

Approved: December 7, 2017

Posted: December 11, 2017



## **Town Council Meeting Minutes**

Thursday November 16, 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, Councilor Flood, Councilor Koenig, and Assistant Town Manager/Finance Director Paul Micali. Town Manager Eileen Cabanel was excused.

### **Pledge of Allegiance**

Chairman Harrington led in the Pledge of Allegiance.

### **Announcements**

Town Offices will be closed on November 23<sup>rd</sup> and 24<sup>th</sup> in observance of Thanksgiving. The Merrimack Transfer Station will be closed on Thanksgiving Day and open during normal hours on Friday and Saturday.

Regular meetings of the Town Council will be conducted on Thursday, December 7<sup>th</sup> and 21<sup>st</sup> at 7:00 p.m. in the Matthew Thornton Room.

The winter parking is in effect until April 15<sup>th</sup>. There is no parking on public roads between the hours of 11:00 p.m. and 6:00 a.m.

The Merrimack Police Department is collecting unwrapped toys for Mighty Max's Mega Toy Drive to benefit the patients of the Jimmy Fund Clinic and Boston's Children Hospital until November 30<sup>th</sup>. A drop off box is in the lobby of the Police Station. Please visit [mightymaxtoydrive.com](http://mightymaxtoydrive.com) for more information.

Please help support the Town of Merrimack food drive to support the local food pantries this holiday season. Drop boxes have been placed at the Police Department, Highway Garage, Town Hall, and the Library. Donations will be accepted through January 1<sup>st</sup>.

The Merrimack Parks and Recreation Department is pleased to invite you to join in on the 24<sup>th</sup> Annual Holiday Parade and Christmas Tree Lighting Ceremony, which will be held on Sunday, December 3<sup>rd</sup>. The Annual Parade kicks off at 3:00 p.m. from the Commons Shopping Plaza near Tractor Supply. The theme of this year's parade is "A Whoville Christmas". The Tree Lighting Ceremony will commence immediately after the parade ends and will be held at the Abbie Griffin Park Bandstand at approximately 3:45 p.m. For more information or to enter a float in the parade, please contact the Parks & Recreation Department at 882-1046.

December tax bills have been mailed and are due by December 15<sup>th</sup>. Property owners who have not received their tax bill should contact the Tax Collector's office for a duplicate bill at 424-3651.

### **Perfluorooctanoic Acid (PFOA) Information Update** - None

## **Highway Garage Project Update** - None

### **Comments from the Press and Public**

Wendy Thomas 10 Wildcat Falls

Stated on Monday, November 6<sup>th</sup>, the State re-tested her well water for carcinogenic PFOAs and PFOS. Testing had been done privately in advance of the installation of an activated charcoal system. The State is also testing for MTBE, which is an additive to gasoline. This is the first she became aware that was an issue with the water. Animal studies suggest drinking water with high levels of MTBE may cause stomach irritation, liver and kidney damage, and nervous system effects. An increase in liver and kidney cancer was found in rats and mice breathing high levels of MTBE or orally consuming high concentrations. Because of the animal studies on MTBE, the NH Department of Environmental Services (NHDES) considers it a possible human carcinogen.

Ms. Thomas stated that to be at least 2 big carcinogenic substances that are currently in our water. Not only is her residence 5 miles from Saint-Gobain, but it is also two streets behind the Town garage where the gas pumps are. To say she is concerned about the situation is an under-statement. In both situations, it is manmade chemicals that are in the water due to negligence.

If the well tests over 70ppt for PFOAs they will be told the water is too dangerous to drink, and will be supplied bottled water by the State. If there are any MTBEs in the water, they will be told the water is too dangerous to drink, and will be supplied bottled water by the State.

Ms. Thomas stated the Merrimack contaminated drinking water situation must be considered an immediate, all-hands-on-deck situation by all elected officials. Our Town and its residents' health is at stake.

Katharine Hodge, 44 Belmont Drive

Since moving to Merrimack (2012) she has not had any health issues. As of Wednesday, she is cancer free for the second time in less than one year. While that is great news for her, she questioned what she is up against next.

At the joint meeting with the School Board on November 4<sup>th</sup>, representatives of the Merrimack Village District (MVD) stated they are testing Merrimack Town water for not only PFOA, PFOS, but many other chemicals in the same class that are present and of concern to them, yet they are not posting any results. The last test results that are posted are on the NHDES page, and are from the MVD done on August 24, 2017.

In the video of the joint meeting (39 min. in), Lon Woods, Chairman, Board of Commissioners, MVD, made the statement nothing has changed with the MVD since 1955. He also stated that at this juncture in history, if things need to change, the Town will let them know. Ms. Hodge stated things need to change. At this time, she believes it would be beneficial to consider disbanding the MVD, and allow the Town to proceed moving forward as it would provide more of a democratic process for the residents' voices.

Laurene Allen, 16 French Court

She has had a few meetings with some of her colleagues with the Department of Health & Human Services over the past few months. They indicated the State does not have a Toxicologist. This position is important as residents who have had blood testing and called the State for additional information have been given the 800 number for the Poison Center. They have not been of help. The Agency for Toxic Substances and Disease Registry (ATSDR) is a Federal agency under the Center for Disease Control (CDC). In August of 2016, the DHHS made a request for a health consultation on the Town's behalf. When asked about the status of that, DHHS indicated they had not received a response, and this year has been a challenging year for some Federal relationships.

Ms. Allen stated she reached out to a representative in Boston who has indicated a first draft of the request was sent in last year, and has stalled out. As requested, she continues to follow the status. Ms. Allen requested the Council help advocate to local representatives as she has.

She has been told the process would be that the draft request would be approved, and would then go into a public comment phase where the ATSDR would reach out to the Town, citizen group(s), advertise in newsprint, etc., soliciting comment, and would then go into some design of what they would recommend for support for the Town. That would likely go through a pretty lengthy process, but nonetheless would be what the Town needs. It was indicated to her funding for the consultation is expected to be a problem.

Councilor Boyd informed the Council, on November 2<sup>nd</sup> the State Drinking Water and Groundwater Advisory Commission approved MVD's application for a \$1.3 million loan to improve the pumping infrastructure at the Turkey Hill pumping station. The funds are being made available, in the form of a loan, out of a trust fund that was created. It will go before the Executive Council in the January timeframe. Pending their approval, it would be presented to the MVD voters for their approval at the annual meeting in March.

Wendy Thomas, 10 Wildcat Falls

Questioned if the project and funds being allocated to the MVD are solely for pumping or include any kind of filtration. Councilor Boyd stated, to his knowledge, it is just pumping.

### **Recognitions, Resignations and Retirements**

#### **1. Recognition of Town Employee Leaving Employment**

*Submitted by Human Resources Coordinator Sharon Marunicz*

The Town Council will present a recognition award to Dispatcher III Michael A. Piccolo in recognition of more than 11 years of service to the Town of Merrimack Police Department.  
November 5, 2006 – November 11, 2017

Police Chief Denise Roy congratulated Mr. Piccolo for a great career at the Merrimack Police Department. She spoke of the skills required and the demands placed on an emergency Dispatcher. She thanked him for his service, and wished him well in his future endeavors.

Councilor Albert remarked he had the pleasure of working with Mr. Piccolo in the Communications Division. He watched his young family grow. He saw the hard work he put in and witnessed the professionalism with which he handled some of the most stressful situations.

A plaque was presented to Michael Piccolo in recognition of his more than 11 years of service to the Town of Merrimack Police Department.

Fire Chief Michael Currier commented a Dispatcher is the actual first responder. When an emergency call comes in, if it is not to 911, it is our local Dispatchers that are the ones that handle the emergency talking one-on-one with the people having the emergency. What they are doing is trying to make the worst day that the victim is having better over the telephone, which is a trying event.

## **2. Recognition of Town Employee Leaving Employment**

*Submitted by Human Resources Coordinator Sharon Marunicz*

The Town Council will present a recognition award to Dispatcher III James Connelly in recognition of more than 14 years of service to the Town of Merrimack Police Department.

March 23, 2003 – November 6, 2017

*James Connelly was unable to be in attendance.*

Chief Roy stated Mr. Connelly is on the road on his way to Colorado to begin his retirement. She commented he is a wonderful man, taught many a great deal, had great stories, was a pleasure to work with, and will be missed.

***There being no objection, the Council went out of the regular order of business to take up Item #1 under New Business followed by the Public Hearing on Chapter 81 of the Town Code.***

## **1. Deliberation to Fill the Town Council Vacancy**

*Submitted by Town Council Chairman Nancy Harrington and Vice Chair Finlay Rothhaus*

The Town Council to deliberate and elect the individual to fill the vacancy on the Town Council until the April 2018 election, pursuant to Charter Article 4-5.

The three candidates, Tom Thornton, Paul McLaughlin, Jr., and Stephen J. Garczynski, have been interviewed by the Council.

Chairman Harrington stated the process to be that each candidate would be allotted three minutes to introduce themselves to the public, after which the Council would deliberate and vote.

Tom Thornton, 5 Heritage Drive

Stated he is the current president of the Merrimack Youth Association (MYA), and has been with the MYA for 13 years prior to which he was with the Parks and Recreation Commission. On a personal note, he is married with three children.

Paul McLaughlin, Jr., 55 Joppa Road

Stated he is a 27-year resident of the Town of Merrimack. After graduating from Merrimack High School in 2008 he studied aerospace engineering at Florida Tech. and mechanical engineering at UNH. He currently works in the biotech sector manufacturing enzyme replacement therapies to treat rare diseases, is a member of the Merrimack Rotary, and currently sits on the Planning Board. He knows the Town landscape like the back of his hand.

He was raised in a good environment, and the Town was a large part of that. He was also taught that decisions are made by those who show up. He wants to ensure that not only his children, but the children of all current and future residents get the same opportunities he was able to receive. He commented he stands before the Council ready to give back to the community that raised him to be sure the Town remains a desirable place to raise a family while at the same time continues to evolve to face the changing future.

Stephen J. Garczynski, 19 Lesa Drive

Stated he worked at the Wastewater Treatment Plant for 23 years. He spoke of the past, present, and future of Merrimack, and the decision each Councilor must make in terms of whether movement is backward or forward.

He stated the desire to reduce spending and to take the Saint out of Saint-Gobain.

Chairman Harrington thanked those who have come forward with a willingness to serve the community in this capacity.

Councilor Albert commented we are a community of 26,000, and these three gentlemen have stepped up, which he appreciates and respects. He has known Mr. Thornton for many years, and is familiar with his activity in the community. The other gentlemen he has not had the pleasure of knowing prior to this time. He endorsed Mr. Thornton for the position

Councilor Koenig thanked the candidates for their willingness to serve. He spoke of having worked with Paul McLaughlin for the last couple of months on the Planning Board, and of being impressed with his diligence and interest in helping the community.

Councilor Flood stated how pleased she is with the quality of candidates who have stepped forward. She spoke of having known Tom Thornton since he was in Kindergarten. She commented Paul McLaughlin struck her as a tremendous candidate. She is hopeful, regardless of the outcome of the vote, that the remaining candidate step forward again in April. She stated she would be supporting Tom Thornton, not because of her long knowledge of him, but because he did a marvelous thing; used his sense of responsibility and intelligence to rectify a situation at the MYA, and she trusts his integrity and character will take him a long way in this world.

Chairman Harrington called for each Councilor to identify his/her candidate of choice. Councilor Albert cast his vote for Tom Thornton. Councilor Flood cast her vote for Tom Thornton. Vice Chairman Rothhaus cast his vote for Tom Thornton. Councilor Koenig cast his vote for Paul McLaughlin. Councilor Harrington cast her vote for Tom Thornton, and Councilor Boyd cast his vote for Tom Thornton.

**MOTION made by Councilor Boyd and seconded by Councilor Rothhaus to reconsider the vote.  
MOTION CARRIED 6-0-0**

Councilor Koenig cast his vote for Tom Thornton.

*The vote to fill the vacant position was unanimous.*

Councilor Koenig thanked Mr. McLaughlin and Mr. Garczynski for stepping up commenting it was a tougher vote than it may have appeared. Both are very qualified to be part of the Council. He thanked them for their efforts, and stated his hope they will come forward again in April.

*The Oath of Office was administered to Tom Thornton by Chairman Harrington. Councilor Thornton was seated.*

**Public Hearing**

**1. Public Hearing - Consideration of Changes to Chapters of the Merrimack Town Code**

*Submitted by Town Council Chair Nancy Harrington and Vice Chair Finlay Rothhaus*

The Town Council will hold a public hearing to consider the acceptance of recommended changes to Chapters 81, 90, 102, 123, 130, 136, 163, 167, 169, 174 and 183 of the Merrimack Town Code, pursuant to Charter Article V.

**Chapter 81; Waterlines**

Kyle Fox, Director, Public Works Department (PWD) remarked following the first reading of Chapter 81, he reviewed the language and spoke with Commissioner Woods and Ron Miner, Superintendent, MVD. He considered their concerns of the increase in the cost sharing from a budgeting standpoint. In addition to trying to add clarity to the changes, an additional change is being proposed; on projects that are in the Capital Improvement Program (CIP), reimbursement from MVD for waterline costs to the Town would be up to \$25,000, and for projects funded out of the Town's budget, the maximum cost per project the MVD would reimburse the Town would be \$10,000. He reached those numbers trying to consider the difficulty in budgeting for our projects from their standpoint.

Director Fox commented one of the troubling issues for both groups when doing projects that involve waterlines is often we don't know their exact location or depth, and what the obstacles will be. It can be difficult to estimate the cost.

When asked to delineate the difference between the two numbers, Director Fox remarked each year the department presents a CIP to both the Planning Board and the Town Council. The current projects in the CIP that would be subject to the \$25,000 reimbursement have been outlined; Bedford Road Bridge (2018), Route 3 Bridge (2023), Wire Road intersection (2024), Turkey Hill Road intersection (2020), sidewalk projects in (2020, 2022, and 2024), and a sewer line extension (2020). Of those projects, the only one there is a budget estimate for is the Bedford Road Bridge. The estimated cost for the waterline work on that project is \$177,000. The cost to the Town, because the State picks up 80%, would be \$35,000. The projects where the \$10,000 cap would come in would be the yearly budgeted

projects. Typically, the larger ones are funded out of the stormwater improvements that are done each year or emergency projects. Currently the cap is \$1,000.

Councilor Koenig stated it to be difficult to comprehend, from the written word, what was just described. When asked if other utility lines are addressed as well, Director Fox stated if other utility lines are in the way of a project, they are contacted, and informed of the need to relocate their lines at no cost to the Town. There is significant overlap between the ratepayers to MVD and the tax base, but it is not 100% overlap.

Councilor Koenig noted §81-2A talks about the CIP. Director Kyle remarked he was trying to draw clarity; §81-1 sets the policy the maximum the MVD would be responsible for is \$25,000, §81-2A addresses projects in the CIP, and §81-2B other projects are only subject to \$10,000. Councilor Koenig pointed out the “and” at the end of §81-2A.

Vice Chairman Rothhaus commented for the other utilities to pay 100% is an easier task, from a budget standpoint, as they are large operations.

***Chairman Harrington declared the Public Hearing open at 7:48 p.m.***

Ron Miner, Superintendent, MVD

Stated the MVD opposes the proposed changes. Although they realize the watermain is located within the Right-of-Way, they differ from other utilities as they represent the same individuals. When a watermain needs to be relocated, they believe it should be a project cost not an additional charge to the ratepayers.

The MVD does not have control over Town projects. Changes in this chapter would have budgetary impacts to the MVD. When asked, he stated there is a comfort level with the current \$1,000 charge. The cost associated with CIP projects could be budgeted for, but would result in swings in the budget.

When asked, Mr. Miner stated the MVD does have a capital reserve fund for equipment and facilities that could be pulled from. He was uncertain of the exact balance, but believed it to be around \$2 million. The fund is a savings mechanism to address aging infrastructure and unanticipated upgrades.

The percentage of residents on MVD water was estimated at 80%. The population is 27,000±, and the MVD has 10,000± customers. Councilor Koenig noted there to be four residents in his home, and he is considered 1 customer. He also noted there to be industry in Town that is not serviced by MVD. If the Town takes on all the cost then the taxpayers are paying for it, which includes about 20% that are not getting any benefit from MVD, and may be paying for either their own well or water from somewhere else. Any other utility must pay 100%. He stated his belief it is reasonable to have some fair share or splitting so that the ratepayers are responsible for the infrastructure of the system they are utilizing, and the taxpayers are not necessarily responsible for the whole thing. He believes a good balance has been proposed.

Mr. Miner stated his concern to be a situation where there could be numerous unplanned projects. Councilor Koenig stated his belief were such a situation to occur, and the Council to be petitioned for support, it could be considered as an exception to the rule.

Councilor Koenig questioned if the lines were upgraded when the Turkey Hill Bridge project was done. Mr. Miner stated they were as part of the expansion on the 16" line going up Turkey Hill Road and Camp Sargent Road. They did pay for the 16" main of the regular service to get moved up onto the bridge. He was uncertain of the high service (two mains that get incorporated into the bridge). He spoke of the McGaw Bridge project noting the MVD wished to upsize the main on that road, and paid the difference from a 6" line to an 8" line, and additional charges for engineering costs. That was for an improvement to the infrastructure, but was more than the \$1,000.

Lon Woods, 2 Arbor Street

Stated his opposition to the proposed change not because Director Fox hasn't done a fine job looking over his budget and what may or may not be imperatives of his. He has done a fine job. A one thousand percent increase of a cost the MVD has been paying for the last 19 years come as somewhat of a shock.

This all came about because at a point when the Town improved a section of Camp Sargent Road during which there was a low estimate in specifically blasting costs and for getting the water line down to the levels MVD desires to escape frost, the MVD was presented with a bill for the extra work. That began a three-year fight with the then Board of Selectmen and the MVD Commission. When all was said and done it was understood the pipe had been there for a while, wasn't worth all the money MVD thought it should recover, etc. They were able to recover some of the cost. Subsequent to that, this ordinance was suggested, worked out between the two parties, and passed. The \$1,000 was more a way of saying we need to work together, we can do these projects, and yes you will have new pipe in the ground and new service entrances, etc., so help us out.

Mr. Woods noted the Commission was not made aware of the proposed change. He learned of it watching the Council meeting. He had a conversation with Director Fox the following day. Although Director Fox explained the rational, he is uncertain he completely understands how the figures were derived.

Mr. Woods stated his opinion when the Town has projects requiring utility movement, he shares in that cost as a taxpayer first and ratepayer second. He believes ratepayers are being charged twice (80/20 split). It isn't all loss or all gain to the ratepayer. When reading real estate ads often you see utilities included. That generally adds value to the property in terms of sales. That value gets turned to the Town with each sale.

Kathryn Stack, 7 Knollwood Drive

Felt compelled to respond to a comment made about utilities adding value to the Town. She has a private well that is contaminated. She has a loss of property value and a loss of positive influence in a sale of a home with a contaminated well. She is not adding value to the Town, but instead taking value away.

***Chairman Harrington declared the Public Hearing closed at 8:05 p.m.***



**Approved: December 7, 2017**

**Posted: December 11, 2017**

Councilor Albert questioned when the \$1,000 fee was put in place, and was informed it was March 10, 1998.

Vice Chairman Rothhaus commented given the size of the MVD's budget, he can appreciate the impact \$25,000 would have. That would not occur often as CIP projects can be planned 7 years out. He wondered if some increase could result given the passage of 19 years, and an additional increase planned for a future date.

When asked if the State, in determining its 80% contribution, considers the cost of moving utility lines, Director Fox stated they do. When considering MVD's contribution, the Town is only considering the 20% share the Merrimack taxpayers pay. He provided the example of the Turkey Hill Bridge project where American Recovery and Reinvestment Act (ARRA) funding paid for the Town's 20% construction cost, and no request was made of MVD to contribute.

When asked how the cost of moving waterlines is handled when required because of a State project, Director Fox responded typically the State requests utilities pay all costs. He provided the example of when the State paved their section of D.W. Highway north and south of the Town's section, and sent the Town a bill for raising the sewer manhole covers as that is the Town's utility. They charge the gas company for raising their valve boxes for the gas lines, and he believes they charge the MVD for raising their valve boxes as well.

Councilor Flood asked if it would be too grueling for Director Fox to look at this on a case-by-case basis. Assistant Town Manager/Finance Director Micali suggested it would be more difficult for the MVD in terms of being able to budget for such expenses. He noted, if the ordinance is amended, there will be increased communication between his office and the MVD to ensure all parties are aware of future projects. Handling each on an individual basis would be more difficult to budget for, and would result in fluctuations from year to year. Chairman Harrington spoke of the need for parameters to be set by the Council. Director Fox reiterated the Council can waive a fee if it so desired.

It was suggested the language could be by replacing the "and" with "or" at the end of the sentence under §81-2A.

Councilor Koenig suggested the language could state that the MVD would pay 80% of the Town's cost up to \$25,000. That way if a project involving a cost associated with a water main resulted in a cost to the Town, MVD would pay 80% of that cost up to \$25,000. The language around the \$10,000 reimbursement could be amended similarly.

It was suggested §81-2A could read: "With respect to any project that costs the Town more than \$10,000, the Merrimack Village District shall pay 80% of that cost up to a \$10,000 maximum."

Chairman Harrington stated the need for the language to be worked out. The Council agreed the chapter would be brought back for a first reading, in its amended form, at the December 7<sup>th</sup> meeting.

**MOTION made by Councilor Koenig and seconded by Councilor Boyd to return Chapter 81 back to a first reading on December 7, 2017. MOTION CARRIED 7-0-0**

Councilor Albert commented on Director Fox having met with Commissioner Woods and Superintendent Miner to discuss this. It is 20 years later, the cost of business has gone up. It is his hope this will be seen for what it is, an effort to work with the MVD while recognizing the cost of business.

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

## **Appointments**

### **1. Highway Garage Update Presentation**

*Submitted by Public Works Director Kyle Fox and Town Manager Eileen Cabanel*

Town Council to be presented with the progress made to date on the Highway Garage project, including completed floor plan, conceptual site plan, and architectural renderings of the existing and proposed building.

Director Fox stated the project kicked off in earnest following the April vote (\$3.3 million bond approved) to renovate the existing building to become vehicle storage, and to construct a new building that would house the day-to-day operations. It began with a search for the engineer/architect team. The firm chosen was H.L. Turner out of Concord. The Project Manager is Bill Hickey. Once the Project Manager was in place they began looking at a Construction Manager. They went away from how things are traditionally done in municipal settings of a design, bid, build project, and are doing it more as a team approach with a project manager who does the architectural and engineering of the project and the construction oversight of the project, and have partnered with a construction management company that will manage the construction for the Town. They interviewed several firms and went with the Turnstone Corporation out of Milford.

The committee that has been working on the project since the vote passed consists of Eileen Cabanel, Town Manager, Paul Micali, Assistant Town Manager/Finance Director, Councilors Flood and Rothhaus, Kyle Fox, Director, PWD, and Lori Barrett, Operations Manager, PWD. They have worked long and hard to get to this point where they have a solid floorplan, elevation views of the project, etc.

Director Fox stated the next steps are to begin working on the HVAC, electrical, and other innerworkings. Earlier in the week the committee met with representatives from Liberty Utilities and Eversource to talk about rebates and incentive programs. Liberty Utilities will pay us 75% of improvements over standard building codes, e.g., if extra insulation is placed in the roof, they will cover 75% of the incremental cost. Those type of opportunities will be looked for.

Bill Hickey provided a [presentation](#). Reiterated the process is moving along well. They have locked down a floorplan, elevations, esthetics, and are moving into material sections, etc.

When asked if the opinions of staff were taken into consideration, Director Fox commented one of the great suggestions they received from Turnstone early on was to hang clipboards around the garage where people can scribble down ideas. The suggestions have been collected by the Operations Manager. A presentation was provided to the Highway staff about the project, and they were encouraged to provide feedback.

Assistant Town Manager/Finance Director Micali noted the neighbors were invited to this meeting as well as the one that will take place with the Planning Board. Their feedback is being considered, and they have been encouraged to participate in the process.

The project has three parts; new highway maintenance facility, renovation to the existing building, and fueling station. Architectural renderings were displayed and discussed. Sheet 2.0 depicts the proposed PWD garage, which will be located to the north of the existing building. A new driveway will be located on the north end of the property (public entrance). The driveway at the south end of the property will be an enhancement of the existing gravel drive. The fueling station will be relocated. The fueling station will involve new pumps and a canopy. Tanks are intended to remain in place.

Sheet A1.1 - floorplan; shows the maintenance bays on the right-hand side of the plan (4 double bays), 2 maintenance bays, and the office portion of the building. The large room depicted at the bottom of the plan is a training room. There are conference rooms, offices, and suitable locker room and bathroom facilities as well as various storage areas.

When asked about energy efficiencies, Mr. Hickey stated the actual energy code for the State is minimal and easy to achieve (R10 in walls, R20 in roof). Putting insulation in the roof is where you would get the biggest bang for the buck. They are looking at somewhere between an R15 and R20 wall system and likely close to an R40 roof system. It is not a lot of money to exceed the requirements, but is money very well spent. Originally, they were thinking they would wood frame the entire building. They stuck with that, based on budget, for the office portion, but will use a pre-engineered metal building. Ms. Barrett brought up the point that the ceiling will slope with the roof so that if it becomes necessary to raise/lower a truck to work on it, that can be done. Were it a wood frame, they would not have the space to raise a truck bed in the bays.

Sheet A3.1 depicts building elevations. The intent is to keep the building as residential looking as possible. At this point, they are proposing a vinyl sided office portion of the building with asphalt roof shingles. The maintenance bays will have metal siding and asphalt roof shingles. Windows will be double-hung like what you would see in a residence.

Chairman Harrington spoke of the metal siding, and questioned if that would have a residential look. Mr. Hickey commented metal siding has come a long way over the years. There are many different patterns, colors, textures. Part of the next step is reviewing material samples, and making decisions as a group. Director Fox noted the west elevation of the building is the portion that will face the road. The maintenance bay portion is hidden behind the office portion.

Councilor Boyd questioned the reasoning, outside of a cost factor, for utilizing a typical asphalt fiberglass roof as opposed to a metal roof. Mr. Hickey stated there to be two reasons; to maintain the residential appearance as best possible, and asphalt shingles will hold the snow. One of the problems with a metal roof with an eave line over the overhead doors is the snow comes off in big sheets and causes a problem.

Councilor Boyd questioned if there are concerns with the integrity of an asphalt roof due to weight of snow. Mr. Hickey responded the building will be designed to or beyond code. He cannot guarantee there will never be the need to shovel, but the intent is not to have to be up there every winter. Even

with a metal roof, if there was that much snow it would have to be shoveled. Councilor Boyd commented he was looking at it from the standpoint of addressing snow on the ground that has fallen off a metal roof after the sun hits it rather than sending an employee up on the roof to shovel it. Mr. Hickey stated the building is designed for about 3' of very heavy wet snow.

Stephen Garczynski, 19 Lesa Drive

Stated an asphalt roof would require more maintenance. Even if the snow does not come off heavily, water will. It is not falling in a good place. He is uncertain of what the drainage will be. He suggested a shed roof where the water/snow would be directed to one side.

Mr. Hickey responded several options were considered for the roof including one large gable roof from one end to the other (lengthwise); similar to a shed roof. The concern was the building would get very tall. They were trying to keep with the character of the neighborhood.

Mr. Garczynski was not certain it would have to increase by that much. Mr. Hickey stated a good heavy asphalt shingle will last longer than a simple three-tab shingle. The life expectancy for a metal roof versus an asphalt shingle roof and the maintenance required are not that different. Mr. Garczynski disagreed noting you can get a metal roof that looks like a slate roof. It is more expensive, but less maintenance once up. Mr. Hickey stated that could be revisited.

Councilor Thornton questioned the pitch and was informed it is 4. He questioned the amount of foot traffic in front of the garage doors. He remarked if you have metal you put the snow jacks up 3'. If you get the sun hitting the roof the snow will come off the roof and come off quickly. You will have snow overhanging the metal roof a lot of the time, and when that wants to come down he would not want to be underneath it. Director Fox responded, as was stated, the two reasons for the choice were aesthetics and snow falling off a metal roof. Operationally, it is a lot easier to take snow off when not in the middle of a storm. Were there a heavy winter, the department has a bucket truck that can be used to safely gain access to remove snow from the roof.

Mr. Hickey noted the metal being considered is what is referred to as an insulated metal panel; metal inside and out with 2-3" of insulation in between. It is a much better envelope because it is a continuous insulation all the way around.

Councilor Koenig questioned what would be done with the space above the offices. Mr. Hickey responded there is a mechanical room on the slab, which will be used for the boilers and things like that. There will be a 16' x 25' mechanical room in the attic. The remainder will be unusable space. To make it usable a different code would apply, which has associated costs, e.g., stairways, second means of egress. To get the shape of the building, it will be a trussed roof with space up there.

The last few sheets depict existing condition of the existing garage. The focus has been trying to get the plans developed for the new building. As those are developed and finished, attention will be moved/focused on the renovation of the existing structure.

Councilor Albert questioned if there would be any changes to the fueling system. Director Fox stated that to be Phase III of the project; The tanks will stay in the ground. They are inspected on a bi-annual

basis, and are still in great shape. There will be new pumps and a canopy over the top of them. The goal is to locate the pumps and canopy off the existing location to somewhere near there. Hopefully they can reduce the impervious as they won't be parking over there any longer. When it comes time to replace the tanks, with the canopy and pumps outside of the envelope, they could replace the tanks without taking down the canopy.

Councilor Koenig questioned the green space to the east of the new building, and was informed originally the thought was detention for drainage could be in that area. They came to understand real estate is valuable in that area. As a result, the drainage will be converted to under pavement detention. It could be an area for future expansion. Councilor Boyd questioned if the existing salt and sand box along Turkey Hill Road would be relocated. Director Fox stated it would be somewhere in the front. Both the new and old building will have a nice array of landscaping out front. Somewhere in there they will locate the sand and salt mix piles as well as the woodchip pile.

When asked if there would be lighting in the driveways, Director Fox stated there currently is some lighting, and he believes there would be in both areas.

When asked if the Police impound would remain in its current location, Director Fox stated that remains uncertain at this time.

The target date for groundbreaking is April 4<sup>th</sup>. The project is anticipated to take approx. 7 months for the construction of the new building and a few additional months for reconstruction of the existing structure.

Assistant Town Manager/Finance Director Micali stated he has started the financing paperwork. It looks as though a January bond sale will be done with proceeds, if accepted by the Council, in February. Funds would be available right around the same time construction begins.

***There being no objection the Council took a five-minute recess at 9:03 p.m.  
The Council reconvened at 9:08 p.m.***

***There being no objection, the Council went out of the regular order of business to take up Item #2 under New Business.***

## **2. NRSWMD Cooperative Agreement**

*Submitted by Nashua Regional Planning Commission and Town Councilor Bill Boyd*

Nashua Region Solid Waste Management District's Household Hazardous Waste Program and the updated Cooperative Agreement that unites the District's 11-member municipalities.

Ms. Longval, Sr. Environmental Planner, Nashua Regional Planning Commission (NRPC), stated the Solid Waste District is made up of the communities of Amherst, Brookline, Hollis, Hudson, Litchfield, Merrimack, Milford, Mont Vernon, Nashua, Pelham, and Windham. The district has sponsored household hazardous waste collections for its residents since the 1980s.

Six to seven collection events are conducted each year spanning from April to November. Five of the events are held in Nashua at the Public Works garage. At least 1 satellite collection event is offered

each year. In the past two years there have been two; Milford and Pelham to help serve residents at the geographic ends of the region. Residents from any community can attend any event. They hire a licensed vendor to identify, handle, package, transport, and dispose of all waste collected. They also have access to a permanent storage facility at the property in Nashua. This allows them to store waste for up to 90 days. The benefit is a reduction in program costs as it eliminates the need to ship partially filled containers.

The district is funded through three primary sources: 1) user fees; \$10/vehicle (10 gallons or 20 pounds of waste), 2) grant funding from NHDES the level of which is based on the population of the district, number of events held, the fact that they have access to the permanent storage facility, and DES' budget in any given year (typically receive \$45,000 - \$50,000), and 3) municipal dues.

The NRPC manages all aspects of the district. They create outreach materials, produce educational materials on environmentally friendly alternatives, disseminate through a variety of methods; NRPC's website, municipal websites, local and social media, etc. They also work with the Greater Nashua Board of Realtors as they know people often attend the collection events when they have either recently purchased a home where household hazardous waste has been left behind or they are about to sell their home, and want to dispose of their waste. They also answer questions directly from the public.

The NRPC organizes and staffs all collection events, which includes attending pre-event meetings with vendors, coordinating with local emergency management prior to the events, and tallying surveys and receipt books after the events. They provide general management for the districts; prepare annual budget, organize quarterly meetings, apply for DES grant, provide accounting and financial administration, provide annual reporting on the district as well as reporting specific to each town. They facilitate the vendor bid process and provide contractual oversight to the vendor, work with the vendor to develop operations and safety plans, manage the permanent storage facility, and network with similar programs across the State.

The district provides a tremendous asset to the region because it allows residents to safely dispose of their hazardous waste in a timely manner. It also serves a significant and growing number of households. In 2015, there were 1,696 households that participated (collected 85,154 lbs. of waste). In 2016 it jumped to 1,736 households (93,385 lbs.). When hazardous waste is improperly disposed of it poses harm to human health, water quality, and wildlife. There are over 2 million human poisonings annually over 50% of which are children ages 6 and under. The most common source of poisoning is household products.

In addition to the environmental benefits of participating in the district, there are financial benefits. For the amount that Merrimack pays in its municipal dues, it would be challenging for the Town to put on a single collection event each year. There are also regulatory benefits. Those 92,385 pounds of waste would end up somewhere. Were it not for the hazardous waste collections they would likely end up in the transfer station, which is not permitted to take this material. The program can also assist in compliance with the MS4 permit. The City of Nashua utilizes the household hazardous waste collection program as one of its Best Management Practices in its MS4 reporting.

Ms. Longval stated the NRPC is in the process of wrapping up a multi-year process to develop a cooperative agreement with the districts under RSA 149-M. It simply puts the district's current practices into writing, defines the relationship between the NRPC and the district, outlines the terms of use for the permanent storage facility, and describes the responsibilities and benefits of communities who host the collections.

There are district agreements dating back to 1983 for some of the members, including Merrimack. However, there is no indication these were ever lawfully voted upon. The original district was created under a planning provision of RSA 149-M that no longer exists. It was never intended to create an entity like what we have today. It was felt important to develop a new agreement that really gets at the intent and purpose of the district today, and includes all its members. The cooperative agreement was developed with legal oversight. Ms. Longval commented while the signing of the cooperative agreement marks a big milestone for the NRPC it really doesn't mark any change in the day-to-day practices. When asked, she stated, at the largest of the events they see upwards of 350 vehicles.

Councilor Koenig commented one of the bar graphs shown depicted a somewhat dramatic drop in participation in 2011/2012, and questioned what may have been occurring in that period. Ms. Longval stated it is known participation is driven by the real estate market. It has also been impacted by weather events interfering with collection events.

When asked, Ms. Longval stated information relative to what materials are and are not allowed as part of these events is posted to the NRPC's website, and all participating municipalities have links to the website. That information is also included in the overview provided for the Town's Annual Reports. When asked, Ms. Longval stated if Merrimack was interested in hosting an event it would be up to the district members to decide on. The NRPC is simply staffing. They do try to limit the number of events done outside of Nashua simply because when not in Nashua they cannot use that storage facility.

**MOTION made by Councilor Boyd and seconded by Councilor Albert that the Town Council authorize the Town Manager to enter into an agreement with the Nashua Region Solid Waste Management District's Household Hazardous Waste Program and authorize the Town Manager or her proxy to sign the document to perfect the agreement prior to the end of the calendar year**

#### **ON THE QUESTION**

Councilor Koenig noted the cover letter from Director Fox suggests there is an attached explanation of cost factors involved, and questioned what those are. Ms. Longval stated the solid waste district is a distinct entity from the NRPC. In FY18, Merrimack paid \$12,168 in dues to the solid waste district. The cooperative agreement, under RSA 149-M cannot bind the Town to pay its dues. It really is just trying to put together some sort of documentation that puts the current practices into writing. The municipal dues each municipality pays are voted on by the district representatives, and would have to be approved by the Town.

Dues of all participating municipalities increased from FY18. There is an increased number of households and corresponding amount of waste. As a result, the vendor fee has increased. There have also been additional administrative costs moving from 6 to 7 events/year. Events were previously

staffed by both NRPC employees and volunteers. The district voted for events to be 100% staffed by the NRPC for issues of liability, etc. There were also legal fees and staff costs associated with getting the cooperative agreement in place. Municipal dues have been flat since FY11, and have not kept pace with the growth of the program.

It was noted the funds to cover the cost come out of the transfer station budget.

**MOTION CARRIED 7-0-0**

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

### **Public Hearing**

#### **2. Public Hearing - Consideration of Changes to Chapters of the Merrimack Town Code**

*Submitted by Town Council Chair Nancy Harrington and Vice Chair Finlay Rothhaus*

The Town Council will hold a public hearing to consider the acceptance of recommended changes to Chapters 81, 90, 102, 123, 130, 136, 163, 167, 169, 174 and 183 of the Merrimack Town Code, pursuant to Charter Article V.

#### **Chapter 90; Alarm Systems**

As requested at the last meeting, definitions were added for the Police Chief and Fire Chief at the start, references to both were made consistent throughout, and language relative to “or designee” has been removed.

*Chairman Harrington declared the Public Hearing open at 9:45 p.m.*

No public comment was offered.

*Chairman Harrington declared the Public Hearing closed at 9:45 p.m.*

**MOTION by Councilor Boyd and seconded by Councilor Koenig to move Chapter 90 to the Consent Agenda. MOTION CARRIED 6-0-1 Councilor Thornton Abstained**

Vice Chairman Rothhaus spoke of the language that addresses response fees for false alarms, and questioned if that fee is always charged.

Fire Chief Currier stated the department has never had the issue of needing to because the definition of alarm is same alarm type; if they have a false system that has to do with smoke detector #223, there would need to be multiple problems with smoke detector 223, according to the ordinance. There could be multiple different problems with the system, and each would be considered one time.

#### **Chapter 102; Blasting and Explosives**

No changes have been proposed.

*Chairman Harrington declared the Public Hearing open at 9:46 p.m.*



Approved: December 7, 2017

Posted: December 11, 2017

No public comment was offered.

*Chairman Harrington declared the Public Hearing closed at 9:46 p.m.*

**MOTION** by Councilor Boyd and seconded by Councilor Albert to move Chapter 102 to the Consent Agenda. **MOTION CARRIED** 6-0-1 *Councilor Thornton Abstained*

Chapter 123; Emergency Lanes

The definitions of Police Chief and Fire Chief were added.

*Chairman Harrington declared the Public Hearing open at 9:48 p.m.*

No public comment was offered.

*Chairman Harrington declared the Public Hearing closed at 9:48 p.m.*

**MOTION** by Councilor Boyd and seconded by Councilor Thornton to move Chapter 123 to the Consent Agenda. **MOTION CARRIED** 7-0-0

Chapter 130; Fireworks

The definitions for Fire Chief and Police Chief were added.

*Chairman Harrington declared the Public Hearing open at 9:49 p.m.*

No public comment was offered.

*Chairman Harrington declared the Public Hearing closed at 9:49 p.m.*

**MOTION** by Councilor Boyd and seconded by Councilor Koenig to move Chapter 130 to the Consent Agenda. **MOTION CARRIED** 7-0-0

Chapter 136; Food Service Establishments

No changes have been proposed since the time of the first reading.

*Chairman Harrington declared the Public Hearing open at 9:50 p.m.*

No public comment was offered.

*Chairman Harrington declared the Public Hearing closed at 9:50 p.m.*

**MOTION** by Councilor Boyd and seconded by Councilor Albert to move Chapter 136 to the Consent Agenda. **MOTION CARRIED** 6-0-1 *Councilor Thornton Abstained*

Chapter 163; Solid Waste Facility

Approved: December 7, 2017

Posted: December 11, 2017

Only changes were associated with cleaning up language.

*Chairman Harrington declared the Public Hearing open at 9:51 p.m.*

No public comment was offered.

*Chairman Harrington declared the Public Hearing closed at 9:51 p.m.*

**MOTION** by Councilor Boyd and seconded by Councilor Rothhaus to move Chapter 163 to the Consent Agenda. **MOTION CARRIED 6-0-1** Councilor Thornton Abstained

Chapter 167; Stormwater Management Standards

No changes have been proposed.

*Chairman Harrington declared the Public Hearing open at 9:52 p.m.*

No public comment was offered.

*Chairman Harrington declared the Public Hearing closed at 9:52 p.m.*

Councilor Boyd questioned if any changes are anticipated at some point relative to the MS4. Director Fox stated major changes to the chapter are expected following the implementation of the new permit. If it goes as scheduled, the Notice of Intent period (6-months) would begin June 30, 2018.

**MOTION** by Councilor Boyd and seconded by Councilor Albert to move Chapter 167 to the Consent Agenda. **MOTION CARRIED 6-0-1** Councilor Thornton Abstained

Chapter 169; Streets and Sidewalks

No changes have been proposed.

*Chairman Harrington declared the Public Hearing open at 9:54 p.m.*

No public comment was offered.

*Chairman Harrington declared the Public Hearing closed at 9:54 p.m.*

**MOTION** by Councilor Boyd and seconded by Councilor Thornton to move Chapter 169 to the Consent Agenda. **MOTION CARRIED 7-0-0**

Chapter 174; Swimming Pools

It was noted the swimming pool ordinance is no longer needed as it is in the International Building Codes, and covered in the building ordinance.

**MOTION by Councilor Boyd and seconded by Councilor Albert to discontinue the ordinance, and note, for history, the removal of this provision of the Town of Merrimack Ordinance Chapter 174 by Town Council on this date as the Ordinance was replaced by State of New Hampshire regulations and also adopted within the Town of Merrimack Building Codes.**

**MOTION CARRIED 6-0-1** *Councilor Thornton Abstained*

### Chapter 183; Vehicles and Traffic

Several changes have been proposed; adding stop signs on new sub-division roads that have been installed since the last time this process was undertaken, removing one-way traffic during school hours on McElwain, and two others proposed by the Police Chief; turning left onto Woodbury Street and turning left onto D.W. Highway from Woodbury Street.

Police Chief Roy stated currently if traveling north on D.W. Highway passing Central Fire you cannot turn left onto Woodbury Street. The increased traffic has slowed cars down, traffic is stopping for Buckley's Bakery and Buckley's Restaurant and 20' afterwards is Woodbury Street. We're allowing cars to stop for those two locations to turn left into their establishments, but if you travel 20' further were not allowing for that. A consequence of not being able to turn left on Woodbury Street if going northbound is vehicles cutting through businesses and parking lots.

Councilor Koenig stated his support of being able to remove the restriction. Councilor Flood spoke of younger drivers speeding through the parking lots. She questioned if there would be one lane through the parking lot that could be delineated for thru-traffic, and was informed the next proposed amendment would help alleviate that problem. Chief Roy noted currently between the hours of 2:00 p.m. and 3:00 p.m. cars are not allowed to turn left onto D.W. Highway from Woodbury Street. Being proposed is removal of that restriction.

Vice Chairman Rothhaus stated his recollection the reasoning had been the desire for a clockwise flow of traffic; if you went down Greek Hill you could only take a right turn. If you wanted to head north they wanted you to keep going through, which is why they have "do not enter" from 2:00 - 3:00 p.m. going down McElwain Street. He stated the potential for backups because there is no right and left turn lane at the end.

Councilor Albert commented those residing at the bottom of the hill just before Buckley's have approached him regarding speeding vehicles at the end of the school day. Chief Roy stated that would be looked at.

Additional amendments include a public Right-of-Way and no parking from the end of Sunset Drive to 40 degrees north of the pump station. The last change is the intersection of Baboosic Lake Road and Madeline Bennett Lane. Director Fox spoke of a fair amount of discussion on this intersection that occurred at the time of the 1<sup>st</sup> reading. The reason it was included in proposed changes is because in practical terms the Town is maintaining the signal now. He was asked to go back and see if it met the Traffic Warrants. He spoke with Matt Shevenell, Asst. Superintendent of Business, Merrimack School District, who forwarded to him the traffic study that was performed in 2006, which was after the signals were already installed.

The traffic engineer who did the study did say it met Warrant #3, which is peak traffic volumes. One of the conclusions in the report did recommend the timing be changed to what we normally experience at a traffic signal. Currently the signal is split up as a four-phase signal meaning each of the four legs gets their own turn individually, which is counter to what is experienced at every other signal. The recommendation was to put it back as a two-phase signal where phases 2 and 4 and 1 and 3 would occur at the same time, but as a caveat to that add a sign to the mast arms that says the left turn yields on green. That increases the efficiency of the intersection because when you have each of the 4 phases on their own schedule you are doubling your all red time and your yellow times for your delay. It is certainly adding a lot of delay to the signal as it sits today. Anyone who comes upon it not familiar with it assumes it is not working properly. Mr. Shevenell is in favor of switching the timing to a normal pattern. Director Fox recommended accepting it as a Town traffic signal, and in June, after school lets out, add the left turn yield on green signs and change the signal timing.

Vice Chairman Rothhaus asked about the lights on D.W. Highway that appear to have cameras. Director Fox stated the 3 intersections that were redone in 2012 have cameras. They replaced the signal loops that are traditionally in intersections. Vice Chairman Rothhaus questioned installing a camera at the left turn to shorten stop times. Director Fox stated there are currently traffic loops in the pavement; cars are already being detected by the loops. It is just a matter of reprogramming the signal to give the appropriate times. The camera does the exact same thing the loops do. The reason we are going to that model when doing paving projects is when you grind up the existing pavement you grind up the loops, and there is a period where, until you put the new pavement down, you can't put the new loops in.

Councilor Flood stated the light works well as it is. Councilor Koenig remarked he goes through that intersection a good deal, and while he does sometimes get frustrated by waiting for 2-3 cycles of other phases to go through, they usually go through very quickly. Because he is wanting to take a left and continue onto Baboosic Lake Road into Town, that could be problematic trying to take a turn across McQuestion. He is concerned about that traffic light. He is not convinced the change would be an improvement.

Assistant Town Manager/Finance Director Micali spoke of having traveled that area since getting his driver's license, and stated it to be a dangerous intersection to run it as a regular light. Coming down the hill to take a left to continue on Baboosic Lake Road with the traffic that comes up, at night, off McQuestion Road could be troublesome. He recommended changing it might result in problems because of the way people are driving through McQuestion and on Baboosic Lake Road going from Bambi Drive to Madeline Bennett.

It was noted the heart of the proposal is to formally accept the streetlight, which would help the Police Department enforce any violations. Director Fox commented the Chestnut Hill subdivision will add 76 houses to Madeline Bennett at the top of the hill. While traffic capacity isn't an issue now, it could become a bigger issue once that subdivision is built. The signal discussion really is focused on traffic capacity. Because it is a relatively light traffic intersection it does function okay with the 4 phases. It would function better with 2 phases, but is not required.

Councilor Koenig commented the question was raised of whether the light met the warrants. He asked for clarification the traffic study came after the fact. He remarked he never heard warrants were met

by that light. Director Fox stated the study was done in 2006, which he believes was after the lights were installed. Some of the warrants are based on stop sign conditions. Some of the warrants they couldn't even check because there was a signalized traffic intersection when they did the traffic study.

Vice Chairman Rothhaus remarked he does remember that they didn't have it at first, they did the study because they were worried about the light not being accepted, and there was 1 warrant that it met for 1 hour of time. Director Fox commented Mr. Shevenell expressed frustration that the traffic engineer commented to him it would have met the pedestrian volume if bicycles were included as pedestrians. Councilor Koenig remarked given we have an official document that says it meets a warrant he will withdraw his hesitation to accepting it.

Regarding McElwain Street, Chief Roy stated currently if going north on McElwain from the high school, once you get to the intersection of Woodbury and McElwain, between 2:00 and 3:00 p.m. you cannot enter. At the time there were no sidewalks, and children were leaving the school and walking down the road. Sidewalks have since been added. Going towards the Woodbury Street area, if cars are now allowed, instead of going down to O'Gara Drive, to go down McElwain Street to Baboosic Lake Road, it could alleviate some of the congestion in the other areas.

***Chairman Harrington declared the Public Hearing open at 10:24 p.m.***

No public comment was offered.

***Chairman Harrington declared the Public Hearing closed at 10:24 p.m.***

**MOTION by Councilor Boyd and seconded by Councilor Koenig to move Chapter 183 to the Consent Agenda with the changes. MOTION CARRIED 7-0-0**

**Legislative Updates from State Representatives** - None

### **Town Manager's Report**

D.W. Highway Culvert Project - the contractor will be removing the lane shift on Tuesday, November 21st. Final paving of the project will depend on weather, and may be pushed into next year.

The Community Development Department welcomes new Assistant Planner Kellie Shamel to Merrimack. Kellie comes to us from the State of NH's Office of Strategic Initiatives.

### **Consent Agenda**

#### **3. Consideration of Changes to Chapters of the Merrimack Town Code [Final 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 19, 27, 111, 142 and 193 of the Merrimack Town Code, pursuant to Charter Article V.

**MOTION made by Councilor Boyd and seconded by Councilor Koenig to move the Consent Agenda for Chapters 19, 27, 111, 142, and 193 of the Town of Merrimack Code, pursuant to Charter Article V. MOTION CARRIED 7-0-0**

**Old Business** - None

**New Business**

**3. 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 119, 128 and 181 the Merrimack Town Code, pursuant to Charter Article V.

**Chapter 119; Dogs**

§119-5 - Violations and penalties - amend by adding “for the first offense and \$50 for the second offense. The third and subsequent offenses shall be handled in the Ninth Circuit District Division Merrimack Court” following “keeper of such a dog a forfeiture of \$25”. Chief Roy explained that is how it is fined now. The Police Department has always done \$25 for the 1st offense, \$50 for the 2<sup>nd</sup>, and going to court for the 3<sup>rd</sup>. She is unsure how it was eliminated from the original Town Code, but that is what people are charged, and what the pamphlet the department puts out indicates.

Councilor Koenig questioned how often it ends up going to \$50 and to court, and the Town’s associated cost. Chief Roy stated generally not very often, but for some people their dogs running at-large happens quite frequently. There are a couple that have gone to court. Councilor Koenig spoke of the cost involved in pursuing this to the level of going to court. Chief Roy stated the desire for the opportunity to review State Statute to ensure it doesn’t indicate that as a mandatory fine.

Vice Chairman Rothhaus remarked his concern isn’t so much the dog at-large, but rather of the investment we have in licensing these animals. The licensing of the dog he feels is a huge waste of time for the Police Department and the Town Clerk’s Office. The reason they know about you for the 15<sup>th</sup> time is because you have done the right thing and gotten the dog vaccinated for rabies and the shots they need. The vet notifies the State, the State tells the Town, and the Town will tell you to pay the \$10 or be fined. Chief Roy stated licensing helps the Animal Control Officer (ACO) identify the owner of the dog.

Councilor Albert agreed it is costly, and provided examples of the Town contacting residents, and being informed the dog has passed or instances where a dog owner has moved out of town, and is receiving letters that were forwarded, etc.

Councilor Boyd believes licensing is important. He has had instances where his dogs have gotten out, and he has been able to be easily contacted to retrieve them. Councilor Flood stated her belief this is key. It makes the dog owner vaccinate the dog.

**MOTION made by Councilor Boyd and seconded by Councilor Albert to move Chapter 119 to a Public Hearing**

## ON THE QUESTION

Councilor Koenig noted Chief Roy would review State Statute regarding fines.

**MOTION CARRIED 7-0-0**

## Chapter 128; Firearms

The recommended amendment is to add the following language under definitions: “Target shooting, in the broad sense, the firing of rifles, pistols, air guns, and shotguns for sport together with sports archery, and when used in conjunction with specific targets typically used to develop accuracy.

Councilor Boyd questioned if a bow and arrow (sports archery) is considered a firearm. Councilor Albert stated you go by the law; they separate bow hunting season from musket, rifle, etc. Councilor Boyd noted §128-1 reads in part: “the Town has prohibited target shooting with firearms....” It does not address a bow and arrow. If the desire is to include that, there is the need to re-write §128-1, and include the language around bows and arrows.

Chief Roy stated the thought process to have been the cross-bow that has a trigger mechanism and is used for target shooting. There is the need for a definition for that.

**MOTION made by Councilor Boyd and seconded by Councilor Rothhaus to move Chapter 128 to a Public Hearing with the changes that will be made. MOTION CARRIED 7-0-0**

## Chapter 181; Traffic and Special Event Management

The Council had discussed whether it was necessary to get temporary no parking signs out and about without Council approval. Language was added regarding emergency exceptions: “After consultation or when deemed necessary by the Chief of Police or Fire Chief, Director of Public Works, and the Town Manager whether during emergency conditions or otherwise, shall temporarily allow for specific traffic, parking, and pedestrian exceptions until such time the Town Council may be afforded the opportunity to vote on a traffic and special event management plan, if applicable.”

Councilor Koenig suggested the language state the Police Chief and Fire Chief for the sake of consistency.

**MOTION made by Councilor Boyd and seconded by Councilor Thornton to move Chapter 181 to a Public Hearing. MOTION CARRIED 7-0-0**

## **Minutes**

October 26, 2017

Approved: December 7, 2017

Posted: December 11, 2017

*The following amendments were offered:*

Page 1, Line 35; remove “had” following “discussions”

Page 18, Line 2; replace “likability” with “liability”

**MOTION made by Councilor Boyd and seconded by Councilor Albert to accept the meeting minutes of the October 26, 2017 meeting, as amended. MOTION CARRIED 6-0-1**

*Councilor Thornton Abstained*

November 2, 2017

*The following amendments were offered:*

Page 10, Lines 24-27; the vote should indicate Councilor Harrington cast a nay vote

Page 10, Line 28; replace “MOTON” with ‘MOTION”

Page 11, Lines 32-38; the remarks made by the Town Manager should be titled “Town Manager Report Addendum”.

**MOTION made by Councilor Boyd and seconded by Councilor Albert to accept the meeting minutes of the November 2, 2017 meeting, as amended. MOTION CARRIED 6-0-1**

*Councilor Thornton Abstained*

**Comments from the Press** - None

**Comments from the Public**

Chief Currier commented on the presentation made on the hazardous waste collection stating it was indicated to the public if they have unknown hazardous materials they should contact the Fire Department. He stated that to be a very important topic that needed to be brought up. If residents have anything in their home that is an unknown material; anything that is in an amber colored jar and has crystals forming on the outside can be hazardous materials. Any type of acids that form crystalline on the exterior of the container can be explosive. He noted the Fire Department has technicians on staff, and can go to a residence and provide identification of how to properly handle material.

**Comments from the Council**

Councilor Rothhaus welcomed Tom Thornton.

**Adjourn**

**MOTION made by Councilor Boyd and seconded by Councilor Thornton to adjourn the meeting. MOTION CARRIED 7-0-0**

*The November 16, 2017 meeting of the Town Council was adjourned at 10:55 p.m.*

Submitted by Dawn MacMillan