Koenig, Councilor Rothhaus, Councilor Flood, Councilor Albert, Councilor Boyd,  
Councilor Harrington

6

Nay:

0

**MOTION CARRIED**

**Chapter 181 – Traffic and Special Event Management**

Councilor Albert remarked he understands this addresses traffic and special events, and the Chief of Police seeking the Council’s approval for setting up temporary no-parking areas. He believes it to be somewhat restrictive. There are unforeseen events with very short notice to prepare. In stances such as a Presidential visit, there can be very short notice.

Approved: November 16, 2017

Posted: November 20, 2017

He suggested the chapter be sent to the Police Chief with a request that language be added relative to any type of emergency to give them the discretion to say look if the President is coming to the Madeline Bennett School, no parking signs can be put up and down certain areas, etc. The way it reads now the Chief would have to go before the Town Manager and then gain approval from the Town Council.

Councilor Koenig stated agreement. He noted when adopted, the intent was the Police Chief oversees traffic in the Town and responsible for urgent situations like that to be able to put up signs as necessary for the safe flow of traffic on Town streets. This was intended more to deal with things like the Black Friday sale at the mall where they would have advance warning, and they might impact larger areas of Town so that the Town Council would be informed and therefore the Town could be informed of what was going on with as much advance notice as possible.

We still sit with the situation, like we do in emergencies, where the Fire Chief is our Emergency Management Director; he has a lot of authority to do things in Town under emergency situations, and under a situation where a President or Vice President were coming to Town and things had to happen now. He stated his belief the Police Chief has that authority now, which is what he was led to believe and understand when this chapter was implemented.

Councilor Albert responded he thought that at first, and was told several times over that they can't post those temporary no parking signs without approval from the Council.

Chairman Harrington remarked we should find out what needs to be done to make that happen.

Assistant Town Manager/Finance Director Micali suggested another subsection could be added to cover those special situations.

**MOTION made by Councilor Harrington and seconded by Councilor Koenig to table Chapter 181 pending an amendment**

*A Roll Call vote was taken, which resulted as follows:*

Yea: Councilor Koenig, Councilor Rothhaus, Councilor Flood, Councilor Albert, Councilor Boyd,  
Councilor Harrington

6

Nay:

0

**MOTION CARRIED**

**Minutes**

Approve the minutes of the Town Council meeting of October 12, 2017.

*The following amendments were offered:*

Page 3, Line 19; replace "remarked it" with "asked if it"

Approved: November 16, 2017

Posted: November 20, 2017

Page 10, Line 45; add a comma after “If talking about”, quotes around “is the Town served adequately” and a comma after adequately

**MOTION made by Councilor Koenig and seconded by Councilor Albert to accept the meeting minutes of the Town Council meeting of October 12, 2017, as amended**

*A Roll Call vote was taken, which resulted as follows:*

Yea: Councilor Koenig, Councilor Rothhaus, Councilor Flood, Councilor Albert, Councilor Boyd,  
Councilor Harrington

6

Nay:

0

**MOTION CARRIED**

**Comments from the Press** - None

**Comments from the Public** - None

**Comments from the Council**

Councilor Koenig stated the Planning Board will continue discussions regarding traffic associated with a potential multi-family project on Executive Park Drive at their meeting on November 7<sup>th</sup> at 7:00 p.m. This is a continuation of the design review meeting from October 17, and is still a preliminary and non-binding discussion. Councilor Koenig spoke of promotion of a peer to peer light program where one light, through Bluetooth or some other radio connection, would help another light to know what to do, which is believed would be helpful at Executive Park Drive from the intersection. The DOT is looking to install those in New Hampshire. The questioned was asked of whether there are any systems installed, and the response was there are two being used in Needham, MA. There is the opportunity to view those and gain insight as to their performance.

**Adjourn**

**MOTION made by Councilor Koenig and seconded by Councilor Albert to adjourn the meeting**

*A Roll Call vote was taken, which resulted as follows:*

Yea: Councilor Koenig, Councilor Rothhaus, Councilor Flood, Councilor Albert, Councilor Boyd,  
Councilor Harrington

6

Nay:

0

**MOTION CARRIED**

*The November 2, 2017 meeting of the Town Council was adjourned at 9:30 p.m.*

Submitted by Dawn MacMillan